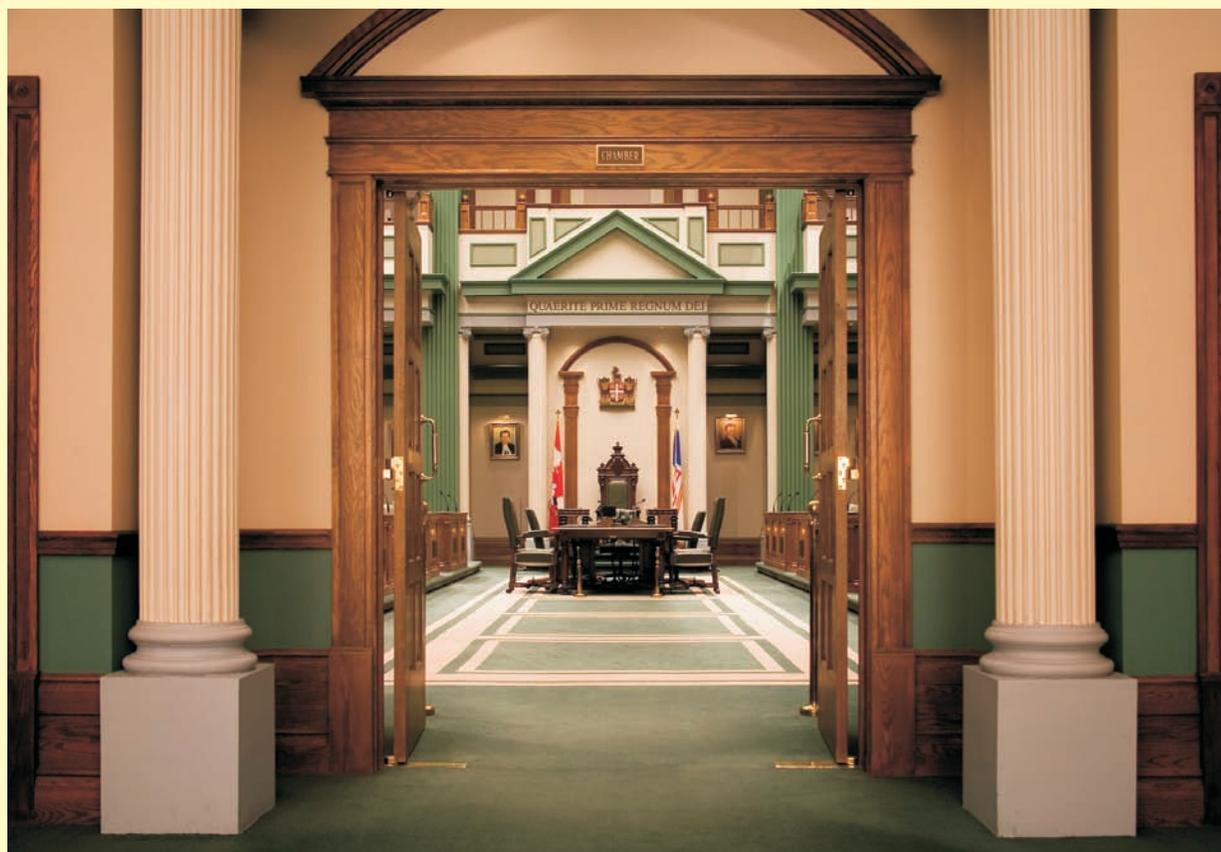




REPORT OF THE AUDITOR GENERAL

To the House of Assembly



DETAILS OF UPDATES
ON PRIOR YEARS' REPORT ITEMS

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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26 January 2011

The Honourable Roger Fitzgerald, M.H.A.
Speaker
House of Assembly

Dear Sir:

In compliance with the *Auditor General Act*, I have the honour to submit herewith, for transmission to the House of Assembly, my Report on Details of Updates on Prior Years' Report Items, 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John L. Noseworthy". The signature is fluid and cursive, with a long, sweeping line extending from the end of the name.

JOHN L. NOSEWORTHY, CA
Auditor General

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**CHAPTER
1
MESSAGE FROM THE
AUDITOR GENERAL**

Message from the Auditor General



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.

Monitoring the implementation of our recommendations is an important part of our obligation to report to the House of Assembly. We monitor and provide an update to the House of Assembly on the recommendations in each Annual Report when entities have had a reasonable length of time to respond to the findings – approximately two years after a Report is published. 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 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.

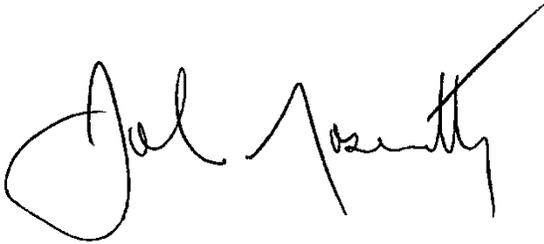
Each year my Office reports on the status of the implementation of recommendations made in prior Reports to the House of Assembly on Reviews of Departments and Crown Agencies (Annual Reports). This year, a summary of my observations as to the progress made as of 31 March 2010 on the implementation of my recommendations contained in Annual Reports from 2004 through to 2008 was included in Chapter 3 of my Annual Report on Reviews of Departments and Crown Agencies for the Year Ended 31 March 2010. That report is available on our website at www.ag.gov.nl.ca/ag/annualReports.htm.

This document contains details on the findings related to individual reports that are summarized in Chapter 3 of the 2010 Annual Report. In recognition of the trend across Canada to be environmentally conscious and issue reports electronically, these details are only available on our website at www.ag.gov.nl.ca/ag/priorupdates.htm.

Message from the Auditor General

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.

A handwritten signature in black ink, appearing to read "John Noseworthy". The signature is fluid and cursive, with a long, sweeping line extending from the top of the "y" towards the upper right corner of the page.

JOHN L. NOSEWORTHY, CA
Auditor General

**CHAPTER
2
DETAILS OF UPDATES
ON PRIOR YEARS' REPORT ITEMS, 2010**

PART 2.1

INTRODUCTION

Overview We conduct legislative audits (reviews) to provide the House of Assembly with information on public sector accountability. Reviews are carried out to determine whether:

- public money is being properly collected and accounted for;
- expenditures are properly recorded and made for the purposes intended;
- accounts are properly kept;
- assets are adequately safeguarded; and
- accounting and management systems and practices are adequate.

These reviews also determine whether activities of Government departments and agencies have been carried out in compliance with legislation, Government policies and other authorities.

Each year, our Office issues an Annual Report which contains comments and recommendations resulting from the reviews carried out of programs and processes in various Government departments and agencies. Each report item contains a written response from Government departments and agencies to each recommendation, which we include verbatim in the published Report. All of our reports are available on our website www.gov.nl.ca/ag.

Once our Annual Report is finalized, Government departments and agencies decide whether they accept and how to implement our recommendations. In most cases, entities appreciate the independent advice given and seek to make the improvements we suggest. In some cases, the passage of time or changes in circumstances means that it no longer makes sense to implement the recommendations as we originally presented them.

In addition to reporting the results of our reviews, each year we provide the House of Assembly with an update on the status of recommendations contained in previous Annual Reports to the House of Assembly.

This chapter includes the results of these monitoring activities on our Annual Reports up to and including 2008.

Introduction

Monitoring responses to reviews of Government departments and agencies

Monitoring the implementation of our recommendations is an important part of our obligation to report to the House of Assembly. Our 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 our prior years' reports. Therefore, we monitor and provide an update to the House of Assembly on the recommendations in each Annual Report when entities have had a reasonable length of time to respond to the findings - approximately two years after a Report is published. Monitoring of these recommendations continues until we are reasonably satisfied that issues are adequately addressed or are no longer applicable.

How updates were compiled

To compile our update, our Office reviewed past recommendations to determine which ones remained outstanding. Letters were sent requesting that entities provide an update as to any further progress made on these outstanding recommendations.

For each outstanding recommendation, entity officials were asked to advise whether all recommendations had been fully implemented, not implemented or partially implemented. In addition, we requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Once a draft report was compiled, a copy was provided to the entity for their review. In addition, a meeting was held to validate our findings, clarify any details related to implementation of the recommendation and obtain feedback from the entity on our review process. Additional information about the report item often resulted from these meetings. As a result, our conclusions are based on the written responses provided by the entities, additional documentation sent to our Office, and information resulting from meetings held with each entity.

Our overall conclusions summarize our assessment of the responses provided by the entity and point out any areas of concern or where we disagree with an entity, including their assessment of progress towards implementation of a particular recommendation.

Level of review

Our follow-up work consists primarily of inquiries and discussions with management officials at Government departments and agencies, and review of selected supporting documentation. This is not an audit and, accordingly, we cannot provide a high level of assurance that the actions described have been implemented effectively. The actions taken or planned will be more fully examined and reported on in future reviews and may impact our assessment of when future reviews should be conducted.

Report includes an update on 34 reviews associated with 19 Government departments and agencies

The rest of this chapter provides updates on a total of 193 recommendations from 34 reviews associated with 19 Government departments and agencies as follows:

- 16 reviews from the 2008 Annual Report
- 10 reviews from the 2007 Annual Report
- 3 reviews from the 2006 Annual Report
- 3 reviews from the 2005 Annual Report
- 2 reviews from the 2004 Annual Report

The entities which provided responses to our update requests are as follows:

- Department of Education
- Department of Environment and Conservation
- Department of Fisheries and Aquaculture
- Department of Government Services
- Department of Health and Community Services
- Department of Human Resources, Labour and Employment
- Department of Innovation, Trade and Rural Development
- Department of Justice
- Department of Municipal Affairs
- Department of Natural Resources
- Department of Tourism, Culture and Recreation
- Department of Transportation and Works
- Executive Council

Introduction

- Fire Commissioner's Office
 - Labrador-Grenfell Regional Health Authority
 - Conseil Scolaire Francophone Provincial de Terre-Neuve et du Labrador
 - Memorial University of Newfoundland
 - Multi-Materials Stewardship Board (MMSB)
 - Newfoundland and Labrador Human Rights Commission
-

Structure of each update report

For each of the reviews we monitored during 2010, we provide:

- brief background information;
 - a summary of our original findings;
 - a list of outstanding recommendations;
 - our overall conclusion for a particular report item;
 - responses from entities; and
 - our conclusion associated with each recommendation.
-

PART 2.2

EXECUTIVE COUNCIL

INCONSISTENT COMPENSATION PRACTICES

(2005 ANNUAL REPORT, PART 2.1; UPDATES: 2007, PART 3.2.3; 2009, PART 2.2)

Inconsistent Compensation Practices (2005 Annual Report, Part 2.1; Updates: 2007, Part 3.2.3; 2009, Part 2.2)

Introduction Our 2005 Annual Report included a review of inconsistent compensation practices that existed at Government entities including boards, agencies and commissions. We conducted our review to:

- summarize and highlight the inconsistent compensation practices that continued to exist at boards, agencies and commissions; and
- determine whether a compensation policy had been communicated to all Government entities including boards, agencies and commissions clearly outlining that compliance with compensation practices established for Government departments was mandatory.

What we found As a result of our review, we reached the following overall conclusions:

Inconsistent compensation practices without consequence

There were many examples of inconsistent compensation practices among Government entities. Many of the inconsistencies related to the more senior officials at the entities. These officials were often aware of the inconsistencies and, in many instances, they continued to take the higher benefits despite being told to drop such practices.

No clear policy direction

There had been no clear policy direction on the extent of conformity required by boards, agencies and commissions with Government compensation practices.

Inconsistent salary levels

Memorial University of Newfoundland and Newfoundland and Labrador Hydro had salary levels which were not consistent with those established for Government departments. Although Government and each of these entities used a job classification system, instances of higher pay for similar work (i.e. compensation inconsistency) occurred as a result of different compensation standards.

Implications of inconsistent compensation practices

We continued to see that Government employees were not all compensated on a consistent basis. Furthermore, these inequities resulted in increased costs for Government.

Inconsistent Compensation Practices
(2005 Annual Report, Part 2.1; Update: 2007, Part 3.2.3; 2009, Part 2.2)

Our follow-up In our 2009 Update Report we concluded that the original recommendation resulting from our review had not been fully implemented. In February 2010, we contacted the Public Service Secretariat requesting an update as to what progress had been made on the recommendation. The recommendation is as follows:

1. *The Public Service Secretariat should consult with Government as to whether Government's compensation practices should be applied to all Government entities.*

Information we requested The Public Service Secretariat was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Public Service Secretariat has made progress in addressing the recommendation from our 2005 Annual Report, the original recommendation had only been partially implemented.

We agree with the Secretariat's position that the recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Secretariat will need to:

- present the findings of its review of compensation practices in Government boards, agencies and commissions to Cabinet; and
- obtain direction from Cabinet as to whether or not all Government compensation practices should be applied to every Government entity.

Recommendation No. 1

The Public Service Secretariat should consult with Government as to whether Government's compensation practices should be applied to all Government entities.

**Entity's
response from
previous report**

In 2009, the Public Service Secretariat informed us that:

- The Public Service Secretariat has conducted a review of compensation practices in Government boards, commissions and agencies.
 - However, the Secretariat has not concluded its consultation with Government as to whether Government's compensation practices should be applied to all Government entities.
-

**Entity's
response to
current request**

In 2010, the Public Service Secretariat informed us that the recommendation had been partially implemented.

Furthermore, it indicated that "...*final implementation is planned for the spring of 2010.*

*Entities often deviated from Government's compensation practices due to recruitment and retention challenges. Therefore prior to directing entities to ensure compliance with all compensation policies it was prudent for government to develop a mechanism to help address recruitment and retention challenges. During 2009-10 Treasury Board approved a **Market Adjustment Policy and Guidelines to Determine, Implement and Evaluate Market Adjustments**. PSS consulted with and received approval from Cabinet in February 2010 that this policy would apply to all agencies, boards and commissions with the exception of NALCOR, Memorial University of Newfoundland and the Newfoundland and Labrador Research Council.*

Subsequent to this approval, the Public Service Secretariat completed its review of compensation practices in Government boards, commissions and agencies and developed a summary document of findings. This document will be presented to Cabinet in the spring of 2010 to seek direction as to whether or not all Government compensation practices should be applied to every Government entity.

Inconsistent Compensation Practices
(2005 Annual Report, Part 2.1; Update: 2007, Part 3.2.3; 2009, Part 2.2)

By way of information, Government's Summary Financial Statements for the year ended March 31, 2009 listed 45 distinct Government Reporting Entities. Reviewing numerous compensation practices for all of these entities was a significant undertaking."

**Our
conclusion**

Follow-up Required

We agree with the Public Service Secretariat's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Secretariat will need to:

- present the findings of its review of compensation practices in Government boards, agencies and commissions to Cabinet; and
 - obtain direction from Cabinet as to whether or not all Government compensation practices should be applied to every Government entity.
-

PART 2.3

EXECUTIVE COUNCIL

OFFICE OF THE CHIEF INFORMATION OFFICER

(2008 ANNUAL REPORT, PART 2.2)

Introduction Our 2008 Annual Report included a review of the Office of the Chief Information Officer at Executive Council. We conducted our review to assess whether the Office of the Chief Information Officer's management practices and controls were adequate.

What we found As a result of our review, we reached the following overall conclusions:

The Office of the Chief Information Officer (OCIO) was established in April 2005, bringing together the information technology operations of Government into a central organization. The OCIO supports more than 100 commercial software applications and over 500 custom built applications. These applications are on over 600 servers and delivered to 6,300 personal computers. The OCIO had expenditures of \$61.1 million in 2007-08.

We identified a number of concerns at the OCIO as follows:

Backup and Recovery

There could be instances where either not all critical information is being backed up or storage media and devices may not be useable in the event of a fire or other disaster. This situation results because of the following issues:

- There were no Disaster Recovery Plans in place for 538 (96%) of the 559 Government supported applications. Disaster Recovery Plans were in place for only 21 (4%) of the 559 applications. These 559 applications relate to non-mainframe services which include about 98% of all Government services. As a result, Government systems, data, and services may not be available in the event of a disruption, emergency or disaster.
- Data backups for OCIO managed servers are not kept in a fireproof environment as required by OCIO policy.
- Backups were not tested in six month intervals from the date of first use as required by OCIO policy.
- There are no documented procedures to direct the daily backup of computer systems and storage of backup media. OCIO officials indicated that several documents are in draft form.

- There is no well defined process in place to ensure that clients identify and store on OCIO managed servers, all information considered critical for their continued operation. OCIO clients are responsible for ensuring that they place information in need of backup services on OCIO managed servers.
- The listing of OCIO supported applications provided at 31 March 2008 was not accurate. As a result, there may be computer applications in use in various locations that have not been identified and are not supported by the OCIO. Therefore, the confidentiality, integrity of systems and data related to these applications may not be adequately protected.

IT Security

The OCIO has not established charts of authority for all applications which it supports. These charts of authority are necessary to identify who can access defined activities related to an application. As at 31 March 2008, there were only 165 charts of authority completed out of a total of 427 applications supported by the OCIO. An additional 194 of the 427 were completed up to October 2008.

As a result, there is an increased risk of unauthorized access to Government systems and data.

Service Level Agreements

As of 31 March 2008, there were no Service Level Agreements in place between the OCIO and client departments. As a result, roles and responsibilities of the OCIO and departments are not set out and there is no agreement with clients on security and disaster recovery processes, expectations, and reporting requirements. OCIO officials informed us that as of October 2008 there were 29 Service Level Agreements at different stages of development, sixteen (16) of which were ratified.

There were 18 Planning and Service Delivery Committees established in 2007-08 and OCIO officials indicated there were concerns with 14 of the Committees. These concerns included such things as a lack of understanding of the Committee mandate, areas of focus, Committee membership and frequency and scheduling of meetings. As a result, there is no clear understanding of the role and responsibilities of the OCIO and clients, and the Planning and Service Delivery Committees are not functioning as intended.

Professional Services Contracts

In 2006-07, the OCIO entered into three long-term professional services agreements covering the period 1 April 2007 to 31 March 2010. We identified the following:

- There was no competitive bidding process in place to ensure the most qualified vendor performed the work at the lowest cost. Officials informed us that during 2007-08, the work under these contracts was assigned through a method of rotating the work through each of the three vendors. As a result, the OCIO did not make any determination of which vendor had the lowest cost, best timeline, and best resources to perform the work. In 2007-08 these three contractors received a total of \$24.3 million in contract work.
- There were instances of non-compliance with the framework in that not all required monthly status reports and project closure reports were prepared.
- Work is sometimes started by contractors before a signed legal agreement detailing the required work and other specifics, is in place.
- There is no formal evaluation of vendor performance under Service Level Agreements. As a result, OCIO is unable to determine if the vendors are performing up to expectations.

IT Hardware and Software

Controls over the recording and monitoring of IT hardware are not adequate and the OCIO is not complying with Government's Financial Management Policy on IT asset inventory as evidenced by the following:

- Not all computers are scanned by the OCIO's LANDesk software.
- There are no periodic comparisons by OCIO officials of physical quantities of IT assets to inventory records.
- There is no asset tracking for printers, keyboards, mouse or other smaller assets. These assets are not tagged, physically verified or electronically scanned.

- The value of all IT assets on hand as of 31 March of the fiscal year is not reported to the Comptroller General, as required. The OCIO does not have a system for monitoring software licensing and usage. Such a system could track software licenses and usage, compare licenses purchased with licenses in use and produce regular compliance reports. As a result, the existence and use of unlicensed software throughout Government could go undetected and there is a risk of purchasing too many software licenses.

Information Management

Although the OCIO's 2007-08 Annual Report to the House of Assembly indicated that its Information Management Policy Framework was adopted in 2007, we found that, as at October 2008, the Information Management Policy Framework was still only in draft form.

Officials informed us that the OCIO is working toward implementation of several industry best practices including ISO standards for records management and that, although not incorporated now, these standards are expected to be incorporated into OCIO's Information Management Policy Framework.

Purchasing

The OCIO violated the *Financial Administration Act* in that there were five instances totalling approximately \$651,800 where goods and services were ordered and received without the prior issuance of a purchase order and the prior recording of the commitment in Government's financial management system.

Planning and Reporting

There were no operational plans for four of the OCIO's five divisions. Such plans help ensure that resources are deployed in the most effective manner to achieve goals and objectives. In addition, the required quarterly monitoring reports are not always prepared. For example, during 2007-08, due to the ongoing budget process, it was not feasible to implement the third quarter status report.

Training Plan

Although the OCIO has a goal to improve information management practices in Government through the development and delivery of information management training, a training plan has not yet been developed. Without a training plan, the OCIO cannot demonstrate its progress in providing information management training as identified in its Business Plan.

Our follow-up In February 2010, we contacted OCIO requesting an update as to what progress had been made on the original 25 recommendations resulting from our review. The recommendations are as follows:

1. *OCIO should ensure Disaster Recovery Plans are in place for all Government supported applications.*
2. *OCIO should ensure data backups for OCIO managed servers are kept in a fireproof environment as required.*
3. *OCIO should ensure backups are tested in six month intervals from the date of first use as required.*
4. *OCIO should ensure there are documented procedures to direct daily backup of computer systems and storage of backup media.*
5. *OCIO should ensure there is a well defined process in place to ensure that clients identify and store on OCIO managed servers, all information considered critical for their continued operations.*
6. *OCIO should ensure that the database of OCIO supported applications is complete and accurate.*
7. *OCIO should ensure that charts of authority are established for all applications which the OCIO supports.*
8. *OCIO should ensure that a process to modify access privileges is well defined.*
9. *OCIO should ensure that there is a comprehensive password policy in effect.*
10. *OCIO should ensure that Service Level Agreements are in place between the OCIO and clients to clearly outline security and disaster recovery processes, expectations, and reporting requirements.*

11. *OCIO should ensure that Planning and Service Delivery Committees are functioning as intended.*
 12. *OCIO should ensure that a competitive bidding process is in place for the assignment of work to vendors under professional services agreements.*
 13. *OCIO should ensure compliance with the project management framework.*
 14. *OCIO should ensure contracts are in place before the work is started.*
 15. *OCIO should ensure a formal evaluation of vendor performance under the Service Level Agreements is in place.*
 16. *OCIO should ensure a written policy is in place to monitor external service providers and their IT security proceedings.*
 17. *OCIO should ensure compliance with the Government's financial management policy on IT asset management.*
 18. *OCIO should ensure a system for monitoring software licensing and usage is in effect.*
 19. *OCIO should ensure the Information Management Policy Framework is developed, approved and communicated.*
 20. *OCIO should ensure compliance with records management standards.*
 21. *OCIO should ensure compliance with the Financial Administration Act.*
 22. *OCIO should ensure operational plans are in place for all divisions.*
 23. *OCIO should ensure the system for reporting on business objectives is adequate.*
 24. *OCIO should ensure the required reports are prepared.*
 25. *OCIO should ensure that an information management training plan is developed and implemented.*
-

Information we requested The OCIO was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Office of the Chief Information Officer has made progress in addressing the recommendations from our 2008 Annual Report, 7 of the original 25 recommendations had only been partially implemented.

We agree with the OCIO's position that the recommendation numbers 1, 3, 4, 8, 9, 10 and 18 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the OCIO will need to:

- continue to develop Disaster Recovery Plans for all Government supported applications;
- continue to implement recovery testing and auditing capability to verify the validity of various application backup processes;
- continue to move forward with improvements to the overall backup strategy;
- continue to formalize the process and clients need to be more diligent in managing access to their applications;
- continue to audit password procedures and implement enhanced password practices to ensure that there is a comprehensive password policy in effect;
- ensure that the outstanding Service Level Agreements are in place between the OCIO and clients and to ensure that a security and disaster recovery statement is incorporated into all new Service Level Agreements; and
- continue with the analysis of additional products and formalize the operational guidelines for software review and validation.

We agree with the OCIO's position that the recommendation numbers 2, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24 and 25 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

OCIO should ensure Disaster Recovery Plans are in place for all Government supported applications.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

An initiative is currently underway to develop Disaster Recovery Plans for all mission-critical applications.

**Entity's
response to
current request**

In 2010, OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

"The above recommendation is partially implemented and the process to complete implementation is ongoing.

The process of developing a Disaster Recover (DR) Plan for any system is often complex, costly, and time consuming. As a result, it will likely take several years to complete DR Plans for all OCIO supported systems.

The OCIO is currently focusing on providing DR Plans for mission critical systems and will then expand the process to include all Government supported applications. Since the Auditor General report, the OCIO has created a temporary DR site (in essence a secondary data centre).

As of January 11, 2010, 600 client applications have been identified, 102 of which have DR Plans in place and an additional 9 DR Plans in development. In total, 17% of all client applications now have formal DR Plans in place. Disaster Recovery Plans include everything needed to rebuild client applications from scratch including build books, guidelines and procedures, hardware and software.

Furthermore, as part of an ongoing initiative within OCIO to improve government's overall DR strategy, significant funding was allocated to purchase new hardware/software which could be utilized at an offsite facility to recover any failed services. The majority of this infrastructure has been purchased, installed and tested over the last six months, and we are now at a point where the Operations Branch support teams are ready to perform a test of the core operational infrastructure at our temporary DR site.

This test is intended to validate the DR Plans for the recovery of our Core Network services, SAN, Email, Internet, Active Directory, Blackberry, Dynamic Host Configuration Protocol and Domain Name Services. The objective of this test is to confirm that the actual recovery of these components functions as expected, which then positions the OCIO to begin recovery of client applications on this infrastructure, should the need arise in the future. Up to this point, much of this testing has been performed in isolation, and usually at the Higgins Line premises. This test will involve all the components noted above, working together to deliver the same functionality from an alternate site. We are aiming to have this test performed by March 31, 2010.

Although DR Plans are not completed for all 600 applications, improvements to the OCIO's backup infrastructure and software has positioned the OCIO to recover any of these 600 applications to new infrastructure by following industry standard recovery processes. Documenting detailed plans for each application and testing these plans will further strengthen the overall DR program."

**Our
conclusion**

Follow-up Required

We agree with the OCIO's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to continue to develop Disaster Recovery Plans for all Government supported applications.

Recommendation No. 2

OCIO should ensure data backups for OCIO managed servers are kept in a fireproof environment as required.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

Future plans will also eliminate the need for the fire proof containers. Upgrades to the current storage media are planned before December 31, 2009.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“Due to technology advancements there is no longer a requirement to keep OCIO main back-up tapes in a fire proof environment. Backups are now duplicated with one copy stored on site at 40 Higgins Line and the other at an off-site location. The OCIO will continue to review and improve enterprise backup guidelines and operational practices.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

OCIO should ensure backups are tested in six month intervals from the date of first use as required.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

Due to advances in technology deployed by the OCIO, we will be requesting revisions to the Backup Policy. Tape integrity checking is an automated process that occurs daily in the Enterprise Storage Backup System currently used by the OCIO. There is no longer a need to test tape integrity on a six month interval.

Entity's
response to
current request

In 2010, the OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“The OCIO Information Technologies Operations Branch is working closely with the Application Support Branch to implement recovery testing and auditing capability to verify the validity of various application backup processes.

The Application Protection Team has initiated several projects involving database backups in an effort to improve service to its clients and reduce risk for the OCIO. The Recovery Validation Exercise (RVE) is one such project with a focus to validate that existing backup procedures are structured in such a way that the client's database can be recovered successfully. Validation of the backup and restore procedures reduce the risk of having unrecoverable databases during an actual emergency.

During Stage 1 of the RVE, focus was given to applications identified by the OCIO as “critical”. During this stage, the restore procedures for these applications were executed and the recovery of the databases were validated and documented. Only two databases were found to have issues and their corresponding backup procedures were redesigned.

Stage 2 of the RVE was initiated in January, 2010. This stage concentrated on applications which OCIO considers “vital” and out of scope for the Backup and Recovery Initiative.

Stage 3 of the RVE will focus on the remaining applications that were not considered “critical” or “vital”.

The Backup and Recovery Initiative has been actively working towards implementing a strategy to manage the three major database stacks utilized within Government: Oracle, MySQL, and SQL Server. Assessments of various vendor solutions have been completed and the recommended solutions are in the process of being acquired. Backup testing schedules are currently being developed in preparation for the availability of the new solutions. Implementation of this improved database backup approach will further improve the overall backup strategy utilized by OCIO for all backup processes.”

**Our
conclusion**

Follow-up Required

We agree with the OCIO's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to continue to implement recovery testing and auditing capability to verify the validity of various application backup processes.

Recommendation No. 4

OCIO should ensure there are documented procedures to direct daily backup of computer systems and storage of backup media.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The OCIO maintains and uses several draft documents that direct the daily backup of computer systems and storage of backup media. We will endeavour to finalize the documents in the near future.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

"The OCIO continues to move forward with improvements to our overall backup strategy. Utilizing our current backup policy, OCIO has applied the 30-day retention guideline to all backups managed by OCIO. As part of our ongoing repatriation of backups managed by xwave, OCIO currently has repatriated 75% of backups and expect to have the remaining 25% repatriated by March 31, 2010.

Exceptions to the default 30-day backup retention guideline are being documented and signoff from both clients and OCIO are being obtained, with the plan to have these documents stored in TRIM for future reference. The Applications Services Branch within OCIO will manage any identified exceptions to ensure files are archived and managed to meet client's expectations.

The Operations Branch of OCIO has developed checklists which the support staff utilize to perform required checks and balances to ensure optimal performance of the backup infrastructure.

The OCIO also maintains several documents that direct the daily backup of computer systems. They include a Backup Configuration Management Database outlining all information assets on Government of Newfoundland and Labrador servers that are backed-up by the Enterprise Storage and Recovery Team. As well, several documents are used by the team to deliver the service. These documents include: Tivoli Storage Manager Operations Guide and a Tivoli Storage Manager detailed design document outlining the infrastructure in place to support enterprise storage management and recovery processes.”

**Our
conclusion**

Follow-up Required

We agree with the OCIO’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to continue to move forward with improvements to the overall backup strategy.

Recommendation No. 5

OCIO should ensure there is a well defined process in place to ensure that clients identify and store on OCIO managed servers, all information considered critical for their continued operations.

**Entity’s
response from
previous report**

OCIO indicated in response to the report that:

Under the *Management of Information Act*, departments are responsible for managing their own information. While the OCIO advises departments on proper information management practices, it is up to individual departments to determine what information they should be backing up, based on their individual business requirements and relevant legislation. OCIO can only ensure backup of information placed on OCIO managed servers. The OCIO will remind departments of their responsibility under the *Act*.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“As stated in the OCIO response; under the Management of the Information Act, all government departments are responsible for managing their own information. The OCIO Information Management consultants will continue to advise clients and departments of their responsibility under the Management of Information Act.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

OCIO should ensure that the database of OCIO supported applications is complete and accurate.

**Entity's
response from
previous report**

OCIO did not indicate any planned actions for this recommendation.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“The OCIO continues to maintain a comprehensive inventory of applications and databases for which it provides support services and has recently validated the inventory to ensure accuracy. Processes have been put in place to ensure new applications are appropriately recorded and the use of this inventory has been integrated into all necessary OCIO processes.”

In addition, the OCIO maintains an inventory of Custom-Off-The-Shelf (COTS) software used by clients in various Departments as well as the level of support provided. These tend to be specialty software for unique functions and services with very small user bases. This list is also reconciled as part of software license renewals and the OCIO Service Desk also uses this list to validate and assign support tickets when clients call for support. Discrepancies are investigated when they occur and the information provided tends to be updated on a case by case basis; thus, ensuring accuracy associated with their ongoing usage by clients.”

**Our
conclusion**

Follow-up Not Required

We agree with the OCIO’s position that this recommendation has been fully implemented and, therefore, no follow-up is required.

Recommendation No. 7

OCIO should ensure that charts of authority are established for all applications which the OCIO supports.

**Entity’s
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) concurs with the recommendations of the Auditor General and is continuing to ensure that Charts of Authorities and the appropriate policies are put in place to control access to all government systems. Significant progress has been made in this area over the past year.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“The creation of Charts of Authorities is now standard practice for all new applications when they are transitioned into production environments and supported by the Application Services Branch. In addition, the Application Services Branch requires a regular review of all supported applications to ensure Charts of Authorities are in place where we are the primary or secondary support for these applications. There are some applications for which we provide no level of support and therefore, a Chart of Authorities is not required. At this time, there are 504 Charts of Authorities in place for applications supported by the OCIO.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 8

OCIO should ensure that a process to modify access privileges is well defined.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) concurs with the recommendations of the Auditor General and is continuing to ensure that Charts of Authorities and the appropriate policies are put in place to control access to all government systems. Significant progress has been made in this area over the past year.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“The OCIO support teams are currently providing lists of accounts to clients for validation. While this process has been positively received, it still requires more formalization and clients need to be more diligent in managing access to their applications. The OCIO continues to remove application access rights as requested by the client. However, the client remains responsible for requesting account management changes to the OCIO. The Application Services Branch of the OCIO is currently researching the possibility of having a “client account management process” incorporated into an “employee exit strategy” in order to improve the speed and accuracy of account management functions.

Specific to general account management, reports of terminated employees are regularly provided to OCIO Account Management resources by payroll to ensure that network accounts and access is terminated accordingly.”

**Our
conclusion**

Follow-up Required

We agree with the OCIO's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to continue to formalize the process and clients need to be more diligent in managing access to their applications.

Recommendation No. 9

OCIO should ensure that there is a comprehensive password policy in effect.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) concurs with the recommendations of the Auditor General and is continuing to ensure that Charts of Authorities and the appropriate policies are put in place to control access to all government systems. Significant progress has been made in this area over the past year.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Actions taken with regard to improving password management include those outlined below:

- *The OCIO has implemented a practice to require the use of “complex passwords” for Government employees to access Government’s network. Additionally, significant work is underway in the Application Services Branch with individual applications, to audit password procedures and implement enhanced password practices. A recent project assessed all existing applications and identified the level of requirement for increased password complexity across the entire application portfolio. Pending availability of funding, mitigation efforts will be undertaken in the new fiscal year to especially target those applications requiring a secondary level of password protection.*
- *The OCIO is now using Government’s Photo ID Program to authenticate the employee requesting password resets. Service Desk staff query the caller to answer questions which provide authentication of their identity.*
- *The OCIO began in July 2009, to provide temporary employees with advanced notice of network account expiry dates. Expiry notification messages are sent by e-mail to temporary employees on an individual basis. When an employee receives a message from the OCIO Service Desk stating that their account is set to expire, the employee must forward the e-mail to their manager. If an extension is required, the manager must send the message back to the OCIO Service Desk requesting that the employee’s account be extended with a new expiry date. While not specific to passwords, this is another step the OCIO has put in place to ensure the validity and currency of system accounts. Additionally, accounts are now automatically disabled when employees are removed from payroll, based upon regular data from payroll reports.”*

**Our
conclusion**

Follow-up Required

We agree with the OCIO's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to continue to audit password procedures and implement enhanced password practices to ensure that there is a comprehensive password policy in effect.

Recommendation No. 10

OCIO should ensure that Service Level Agreements are in place between the OCIO and clients to clearly outline security and disaster recovery processes, expectations, and reporting requirements.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) is continuing to work towards finalizing Service Level Agreements (SLA) with all departments by March 31, 2009.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

"To date, 30 SLAs and 2 Memorandum of Understandings have been signed by departments. Two agreements are still outstanding and the agreement for the new Department of Child, Youth and Family Services has been deferred until Fiscal Year 2010/11.

A security and disaster recovery statement has been drafted and will be included as part of the addendum being incorporated into all new SLA's. Seventeen SLA's with new addendums have been signed with the remaining 13 scheduled to be signed by the end of this fiscal year."

**Our
conclusion**

Follow-up Required

We agree with the OCIO's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to ensure that the outstanding Service Level Agreements are in place between the OCIO and clients and to ensure that a security and disaster recovery statement is incorporated into all new Service Level Agreements.

Recommendation No. 11

OCIO should ensure that Planning and Service Delivery Committees are functioning as intended.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

Significant progress has been made to ensure the roles and responsibilities of Planning and Service Delivery Committees have been established and/or clarified and that the Committees are functioning as intended.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“Significant progress has been made to ensure the roles and responsibilities of Planning and Service Delivery Committees (PSDC) have been established and/or clarified. During the 2009/10 fiscal year, the Client Services Branch undertook several initiatives which have greatly improved PSDC functionality, including:

- *Creating a standardized template for committee status updates.*
- *Developing a modified budgeting process to assist committee members budget IT/IM needs.*

As a result of these initiatives, the PSDC's are functioning as intended and meetings between the Client Services Branch of the OCIO and the PSDC's are ongoing. The frequency of these meetings differs based on the requirements of the department."

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 12

OCIO should ensure that a competitive bidding process is in place for the assignment of work to vendors under professional services agreements.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) has now implemented a competitive bidding process between the three consortia which will be used for the assignment of new work under these agreements. Given that these companies were chosen as a result of a competitive bidding process, value, quality and experience were considered at that time. In many cases, the work is best suited to a particular vendor or the work may be ongoing from a previous engagement and the current vendor is better qualified to continue the assignment.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"As stated in the OCIO's response, a competitive bidding process for new work for vendors under the professional services agreement called the Project Approach Submission Request (PASR) was implemented during the 2008/09 fiscal year. Additionally, a second implemented process, Staff Augmentation Process (SAR), allows vendors to compete for resource based assignments. In 2008/09, there were 20 PASR's issued and awarded and 10 SAR's issued and awarded. In the current fiscal year, 5 PASR's were issued and awarded while 10 SAR's were issued and awarded."

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 13

OCIO should ensure compliance with the project management framework.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

To help ensure project reporting is done on the required monthly basis, we have adjusted the process to ensure managers review the reports required under the project management framework.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The OCIO adjusted internal processes to include a monthly review of all project management documentation by branch managers assigned to the projects. Project management documentation includes monthly status reports and project deliverables."

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 14

OCIO should ensure contracts are in place before the work is started.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The OCIO will also pursue implementation of the other recommendations of the Auditor General.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“All relevant parties have been reminded by the Executive Director, Corporate Operations and Client Services, OCIO, of the importance of following protocols and having contracts or Purchase Orders in place before work is started.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 15

OCIO should ensure a formal evaluation of vendor performance under the Service Level Agreements is in place.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

A formal evaluation of the vendor performance was completed in October 2008 and is planned to be completed annually for the duration of the contracts.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“As previously stated in the OCIO’s response, a formal evaluation of the vendor performance was completed in October 2008 and repeated in October 2009. All results were shared with the vendors and the process will continue annually for the duration of the contracts.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 16

OCIO should ensure a written policy is in place to monitor external service providers and their IT security proceedings.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The OCIO will also pursue implementation of the other recommendations of the Auditor General.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“In December of 2009, a “Confidentiality Audit” was conducted for all three vendors. They were asked to submit a copy of the confidentiality or non-disclosure agreement for at least one resource contracted for service to the OCIO. All vendors submitted the appropriate documentation. Confidentiality Audits will be performed twice yearly.

Though no official policy has been drafted, several OCIO initiatives such as “Oaths of Secrecy” for non-consortium employees, confidentiality agreements for all consortium employees, Information Protection Directives, existing OCIO policies, guidelines and procedures support the OCIO security framework and address this issue.”

**Our
conclusion**

Follow-up Not Required

We agree with the OCIO’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 17

OCIO should ensure compliance with the Government’s financial management policy on IT asset management.

**Entity’s
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) will endeavour to comply with government’s financial management policies in the future.

**Entity’s
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“As stated in the OCIO’s original response, OCIO will endeavour to comply with Government’s financial management polices. Tracking of assets such as printers, keyboards, mice and other smaller assets would require more staff dedicated to this function. The OCIO has decided that this is not a justifiable allocation of resources as the dollar value of these items has reduced significantly over recent years. However, the OCIO has assigned additional resources (one full-time and one part-time) to Information Technologies asset management tracking since the 2008 Auditor General Report.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 18

OCIO should ensure a system for monitoring software licensing and usage is in effect.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

Efforts are ongoing to improve the monitoring of software licensing and usage.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“During the second quarter of this fiscal year, the OCIO dedicated resources to complete an audit on Microsoft licensing requirements for the Government of Newfoundland and Labrador (GNL). This audit will be utilized for upcoming annual license reviews and renewals.

Historical and current software purchase information has been assembled and recorded in a central tracking database and processes are being introduced to manage this information. Monthly reports are now being generated from this database which detail software installation and usage history for a select number of products. This information is being used to assess the state of software license compliance across GNL.

This review and analysis is considered a pilot project in this area. The usage and license analysis will be used to identify any instances where installed licenses exceed purchased quantities and will allow identification of instances where usage history indicates software can be removed or reallocated. Furthermore, this data will also be used to identify cases where GNL is over-licensed for specific software titles (i.e. more licenses were purchased than are currently being used), leading to a potential reduction in ongoing software maintenance costs. Once this pilot phase is complete, we will continue with the analysis of additional products and formalize the operational guidelines for software review and validation.”

**Our
conclusion**

Follow-up Required

We agree with the OCIO's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the OCIO will need to continue with the analysis of additional products and formalize the operational guidelines for software review and validation.

Recommendation No. 19

OCIO should ensure the Information Management Policy Framework is developed, approved and communicated.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

While the Information Management Policy Framework was implemented internally and is being used to guide Office of the Chief Information Officer (OCIO) Information Management Branch work, it was not sent for formal approval by Treasury Board to be implemented across Government due to plans to amend the *Management of Information Act* and the *Rooms Act* that would substantially change the document. It was decided that it would be best to wait until those legislative amendments had been implemented and then to make the necessary changes to the Policy Framework and send it for formal approval to Treasury Board. The *Acts* have recently been amended and thus the Policy Framework will be revised and forwarded for approval.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The Information Management and Protection Policy has been approved as the overarching policy within which all Information Management and Information Protection directives, standards and guidelines for use both inside OCIO and across Government will be created.

To date, OCIO has created and the Government Records Committee has approved a 'Standard for One-Time Disposals' for use across Government. The OCIO has also created two directives for use inside OCIO which are currently moving through the approval process – 'Information Security Classification Directive' and 'Information Protection and Security Directive'.

Work in this area will continue as the results of an Information Protection and Security Policy Mosaic Project are implemented over the next three years. Work is underway on four Information Management Guidelines: 'Guideline for Managing the Records of Exiting Employees', 'Guideline for Records Inventory', 'Guideline for Developing an Operational Records Classification Plan', and 'Guideline for Managing Transitory Records'.

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 20

OCIO should ensure compliance with records management standards.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The ISO standard for records management is used as a guideline for developing policies and standards.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The OCIO is mandated by Section 5 of the Management of Information Act to develop and implement a program for the management of government records; provide advice to public bodies; and recommend standards, principles or procedures. The Information Management Branch of the OCIO provides advisory services to departments, and assists them in developing and implementing their own Information Management systems, as is required by Section 6 of the Management of Information Act. The OCIO does not however, have any mandate to require compliance by public bodies. Section 6 of the Management of Information Act requires the development of records (information) management systems, and the heads of public bodies are therefore accountable for compliance in the same manner as they are responsible to comply with any other legislation. As with any legislative requirement, they may be subject to audit, or to assessment of performance indicators from their Business and Operational Plans."

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 21

OCIO should ensure compliance with the Financial Administration Act.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) will endeavour to ensure compliance with the *Financial Administration Act*.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"All relevant parties have been reminded by the Executive Director, Corporate Operations and Client Services, OCIO, of the importance of following protocols and complying with the Financial Administration Act."

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 22

OCIO should ensure operational plans are in place for all divisions.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) will endeavour to improve its operational planning and reporting.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“As of the first quarter of the current fiscal year, Operational Plans are in place in all branches of the OCIO. These plans are ongoing as part of the annual work planning and reporting process. In April 2009, the OCIO implemented the 2009/10 OCIO wide Operational Plan. The frame work for this Operational Plan was drafted during a branch level work planning session with senior OCIO management and Transparency and Accountability staff in June 2009.

Furthermore, on February 19, 2010, the OCIO hosted a session with senior OCIO management and representatives from the Transparency and Accountability Office to frame work the OCIO's 2010/11 Operational Plan. This plan is currently being drafted and is scheduled for implementation in April 2010.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 23

OCIO should ensure the system for reporting on business objectives is adequate.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) will endeavour to improve its operational planning and reporting.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“In April of 2009, the OCIO implemented a reporting guideline which outlines the OCIO’s formal reporting procedure. This guideline outlines who is responsible for reporting, content of the report or performance update, frequency, submission deadlines and approval responsibilities. This guideline is used for performance reporting on the OCIO’s Business Plan, Operational Plan and for tracking the implementation of recommendations stemming from the 2008 Auditor General’s Report.

All performance updates are compiled and approved on a quarterly basis by the Corporate Operations Branch. Data is captured and compiled in a standardized template. This is accomplished via one-on-one meetings with Executive Directors and/or designates. All data is provided by the Branch Executive Director or a designate, which also reviews and approves the Branch performance update. Once the performance update has been completed and approved by the branch, the complete performance update (for all branches) is approved by a senior member of the Corporate Operations and Client Services Branch and uploaded into TRIM.

Since its implementation, all quarterly performance updates have been completed in accordance with the guideline.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 24

OCIO should ensure the required reports are prepared.

**Entity's
response from
previous report**

OCIO indicated in response to the report that:

The Office of the Chief Information Officer (OCIO) will endeavour to improve its operational planning and reporting.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“The following have been compiled and submitted as per the OCIO’s reporting guidelines:

- *2009/10 fiscal years’ quarterly status report for the OCIO’s 2008/11 Business Plan.*
- *2009/10 Operational Plan.*
- *2008 Auditor General report recommendations.”*

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 25

OCIO should ensure that an information management training plan is developed and implemented.

**Entity's
response from
previous report**

OCIO indicated in response to the report that it:

The Office of the Chief Information Officer (OCIO) received approval in 2008/09 for an Information Management training officer position. This position has just recently been classified and recruitment will begin shortly. It will be responsible for developing information management training plans.

**Entity's
response to
current request**

In 2010, the OCIO informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“The OCIO has developed and implemented an Information Management competency framework and self assessment guide in partnership with the Centre for Learning and Development. This framework and guide assists Government of Newfoundland and Labrador (GNL) Information Management staff to develop individual learning plans by identifying skills gaps. The framework and assessments guide were launched and communicated during the GNL Information Management staff meeting in the third quarter of this fiscal year.”

**Our
conclusion**

Follow-Up Not Required

We agree with the OCIO's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

PART 2.4

DEPARTMENT OF EDUCATION

DEBT REDUCTION GRANT PROGRAM

(2007 ANNUAL REPORT, PART 2.3; UPDATE: 2009, PART 2.3)

Debt Reduction Grant Program (2007 Annual Report, Part 2.3; Update: 2009, Part 2.3)

Introduction Our 2007 Annual Report included a review of the Debt Reduction Grant Program at the Department of Education (the Department). We conducted our review to determine whether:

- students received debt reduction grants in accordance with established eligibility criteria;
- the Department had adequate systems and procedures to ensure students receive debt reduction grants to which they are entitled; and
- the Department complied with the *Student Financial Assistance Act and Regulations*.

What we found As a result of our review, we reached the following overall conclusions:

Not all eligible students are receiving debt reduction grants. The situation resulted from the following:

- Although the Division knew that certain students had graduated and it had the necessary information to assess eligibility for a debt reduction grant, the Division did not perform the procedures necessary to determine grant eligibility. As a result of our review of 15 files in this situation, the Division determined that 7 student (47%) should have received grants totalling \$52,591.
- Education institutions did not provide requested information and the Division did not follow-up on the outstanding information. As a result of our review of 21 files in this situation, 6 students (29%) should have received grants totalling \$46,799.
- Students who did not apply for a student loan in their final year of study were not identified by the Division as being in their final year of study and therefore were not automatically assessed for debt reduction grant eligibility on graduation. In this situation, students were not advised that they had to apply for a debt reduction grant on graduation.

The Division did not comply with the *Student Financial Assistance Regulations* when it paid \$2 million in loan remissions to 307 students who had not formally applied. Rather than require a formal application from the students as provided for under the *Regulations* and in order to provide students with the maximum assistance, the Division automatically assessed students for eligibility under both the Loan Remission Program and the Debt Reduction Grant Program.

**Debt Reduction Grant Program
(2007 Annual Report, Part 2.3; Update: 2009, Part 2.3)**

During our testing of debt reduction grants, we found errors in the information contained in the Student Aid Management Information System (SAMS).

Our follow-up In our 2009 Update Report we concluded that one of the original five recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the one recommendation. The recommendation is as follows:

1. *The Department should continue with its efforts to have the Student Financial Assistance Regulations amended to properly authorize loan remission payments to students who had not applied to the loan remission program.*
-

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Education has made progress in addressing the recommendations from our 2007 Annual Report, one of the original five recommendations had only been partially implemented.

We agree with the Department's position that the recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department will need to continue with its efforts to have the *Student Financial Assistance Regulations* amended to properly authorize loan remission payments to students who had not applied to the loan remission program.

Recommendation No. 1

The Department should continue with its efforts to have the Student Financial Assistance Regulations amended to properly authorize loan remission payments to students who had not applied to the loan remission program.

**Entity's
response from
previous report**

In 2009, the Department informed us that the amendment to properly authorize loan remission payments to students who had not applied to the loan remission program was part of a broader group of amendments that were in the final stages of the legislative drafting approval process.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented

Furthermore, it indicated that:

"A paper has been prepared for Government's consideration to address these amendments."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to continue with its efforts to have the *Student Financial Assistance Regulations* amended to properly authorize loan remission payments to students who had not applied to the loan remission program.

Debt Reduction Grant Program
(2007 Annual Report, Part 2.3; Update: 2009, Part 2.3)

PART 2.5

DEPARTMENT OF EDUCATION

**CONSEIL SCOLAIRE FRANCOPHONE
PROVINCIAL DE TERRE-NEUVE-ET-LABRADOR**

(2008 ANNUAL REPORT, PART 2.3)

Introduction Our 2008 Annual Report included a review of the Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador (the School District). We conducted our review to determine whether:

- compensation and hiring practices were in accordance with Government policy;
- purchase of goods and services were approved, monitored, and complied with the *Public Tender Act* and *Regulations*; and
- capital assets were monitored and controlled.

What we found As a result of our review, we reached the following overall conclusions:

- The School District did not always comply with Government's hiring and compensation policies. For example: the School District could not demonstrate that all job competitions were fair and equitable as required by Government policy, there was no Treasury Board approval for four positions reviewed, employee contracts had not all been provided to the Department of Justice for review and approval as required by Government policy and there were issues with the compensation paid to 4 of 11 employees reviewed.
- The School District was not adequately monitoring employee leave and overtime to ensure it was properly approved, accrued and taken. We reviewed the leave and overtime of five employees and identified five issues with three.
- The School District did not always comply with the *Public Tender Act* and *Regulations* and Government's travel rules and relocation policies.
- There was inadequate documentation relating to a transaction with a company which is also a tenant of the School District.
- Issues relating to travel claims and relocation expenditures included instances where incorrect mileage rates were used, an instance where a car allowance was paid incorrectly, travel claims that did not include the time of departure and arrival, and travel claims that were not always approved.
- The School District did not adequately control capital assets. In particular it did not tag its capital assets or record all capital assets in a ledger. In addition, no periodic inventory counts were performed and not all capital assets were reconciled to the financial records. As a result, missing assets may not be detected.

Our follow-up In February 2010, we contacted the School District requesting an update as to what progress had been made on the original nine recommendations resulting from our review. The recommendations are as follows:

1. *The School District should ensure job competition documentation is compiled and retained in accordance with Government policy.*
2. *The School District should ensure employee positions and classifications are approved by Treasury Board.*
3. *The School District should ensure employees are compensated in accordance with Government policy or approved contracts.*
4. *The School District should ensure employee leave and overtime are properly approved, documented and monitored.*
5. *The School District should ensure it complies with the Public Tender Act and Regulations.*
6. *The School District should ensure its travel and relocation policies comply with Government policy.*
7. *The School District should ensure expenditures are always approved, supported and accounted for.*
8. *The School District should ensure policies and procedures for the identification, recording, controlling and monitoring of capital assets are developed and implemented.*
9. *The School District should ensure capital assets are tagged, information is recorded in a capital asset ledger, and capital assets are periodically inventoried and reconciled to financial records.*

Information we requested The School District was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador (the School District) has made progress in addressing the recommendations from our 2008 Annual Report, 7 of the original 9 recommendations had only been partially implemented.

We agree with the School District's position that the recommendation numbers 2, 3, 4, 7, 8 and 9 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the School District will need to:

- obtain Treasury Board's approval for classification on four jobs noted;
- have approved employee contracts in place;
- modify School District policy regarding non-management/non-union staff leave and benefits;
- record computer serial numbers on supplier invoices or request invoices or packing slips from the supplier with this information;
- adopt a formal capital asset policy; and
- reconcile the capital database to the financial records on a regular basis.

We agree with the School District's position that recommendation number 5 has been partially implemented. However, we will not follow-up on this recommendation again next year as the School District agrees with the recommendation and is attempting to implement it, with only isolated incidents of non-compliance identified.

We agree with the School District's position that the recommendation numbers 1 and 6 have been fully implemented and, therefore, no further follow-up is required on those recommendations.

Recommendation No. 1

The School District should ensure job competition documentation is compiled and retained in accordance with Government policy.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it would develop procedures to ensure that all relevant information for its job competitions is properly filed for future reference.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been fully implemented.

Furthermore, it indicated that "*Copies of job advertisements, applications received, interview schedules, interview notes, interview grading schemes and reference check information are filed with every job competition.*"

**Our
conclusion**

Follow-up Not Required

We agree with the School District's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The School District should ensure employee positions and classifications are approved by Treasury Board.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it would prepare job descriptions for the four positions in question and submit them to the Job Classification Committee before April 30, 2009. Regarding the employee whose reclassification was not approved by Treasury Board, the School District would determine, if necessary with the assistance of specialists in Government, the appropriate course of action to address the situation.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that "*The CSFP [Conseil Scolaire Francophone Provincial de Terre-Neuve-et-Labrador] will fully implement this recommendation by June 30, 2010. Three of the four job descriptions to be completed have been submitted for classification. Judgment in regard to final job classifications has not yet been received. The position that had been reclassified effective 1 September 2005 is subject to a formal classification by Treasury Board. An evaluation of the said reclassification will be made subsequent to the receipt of the response from Treasury Board.*"

**Our
conclusion**

Follow-up Required

We agree with the School District's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the School District will need Treasury Board's approval for classification on four jobs noted.

Recommendation No. 3

The School District should ensure employees are compensated in accordance with Government policy or approved contracts.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it would seek advice from the Department of Justice for all existing and all future employment contracts. The School District would ensure that all future amendments to employment contracts were documented in the employee file.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The CSFP will fully implement this recommendation by June 30, 2010. Where there was cause to inquire about certain provisions of the School Board's standard employment contract, the CSFP submitted same to the Department of Justice as per Auditor General recommendations. No response has been received on this request. This document was also reviewed by the Board's legal counsel and improvements suggested have since been incorporated into subsequent contracts signed by the School Board.*

There is one position for which a formal contract has not yet been drafted. This item shall be completed prior to the current fiscal year end.

An updated contract for the Board Director has also been submitted for Ministerial approval. An updated contract for the Assistant Director needs to be prepared for submission. This shall be completed prior to the current fiscal year end."

**Our
conclusion**

Follow-up Required

We agree with the School District's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the School District will need to have approved employee contracts in place.

Recommendation No. 4

The School District should ensure employee leave and overtime are properly approved, documented and monitored.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it would revisit the payment of accrued leave to the former Director with representatives of the Department to ascertain whether this agreement should be reviewed, and would ensure an appropriate follow-up regarding the overpayment of vacation pay to one employee. The School District would develop a procedure to better track leave and overtime and pre-approval forms would be developed through consultation with Government. The School District would ensure that appropriate documentation displaying management approval of all leave is kept and it would implement an overtime authorization form immediately. Regarding the payment of annual leave to non-management/non-union staff, the School District would consult with Government so as to determine whether steps need to be taken to bring School District practice in line with Government policy.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The CSFP has partially implemented the recommendations of the Auditor General. The Board will fully implement the Auditor General's recommendations by June 30, 2010. Since the receipt of the Auditor General's report, there has been very little overtime banked by board staff. The Coordinator of IT is the sole staff member to accumulate any time and this time has been greatly restricted subsequent to the receipt of the Auditor General's initial observations in 2008/2009.*

Despite our earlier assurances to the contrary, the CSFP has not developed an overtime pre-approval form. This was an oversight which shall be rectified prior to March 31, 2010. [An overtime pre-approved form was developed and provided subsequent to the Board's response to this request.]

Regarding the tightness of documentation pertaining to management approval of employee leave, a new form has been developed and applied across the board. Board management must continue to be vigilant to ensure that all staff makes use of this form at all times.

Concerning payment of accrued leave to a former Director, the CSFP did discuss same with a representative of the Department of Education. In light of the difficult circumstances surrounding the departure of the former Director, the Board is of the opinion that it would be not be in the Board and Government's best interest to reopen for discussion the terms of severance. Concerning non-management / non-union staff leave and benefit policy, a formal determination to modify Board policy in this regard has not been taken, though the CSFP is not convinced that the circumstances warrant that a 'paid-leave' policy for these employees be implemented."

**Our
conclusion**

Follow-up Required

We agree with the School District's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the School District will need to modify Board policy regarding non-management/non-union staff leave and benefits.

Recommendation No. 5

The School District should ensure it complies with the Public Tender Act and Regulations.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it would work with Government to address weaknesses in its procedures in complying with the *Public Tender Act* and *Regulations*. In the future, the School District would inform the Government Purchasing Agency (GPA) via their Form 'B' of all purchases where tenders were not required or feasible. The School District would address the weaknesses regarding documentation to ensure suppliers meet tender specifications through a better delegation of duties amongst its support staff. Through a strategy of continuous improvement, the School District believes that its staff would attain a complete monitoring of all tender specifications and results. The School District would consult with the GPA to ensure that proper procedures regarding the processing of tenders are followed.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The Board will fully comply with the Auditor General’s recommendations by June 30, 2010.”*

In the current fiscal year, the CSFP has omitted to submit a Form ‘B’ document for two purchases where a tender was required but was not done. In regard to ensuring that suppliers meet tender specifications, improved ‘delegation’ has occurred through the continued development of purchasing expertise of one board office employee who assists the Assistant Director in this area. This learning is ongoing and it is the board’s intention that the staff person contribute more in this and other areas as her understanding and skill improves.

The CSFP continues to avail of the advice of specialists in the Government Purchasing Authority, Government itself and other school boards (e.g. photocopier and snow clearing tenders) in regard to the Public Tender Act and specification preparation, and the Board attempts to purchase off standing offers whenever possible.”

**Our
conclusion**

Follow-up Not Required

We agree with the School District’s position that this recommendation has been partially implemented. However, we will not follow-up on this recommendation again next year as the School District agrees with the recommendation and is attempting to implement it with only isolated incidents of non-compliance identified.

Recommendation No. 6

The School District should ensure its travel and relocation policies comply with Government policy.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it would consult with Government to verify policy requirements for car allowances regarding the concerned party and if necessary, the union, with the purpose of rectifying the discrepancy. The School District committed to reviewing all cases where expenses were paid that were not claimable according to Government policy with the purpose to determine the appropriate follow-up action. School District procedures and forms would be modified to show departure and arrival times so that meal rates may be accurately reimbursed. The School District consulted with the Department of Education in regard to the development of a new form to be used for non-travel related expenses to be implemented quickly and the form would require that receipts be provided for all requests for payment. The School District consulted with Government with regard to the best manner by which to document future decisions regarding the most economical means of travel and fully intends to ensure that such documentation was provided for future claims. The School District would address the question of travel claim approvals with all staff affected, and it would be more rigorous in its application of Government policy with respect to future travel claims processing regarding documented approvals.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“The CSFP has modified its practices in the area of travel and relocation policy. A new travel reimbursement form and a new trip authorization form have been adopted and care is now taken to ensure that all pre-trip authorizations are in place prior to travel occurring.*

Director travel is now always approved by the Board Chair.

The car allowance being paid has been discontinued and payment of cost for Internet service at the Coordinator of IT's personal residence has ceased. Authorization has been obtained from the Minister of Education to pay childcare costs in specific circumstances.

Subsequent to the Auditor General's review, the board no longer uses lump sum payments to pay for relocation costs. Also, the provisions of the 'Relocation Expense Agreement' section of the Government policy are now being applied to all new hires of the CSFP. Finally, a new credit card has been purchased to eliminate excessive insurance charges on car rentals.”

**Our
conclusion**

Follow-up Not Required

We agree with the School District's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The School District should ensure expenditures are always approved, supported and accounted for.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that HST charges regarding bussing and snow-clearing contracts overpayments were to be recouped and it would be especially careful in regard to the dates used in future contracts. On a go-forward basis, the School District would maintain adequate documentation to support changes regarding contract renewal. The School District fully concurred that all serial numbers must be noted for new computer acquisitions so as to properly track these valuable assets.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that the *“Board employees have been informed of the necessity to use travel forms to claim only travel related expenses. Purchase orders will be used for regular purchases while employees are on travel status. Despite communication to this effect, some exceptions have still occurred; therefore subsequent corrective messaging has been delivered to completely respect this recommendation.”*

Computer serial numbers are being noted in our inventory file however the noting of such numbers on supplier invoices has not yet been implemented. The CSFP shall action this recommendation before the current year fiscal year, June 30, 2010. The Board has, however, completely updated its inventory to March 2010 to include all serial numbers for computer equipment.”

**Our
conclusion**

Follow-up Required

We agree with the School District's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the School District will need to record computer serial numbers on supplier invoices or request invoices or packing slips from the supplier with this information.

Recommendation No. 8

The School District should ensure policies and procedures for the identification, recording, controlling and monitoring of capital assets are developed and implemented.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it was involved in the process of reviewing its by-laws, policies and procedures. It would ensure that it has proper policies and procedures to acquire, dispose of and monitor capital assets.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"A formal policy has not been adopted. The School Board is still in the process of a major reorganization of its policy framework. Considerable progress has been made, however, through the creation of an asset database. This database was completed in June 2009 but it must be brought up to date and reconciled correctly to the board's financial records. Also, subsequent to Auditor General recommendations, greater attention has been directed to the board's IT inventory. Full updates of this inventory are performed annually, the most recent of which was completed early in March 2010. As noted previously, this file has been updated to include serial numbers for all computers."*

**Our
conclusion**

Follow-up Required

We agree with the School District's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the School District will need to adopt a formal capital asset policy.

Recommendation No. 9

The School District should ensure capital assets are tagged, information is recorded in a capital asset ledger, and capital assets are periodically inventoried and reconciled to financial records.

**Entity's
response from
previous report**

The School District indicated in its response to our 2008 Report that it agreed that tagging, a proper capital asset ledger, use of a transfer form, and periodic counts of inventory were valuable methods for asset control and it would seek to implement these methods as part of an expanded capital asset policy.

**Entity's
response to
current request**

In 2010, the School District informed us that the recommendation had been partially implemented.

Furthermore, it indicated that the recommendation "...will be fully implemented by June 30, 2010. In May 2009, the District hired a summer student to physically tag all assets. A database was created. The reconciliation of the database to the financial records remains to be completed. This second step will be completed prior to the end of the current fiscal year by a summer student. Furthermore, the computer equipment inventory of the board has been completely verified and augmented to include further detail as recommended by the Auditor General. (E.g. Serial numbers.) This task is a responsibility of Board's Coordinator of Information Technology.

The Board's first experience with tagging raised some issues that require adjustment as is in some cases, it was discovered that the tags were purposefully removed by students. Corrective measures are therefore necessary and will be undertaken before the end of the current fiscal year."

**Our
conclusion**

Follow-up Required

We agree with the School District's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the School District will need to reconcile the capital asset database to the financial records on a regular basis.

PART 2.6

DEPARTMENT OF EDUCATION

MEMORIAL UNIVERSITY OF NEWFOUNDLAND

(2005 ANNUAL REPORT, PART 2.3; UPDATES: 2007, PART 3.2.4; 2009, 2.6)

Introduction Our 2005 Annual Report included a review of Memorial University of Newfoundland (the University). We conducted our review to determine whether: there were mechanisms in place to ensure the University was accountable to Government and the House of Assembly; Government, primarily through the Department of Education, was adequately involved in monitoring the financial performance of the University; the University followed a strong strategic plan; and the University used a strong system of controls for its financial transactions and assets.

What we found As a result of our review, we reached the following overall conclusions:

Accountability mechanisms

We learned that the University was unique among all other Government entities in the way it was held accountable to Government and the House of Assembly. At the time of our review, the University was the only Government entity:

- not subject to all requirements of the *Transparency and Accountability Act*;
- not included in the Province's Consolidated Summary Financial Statements; and
- not compelled to have officials appear before Committees of the House of Assembly.

In our opinion, the University's accountability mechanisms were not adequate.

Government monitoring

Our review indicated that the Department of Education did not have significant involvement in monitoring the financial affairs of the University.

Strategic plan

We also found that, while the University had a strategic framework, it could not be considered as a comprehensive strategic plan to direct its operations. However, we noted that at the time, the University was in the process of developing a more comprehensive strategic plan.

Control of financial transactions and assets

We learned that weaknesses existed in the University's system of financial transaction and asset controls. There were significant inconsistencies in compensation practices between University employees and other public sector employees, as well as inconsistencies with the University's own policies. We also found that the University was not always complying with the *Public Tender Act*.

Our follow-up

In our 2009 Update Report we concluded that three of the original twenty-six recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the University requesting an update as to what progress had been made on the three recommendations. The recommendations are as follows:

- 1. The University should finalize management agreements with all Separately Incorporated Entities (SIEs).*
- 2. The University should ensure recruitment policies are complied with and that compliance is documented.*
- 3. The University should address issues identified with the review of travel claims by source faculties, departments and divisions, and subsequent review at the Financial Administrative Services Division.*

Information we requested

The University was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While Memorial University of Newfoundland has made progress in addressing the recommendations from our 2005 Annual Report, three of the original twenty-six recommendations had only been partially implemented.

We agree with the University's position that the recommendations have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the University will need to:

- put management agreements in place for all Separately Incorporated Entities;
- implement a comprehensive on-line application process for recruitment; and
- implement electronic travel claims processing.

Recommendation No. 1

The University should finalize management agreements with all Separately Incorporated Entities (SIEs).

**Entity's
response from
previous report**

In 2009, the University informed us that:

- the Management Agreement had been completed for EDUTECH;
 - the Newfoundland Quarterly Management Agreement was nearing completion and was pending board approval;
 - the Childcare Centre Management Agreement had received board approval;
 - Management Agreement discussions for the Canadian Centre for Fisheries Innovation (CCFI) had not commenced; and
 - CCFI is supported by the Federal and Provincial governments and the Management Agreement had been flagged for discussion upon continuation of funding.
-

**Entity's
response to
current request**

In 2010, the University informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The Management Agreement with EDUTECH has received board approval and has been signed. The Childcare Centre Management Agreement has received board approval and has been signed. The Management Agreement for the Newfoundland Quarterly is on hold as discussions continue regarding its governance structure. Funding for the Canadian Centre for Fisheries Innovation (CCFI) was discontinued during 2009 and it appeared that the company would be wound up. Subsequently, funding was reinstated and operations are continuing. Should long term funding be secured, we will commence discussions regarding a formal SIE Agreement.”*

**Our
conclusion**

Follow-up Required

We agree with the University's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the University will need to put management agreements in place for all Separately Incorporated Entities.

Recommendation No. 2

The University should ensure recruitment policies are complied with and that compliance is documented.

**Entity's
response from
previous report**

In 2009, the University informed us that the applicant tracking system (ATS) had not been implemented at that time as the system was not feasible with current technology; however, an on-line application process was scheduled to go live on 22 May 2009.

**Entity's
response to
current request**

In 2010, the University informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“An Applicant Tracking System was not technically feasible therefore we implemented an alternative solution to allow on-line applications. A more comprehensive system will be utilized when a new HR system is implemented. Funding will be required in order to implement this recommendation.”*

**Our
conclusion**

Follow-up Required

We agree with the University's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the University will need to implement a comprehensive on-line application process for recruitment.

Recommendation No. 3

The University should address issues identified with the review of travel claims by source faculties, departments and divisions, and subsequent review at the Financial Administrative Services Division.

**Entity's
response from
previous report**

In 2009, the University informed us that the vendor of the University's finance system was in the process of releasing a Travel Claims Processing module. It was indicated that this module would be the preferred software to use for electronic travel claims processing as it would interface directly with the finance module and other system modules. The vendor had released the Travel Claims Processing module in the USA with plans to release the Canadian version at a date in the near future. The timeline for implementation depended upon the release date of the Canadian version of the software and upgrading of the finance system to the latest version of the software as of that date (this would normally occur as part of operations). The University would then purchase the Travel Claims Processing module and the imaging software that corresponded with it and was required to obtain full benefits of the module. The University had submitted a funding request with its budget submission to the Provincial government for this purchase - at that time anticipated to cost \$500,000 to purchase and to implement this software. Funding would be required in order to purchase and to implement the software.

**Entity's
response to
current request**

In 2010, the University informed us that the recommendation had been partially implemented.

Furthermore, the University indicated that it "... has reviewed its travel processes and agrees that purchasing an electronic travel claims process would address the concerns raised in the Auditor General's report. In December 2009, the vendor of the University's finance system released a version of their Travel Claims Processing Module which can accommodate Canadian taxes and rebates. This module would be the preferred software to use for electronic travel claims processing as it would interface directly with the finance module and other system modules. The timeline for implementation depends upon the upgrading of the finance system to the latest version of the software which is anticipated to be completed by October 2011. Memorial would then purchase the Travel Claims Processing Module and the imaging software that corresponds with it, which would be required to obtain full benefits of the module. Funding will be required in order to implement this recommendation."

**Our
conclusion**

Follow-up Required

We agree with the University's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the University will need to implement electronic travel claims processing.

PART 2.7

DEPARTMENT OF EDUCATION

MONITORING AIR QUALITY IN SCHOOLS

(2008 ANNUAL REPORT, PART 2.4)

Monitoring Air Quality in Schools (2008 Annual Report, Part 2.4)

Introduction Our 2008 Annual Report included a review of Monitoring Air Quality in Schools at the Department of Education (the Department). We conducted our review to determine whether the Department was adequately monitoring indoor air quality in schools and taking action to address issues related to air quality.

What we found As a result of our review, we reached the following overall conclusions:

- Based on the results of annual school inspections, enhanced inspections undertaken in 2007 and tests associated with prior initiatives, there was evidence to suggest that there were issues in schools with regards to air quality. Potential issues identified included such things as: ventilation, mould and mildew, leaks and stained ceiling tiles.
- Not all planned inspections and/or initiatives were completed. For example, the Department of Government Services was not always completing the required annual inspections; 186 of 229 schools identified as requiring an inspection for asbestos had never had assessments performed by the school districts; and 43 schools in operation in 2007-08 had never been tested for air quality even though they were part of an initiative to do so in 1998.
- Issues relating to air quality were not always addressed in a timely manner. Although issues relating to air quality were identified every year in annual inspections, quite often the issues were not addressed and recurred from year to year at the same school.
- Carpets and chalkboards continued to be used in schools even though they were identified as contributors to dust and poor air quality in schools in the 1998 testing.
- Issues with mechanical ventilation systems included inoperable, unclean and blocked ventilation systems and poor ventilation in specific classrooms such as computer and chemistry labs, and industrial arts rooms. Furthermore, issues were identified with regards to natural ventilation including windows that could not be opened because they had been sealed shut, missing handles, missing or broken screens and classrooms without windows or other ventilation.
- Not all parts of the annual inspection reports prepared by the Department of Government Services were always completed and compliance dates/times for remedial action were not always noted.

Monitoring Air Quality in Schools (2008 Annual Report, Part 2.4)

- Neither the Department of Government Services nor the school districts had a centralized database to track annual school inspections and any issues identified during those inspections.
- The Department of Education's database to record air quality initiatives and the required asbestos testing was not up-to-date.
- The Department of Government Services did not have a documented school inspection policies and procedures manual to assist the Environmental Health Officers in their annual inspections of schools.
- Neither the Department of Education nor the school districts had policies and procedures to ensure issues related to air quality are monitored and followed up.

Our follow-up

In February 2010, we contacted the Department requesting an update as to what progress had been made on the original eight recommendations resulting from our review. The recommendations are as follows:

1. *The Department of Education in cooperation with the Department of Government Services and school districts should establish a process to monitor the results of annual inspections by the Department of Government Services and ensure corrective action is taken to address issues related to air quality in schools.*
2. *The Department of Education in cooperation with school districts and the Department of Government Services should establish policies and procedures and a centralized information system to monitor school inspections, issues, and any action taken.*
3. *The Department of Education and school districts should identify instances where schools are not inspected annually and follow-up with the Department of Government Services to ensure this is done.*
4. *The Department of Education, in cooperation with school districts, should monitor issues related to ventilation that are identified in the Department of Government Services annual inspections and take action to address the issues.*
5. *The Department of Education should establish procedures to monitor issues related to air quality in schools on a proactive basis.*

**Monitoring Air Quality in Schools
(2008 Annual Report, Part 2.4)**

6. *The Department of Education and school districts should establish a system to monitor hazardous materials assessments in schools and ensure assessments are performed and documented for all schools.*
7. *The Department of Education in cooperation with the Department of Government Services should establish procedures to ensure an enhanced inspection is performed on all schools in the Province.*
8. *The Department of Education in cooperation with the Department of Government Services should establish procedures to ensure appropriate action is taken to remediate issues identified during the enhanced inspections.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Education has made progress in addressing the recommendations from our 2008 Annual Report, three of the original eight recommendations had only been partially implemented.

We agree with the Department's position that the recommendation numbers 2 and 5 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the two recommendations, the Department will need to:

- have a fully functional database in all school districts to monitor air quality issues; and
- have policies and procedures in place to address air quality issues on a proactive basis.

We agree with the Department's position that recommendation number 4 has been partially implemented; however, follow-up on this recommendation will be of no further benefit as the Department considers any further action cost prohibitive and disruptive to students.

We disagree with the Department's position that recommendation 1 has been partially implemented because the Department does not consider it necessary to monitor the results of all annual inspections. However, our recommendation is for Departments to have a process in place to be informed of and to review all issues that relate to air quality only. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

We disagree with the Department's position that recommendation 7 has been partially implemented because the Department does not intend to extend the enhanced inspection to all schools but instead intends 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 to carry out the building envelope inspections on all schools periodically. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

We agree with the Department's position that the recommendations numbers 3, 6 and 8 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department of Education in cooperation with the Department of Government Services and school districts should establish a process to monitor the results of annual inspections by the Department of Government Services and ensure corrective action is taken to address issues related to air quality in schools.

**Entity's
response from
previous report**

The Department of Education's response did not specifically address this recommendation.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The Department of Education does not receive copies of the annual inspection reports, given the routine nature of issues normally identified through these inspections."*

**Monitoring Air Quality in Schools
(2008 Annual Report, Part 2.4)**

The Department of Government Services schedules annual inspections of all schools in the school districts as part of its routine Environmental Health Program. These are general inspections of the building for sanitation and other potential health and safety concerns. To the extent that any conditions which may affect indoor air quality are identified in these inspections, they are reported to the school district to action.

In the very small number of instances where an annual inspection has identified issues of an urgent nature, the Department of Education has been notified by the Department of Government Services. In such cases, the Department of Education and school districts work together to ensure that the urgent issues are addressed and funded as soon as possible.”

**Our
conclusion**

Follow-up Not Required

We disagree with the Department’s position that this recommendation has been partially implemented because the Department does not consider it necessary to monitor the results of all annual inspections. However, our recommendation is for Departments to have a process in place to be informed of and to review all issues that relate to air quality only. Therefore, given the Department’s position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 2

The Department of Education in cooperation with school districts and the Department of Government Services should establish policies and procedures and a centralized information system to monitor school inspections, issues, and any action taken.

**Entity’s
response from
previous report**

The Department of Education indicated in its response to our 2008 report that the school districts are developing better quality action plans that will make issues easier to track.

The Department of Government Services agreed that a coordinated IT strategy for tracking issues would be preferable and have requested funding from the Office of the Chief Information Officer (OCIO) to add schools to its AMANDA database system in 2009-10.

Monitoring Air Quality in Schools (2008 Annual Report, Part 2.4)

Both the Department of Education and the Department of Government Services acknowledge the lack of detailed policy and procedures manuals regarding school inspections and follow-up. These will be developed as part of the on-going discussions with the school districts. The Department of Education has also requested Public Service Secretariat approval for the creation of a position for an Industrial Hygienist to focus on air quality policies and procedures.

Entity's response to current request

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“A database is being developed by the Eastern School District to record and track all issues related to air quality, hazardous materials assessment, enhanced inspections as well as other related issues. It is anticipated that, once the database becomes fully functional in Eastern School District, it will be adopted by the other four school districts. This is still in the development stage and is nearly ready for testing at the Eastern School District.*

An Industrial Hygienist was hired by the Department of Education on December 7, 2009 who will assist the K-12 school system with respect to:

- *developing policy to better enable the department and school districts to address issues relating to air quality;*
 - *This will include guidelines respecting a more consistent approach to handling indoor air quality complaints and issues, particularly respecting the testing and/or temporary closure of schools due to air quality concerns, and,*
 - *Working with school districts, school councils and school Occupational Health and Safety committees to better inform decisions with respect to indoor air quality concerns that could lead to a school closure.*
- *the strategic inspection and monitoring of indoor air quality in schools; and,*
- *coordinating and maintaining a database.*

The Department, through its Industrial Hygienist, is in the process of developing indoor air quality (IAQ) related policies, procedures, and checklists to enhance IAQ (i.e. dust control procedures, maintenance IAQ checklists, etc). It is anticipated that additional procedures will be developed over time and training will be provided to school district maintenance staff with respect to identifying and correcting conditions that could lead to air quality related issues.

With respect to enhanced inspections, school districts are required to submit action plans, with associated timelines, to the Department of Government Services on how they will be addressing the recommendations in these reports. The Department of Government Services is responsible for monitoring progress on these action items. The Department was not successful in obtaining funding from the OCIO in the 2009-10 budget to include school inspections in the AMANDA database but has developed an electronic database for tracking the enhanced inspections and action plans.

In consultation with the Departments of Government Services and Education, and the Regional Health Authorities, the Department of Health and Community Services is in the process of developing additional guidance documents on school inspections.”

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to have a fully functional database in all school districts to monitor air quality issues and have policies and procedures in place to address air quality issues.

Recommendation No. 3

The Department of Education and school districts should identify instances where schools are not inspected annually and follow-up with the Department of Government Services to ensure this is done.

**Monitoring Air Quality in Schools
(2008 Annual Report, Part 2.4)**

**Entity's
response from
previous report**

The Department of Education's response did not specifically address this recommendation.

The Department of Government Services indicated in its response to our 2008 report that it had been successful in recruiting inspectors for some areas and was making every effort to ensure that all schools are inspected annually as required and that the proper documentation is completed.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that "*Ensuring schools are inspected as required in accordance with target frequencies (at least once per year in this case) is the responsibility of the Department of Government Services.*"

Government Services has successfully addressed earlier (pre-2008) recruiting issues through its on-going EHO Bursary Program. Environmental Health inspectors continue to inspect schools on an annual basis and address any issues that may arise, during either regular or enhanced school inspections, directly with the school districts."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The Department of Education, in cooperation with school districts, should monitor issues related to ventilation that are identified in the Department of Government Services annual inspections and take action to address the issues.

**Entity's
response from
previous report**

The Department of Education indicated in its response to our 2008 Report that it was currently researching cost-effective options to address ventilation issues in the Province's schools and would request that school districts ensure that all windows were operable.

**Monitoring Air Quality in Schools
(2008 Annual Report, Part 2.4)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“Since the Auditor General’s 2008 report, the Department of Education directed all school districts to ensure that all classrooms have a sufficient number of operable windows. School districts have confirmed, except in extenuating circumstances, that they are compliant with this direction. The Department has also developed a natural ventilation policy to distribute to all school districts to implement in schools which do not have mechanical ventilation systems installed.*

The Department engaged a consultant in 2009 to assess possible mechanical ventilation alternatives for a typical school which currently does not have a system installed. The consultant has since completed its evaluation. The Department has concluded, consistent with other jurisdictions in Atlantic Canada, that it would be very cost prohibitive and disruptive to students to install mechanical ventilation systems in all schools that do not have systems currently installed. As such, the Department’s highest repairs and maintenance priority will be to continue to fund projects that will prevent water infiltration and addressing issues that can potentially cause air quality problems, noting that over the last two years the department has spent approximately \$67 million on repairs and maintenance projects.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department’s position that this recommendation has been partially implemented. However, follow-up on this recommendation will be of no further benefit as the Department considers any further action cost prohibitive and disruptive to students.

Recommendation No. 5

The Department of Education should establish procedures to monitor issues related to air quality in schools on a proactive basis.

Monitoring Air Quality in Schools (2008 Annual Report, Part 2.4)

Entity's response from previous report

The Department of Education indicated in its response to our 2008 Report that an enhanced inspections pilot process is being developed to identify common conditions (e.g., roof and window leaks) which may lead to air quality issues and funding specific initiatives from those inspections to deal with critical problems in particular schools. Furthermore, more assessments of building envelopes has been undertaken to identify potential concerns and prevent adverse air quality issues associated with water infiltration and the Department's engineering capacity has been increased through the hiring of an individual with building envelope expertise.

Entity's response to current request

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"A further 29 enhanced inspections were carried out in fiscal 2009-10 and 92 building envelope assessments were carried out during the 2009 calendar year. To date, the department has approved approximately \$13 million in projects specific to substantive issues identified in the 87 enhanced inspections which have been completed to date. In addition, in excess of \$40 million will be spent on repairs and maintenance projects in 2009-10 bringing the total over the last two years to \$67.4 million with the highest priority on stopping water infiltration, the leading cause of air quality issues."*

The results of enhanced inspections and building envelope assessments have been incorporated into school board priority lists to better prioritize and be more proactive in addressing issues relating to air quality in schools. In addition, school districts prepare and submit action plans outlining the issues identified and specific actions that will be or have already been completed to address routine repairs and maintenance issues. These action plans are submitted by the school districts to the Departments of Government Services, which is responsible for monitoring progress on how the recommendations in the inspection reports are being addressed.

The Department is providing support to develop a database at the Eastern School District to record and track all issues related to air quality, hazardous materials assessment, enhanced inspections as well as other related issues. It is anticipated that, once the database becomes fully functional in the Eastern School District, it will be adopted by the other four school districts.

Monitoring Air Quality in Schools (2008 Annual Report, Part 2.4)

All school districts are currently utilizing spreadsheets and databases to track actions plans, maintenance work orders and other maintenance related issues. In addition, the Department of Education currently utilizes databases and files for maintaining records of air quality related issues, hazardous materials assessment reports, enhanced inspection reports, as well as action items and capital project requests.

The pilot project has largely accomplished its objectives of identifying the main conditions which might lead to air quality issues. While it has been agreed that Government Services will continue to assist Education, on an as needed basis, if an enhanced inspection is required at a particular school, the future focus will be on ensuring school districts are identifying and addressing the key contributors to good indoor air quality.

The existing annual inspection process is being reviewed, in conjunction with the Departments of Health and Community Services and Education, to incorporate some of the features of the enhanced inspection pilot to ensure these key factors are monitored on a regular basis.”

Our conclusion

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to have a fully functional database in all school districts to monitor air quality issues and have policies and procedures in place to address air quality issues.

Recommendation No. 6

The Department of Education and school districts should establish a system to monitor hazardous materials assessments in schools and ensure assessments are performed and documented for all schools.

**Monitoring Air Quality in Schools
(2008 Annual Report, Part 2.4)**

**Entity's
response from
previous report**

The Department of Education indicated in its response to our 2008 Report that it had allocated funding to all school districts in 2008-09 to complete hazardous materials assessments in all schools not previously tested. School districts were in the process of having the remaining 132 schools assessed. The Department of Education had allocated approximately \$400,000 in fiscal 2008-09 to have these assessments completed. As of January 2009, Eastern School District had contracted a consultant to conduct 50 Hazardous Material Assessments in district schools requiring same out of this funding.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"Hazardous materials assessments have now been completed on all schools built prior to 1986. All assessment reports were reviewed by the school districts and the Department of Education for items requiring action. Any items identified in the secondary review by the department have been communicated to the districts."*

School districts understand that they must refer to the assessment reports prior to performing maintenance work on schools and to take all necessary precautions where it is uncertain whether a hazardous materials exists. Training is also planned for district staff to further educate them on issues relating to air quality related issues."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The Department of Education in cooperation with the Department of Government Services should establish procedures to ensure an enhanced inspection is performed on all schools in the Province.

**Entity's
response from
previous report**

The Department of Education indicated in its response to our 2008 Report that since January 2007 a further 32 enhanced inspections were completed bringing the total to 58 or 21 percent of schools.

Monitoring Air Quality in Schools (2008 Annual Report, Part 2.4)

Entity's response to current request

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“As of March 2010, a total of 87 (or 31 percent), of the province’s 279 schools have been inspected under the enhanced inspection pilot by the Department of Government Services.*

The pilot has largely accomplished its objectives of identifying the main conditions which might lead to air quality issues. As such, it has been agreed that the Department of Government Services will continue to assist the Department of Education, on an as needed basis, if an enhanced inspection is required at a particular school. However, there is no need for the Department of Government Services to conduct enhanced inspections on all of the remaining schools in the province.

The Department of Education has put an increased emphasis on conducting building envelope assessments by qualified professionals that incorporates some of the features of the Enhanced Inspection Program. The Department will also be undertaking training for district and department staff, through its Industrial Hygienist, based upon common themes identified in the 87 enhanced inspections completed.”

Our conclusion

Follow-up Not Required

We disagree with the Department’s position that this recommendation has been partially implemented because the Department does not intend to extend the enhanced inspection to all schools but instead intends 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 to carry out the building envelope inspections on all schools periodically. Therefore, given the Department’s position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 8

The Department of Education in cooperation with the Department of Government Services should establish procedures to ensure appropriate action is taken to remediate issues identified during the enhanced inspections.

**Monitoring Air Quality in Schools
(2008 Annual Report, Part 2.4)**

**Entity's
response from
previous report**

The Department of Education indicated in its response to our 2008 Report that in the initial phases of the pilot, school districts were not instructed specifically with respect to the format or content of the action plans to be provided upon completion of an enhanced inspection. As the initial plans were received, reviewed and further discussed, this reporting process evolved and was considerably improved. Further discussions would also take place to help standardize the reporting processes. Again, such evaluation and improvement was the nature of a pilot process.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“Issues of an urgent nature, identified through enhanced inspections, are either addressed immediately or as soon as possible, depending on their seriousness. Other issues, such as window replacements, roof leaks and other building envelope work, have been incorporated into the school board yearly budget process and prioritized by the department with respect to funding. Issues identified from the Enhanced Inspection program have been a priority for the department with respect to providing repairs and maintenance funding. To date, the department has allocated approximately \$13 million to address issues identified through enhanced inspections and over the last two years allocated \$67.4 million for repairs and maintenance projects.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

PART 2.8

DEPARTMENT OF EDUCATION

MONITORING PRIVATE TRAINING INSTITUTIONS

(2008 ANNUAL REPORT, PART 2.5)

Introduction Our 2008 Annual Report included a review of Monitoring Private Training Institutions at the Department of Education (the Department). We conducted our review to assess the systems and practices in place at the Department and to determine whether the Department is monitoring private training institutions for compliance with the requirements of the *Private Training Institutions Act and Regulations*.

What we found As a result of our review, we reached the following overall conclusions:

The Department of Education and many of the private training institutions were not in full compliance with the requirements of the *Private Training Institutions Act and Regulations*. During our review we identified issues such as: complete registration renewal applications were not always submitted by the required deadline, audited financial statements were not submitted within the required three month timeframe, and instructors did not always have their training requirements completed. The Department did not perform any three year program reviews and was not always performing the required annual compliance visits. Details are outlined as follows:

Three Year Program Reviews

Contrary to the *Regulations*, the Department had never completed a three year review of the programs offered by any private training institution. The three year program review is designed to evaluate a program offered by a private training institution on criteria such as needs assessment, admission standards, curriculum content, program duration and graduate certification.

Annual Compliance Visits

Contrary to Departmental policy, annual compliance visits were not performed on all campuses. In 2007, 6 of the 26 campuses with students did not have a compliance visit completed. As a result, the Department did not compile information on the nine areas (e.g. instructional staff, programs, student records) required during compliance visits to determine compliance with the *Act, Regulations* and Departmental policies. In addition, contrary to Departmental policy, a report outlining the results of each annual compliance visit was not always provided to the campus.

Instructor Approval

Not all instructors at the private training institutions had been approved by the Department as required under the *Regulations*. From a review of the 2007 registration renewal applications, we identified that at least 8 instructors in 6 institutions were teaching courses even though the instructors had not been approved by the Department.

Not all approved instructors had completed all of the courses necessary to receive the required Post Secondary Instructor's Certificate. As at March 2008, out of 50 files reviewed, there were 15 instructors in 10 institutions who had not completed the course requirements within the required timeframe established by the Department. In fact, 12 of the 15 instructors had not completed any courses since being approved.

Registration Renewal of Private Training Institutions

Contrary to the *Act*, which requires registration renewal applications to be submitted on or before December 31 each year, the Department's Operations Manual (which is provided to all institutions) indicates that the renewal applications were to be submitted on or before January 31 of the following year. As a result, while institutions may be in compliance with requirements established by the Department, they could still be in contravention of the requirements of the *Act*.

Not all institutions submitted complete registration renewal information within the required deadline. In 2008 there were 12 institutions (2007 – 19 institutions) which did not provide all the registration renewal information by the January 31 deadline established by the Department. With regards to the December 31 deadline in the *Act*, in 2008, there were 24 institutions (2007 – 23 institutions) which did not meet the deadline. As a result, many private training institutions in the Province were operating in contravention of the *Act* during a portion of the 2008 and 2007 calendar years because they did not have their completed registration renewal information submitted on or before 31 December 2007 or 31 December 2006 respectively.

Audited Financial Statements

Not all private training institutions were providing audited financial statements three calendar months after their respective year-end dates as required under the *Regulations*. In 2007 only 2 of the 25 private training institutions (2006 – 1 of 25) submitted their financial statements within three months of their year end. In 2007, the private training institutions were, on average, 75 days past the required date of filing their audited financial statements. In 2006, the private training institutions were, on average, 126 days past the required date of filing their audited financial statements.

Security Bonds and Train Out Fund

The Department had not instructed private training institutions to have their auditors provide net tuition revenue on the audited financial statements. The net tuition revenue amount is required in order to calculate the value of a bond required by an institution and the amount that the institution has to

contribute to the Train Out Fund. Although some financial statements included this information, when it was not included, the registration renewal forms had to be used. As a result, when registration renewal forms had to be used, the information used in the calculation was not subject to any third party verification.

Our follow-up

In February 2010, we contacted the Department of Education requesting an update as to what progress had been made on the original 10 recommendations resulting from our review. The recommendations are as follows:

1. *The Department should complete three year reviews of the programs offered by private training institutions.*
 2. *The Department should perform annual compliance visits on all campuses.*
 3. *The Department should provide campuses with a written report outlining the results of each annual compliance visit.*
 4. *The Department should ask instructors to withdraw from their teaching roles if they fail to complete the courses needed to obtain the Post Secondary Instructor's Certificate within the deadline specified.*
 5. *The Department should require institutions to have instructors approved by the Department prior to commencing teaching duties.*
 6. *The Department should require instructors to complete at least two courses each year towards the Post Secondary Instructor's Certificate.*
 7. *The Department should ensure that the database is accurate.*
 8. *The Department should comply with the Act and require institutions to submit complete registration renewal applications on or before December 31 each year.*
 9. *The Department should instruct private training institutions to have their auditors provide net tuition revenue on the audited financial statements.*
 10. *The Department should ensure that it receives audited financial statements from each private training institution within three months after the institution's deadline, as outlined in the Regulations.*
-

Monitoring Private Training Institutions (2008 Annual Report, Part 2.5)

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Education has made progress in addressing the recommendations from our 2008 Annual Report, 6 of the original 10 recommendations had only been partially implemented.

We agree with the Department's position that the recommendation numbers 1, 2, 3, 4, 8, and 10 have been partially implemented and, therefore, we will follow-up on these recommendations again next year.

To fully implement the recommendations, the Department will need to:

- complete three year reviews of the programs offered by private training institutions;
- perform annual compliance visits on all campuses;
- provide campuses with a written report outlining the results of each annual compliance visit;
- ask instructors to withdraw from their teaching roles if they fail to complete the courses needed to obtain the Post Secondary Instructor's Certificate within the deadline specified;
- continue to require institutions to submit complete registration renewal applications on or before December 31 each year or consider the need for this requirement during the next revision of the *Act*; and
- continue its work to ensure audited financial statements are submitted by their due date.

We agree with the Department's position that the recommendation numbers 5, 6, 7, and 9 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department should complete three year reviews of the programs offered by private training institutions.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

- An officer was hired to commence the three year program reviews.
 - Research had been completed on program review processes at other post-secondary institutions.
 - Concepts upon which the three-year reviews would be based were under development and would be presented for approval within six months. This would include an identification of priority programs to be reviewed.
 - The Department expected these reviews would commence during the year.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“A work plan to complete the three year reviews has been developed. Reviews will begin in the 2010-2011 fiscal year.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete three year reviews of the programs offered by private training institutions.

Recommendation No. 2

The Department should perform annual compliance visits on all campuses.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

- A compliance visit work plan had been implemented and the visits with reports on all 25 schools would be completed in 2009.
 - A tracking system had been implemented to ensure that the manager follows up on outstanding visits.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Of the 25 registered private training institutions, 22 compliance visits were conducted, 2 institutions did not have programming requiring compliance visits, and one visit was postponed and will be conducted in April 2010.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to perform annual compliance visits on all campuses.

Recommendation No. 3

The Department should provide campuses with a written report outlining the results of each annual compliance visit.

**Monitoring Private Training Institutions
(2008 Annual Report, Part 2.5)**

**Entity's
response from
previous report**

In 2008, the Department informed us that:

- A compliance visit work plan had been implemented and the visits with reports on all 25 schools would be completed in 2009.
- A tracking system had been implemented to ensure that the manager follows up on outstanding visits.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

"Fifteen reports have been reviewed and sent to the institutions. Eight reports are in progress. The tracking system is being utilized and is working well."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to provide campuses with a written report outlining the results of each annual compliance visit.

Recommendation No. 4

The Department should ask instructors to withdraw from their teaching roles if they fail to complete the courses needed to obtain the Post Secondary Instructor's Certificate within the deadline specified.

**Entity's
response from
previous report**

In 2008, the Department did not indicate any planned actions to address this recommendation.

**Monitoring Private Training Institutions
(2008 Annual Report, Part 2.5)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“For instructors who did not meet the assigned completion date for post-secondary instructor certificate courses, a conditional approval process has been implemented with the 2009 compliance audit. Instructors who fail to comply with the conditions will be de-registered during a subsequent compliance visit and Institutions have been informed accordingly.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to ask instructors to withdraw from their teaching roles if they fail to complete the courses needed to obtain the Post Secondary Instructor's Certificate within the deadline specified.

Recommendation No. 5

The Department should require institutions to have instructors approved by the Department prior to commencing teaching duties.

**Entity's
response from
previous report**

In 2008, the Department informed us that a number of changes were being made to improve processing such as improvements to administrative practices including the implementation of a bring-forward and document tracking system.

**Monitoring Private Training Institutions
(2008 Annual Report, Part 2.5)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“The Department does require Institutions to have approval in advance of commencing teaching duties. A comprehensive tracking and filing system is in place whereby all documentation received and sent with respect to instructor approvals is recorded. In cases where the Department becomes aware of non-compliance with this requirement, it is addressed immediately with the institution.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The Department should require instructors to complete at least two courses each year towards the Post Secondary Instructor's Certificate.

**Entity's
response from
previous report**

In 2008, the Department informed us that a number of changes were being made to improve processing such as improvements to administrative practices including the implementation of a bring-forward and document tracking system.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“New approval letters clearly state that required MUN courses must be completed at a rate of two per year. This is also being reviewed during compliance visits. Instructors will be given an opportunity to comply or be de-registered with the subsequent compliance visit.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The Department should ensure that the database is accurate.

**Entity's
response from
previous report**

In 2008, the Department informed us that it would remove inactive instructors from the database.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The Department has removed inactive instructors."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 8

The Department should comply with the Act and require institutions to submit complete registration renewal applications on or before December 31 each year.

**Entity's
response from
previous report**

In 2008, the Department informed us that with respect to the annual institutional re-registration process, it would ensure these were tracked electronically so that timelines were addressed.

Monitoring Private Training Institutions (2008 Annual Report, Part 2.5)

Entity's response to current request

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“For the 2009 re-registration, the Department required that documentation be submitted by December 31, 2008. The Department recognizes that there are challenges with respect to getting complete information by December 31 of each year, especially with respect to the issue of student withdraws. This requirement will be considered during the next revision of the Act and in the meantime are looking at options to address the challenges around full compliance by that date.”

Our conclusion

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to continue to require institutions to submit complete registration renewal applications on or before December 31 each year or consider the need for this requirement during the next revision of the Act.

Recommendation No. 9

The Department should instruct private training institutions to have their auditors provide net tuition revenue on the audited financial statements.

Entity's response from previous report

In 2008, the Department informed us that while the Act does not require institutions to have auditors include net tuition revenue on the audited financial statements, such disclosure would now be required by the Department where appropriate.

**Monitoring Private Training Institutions
(2008 Annual Report, Part 2.5)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has been fully implemented.

Furthermore, it indicated that:

"A letter has been sent by the Department notifying all institutions of the requirement to have net tuition revenue verified by their auditor."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 10

The Department should ensure that it receives audited financial statements from each private training institution within three months after the institution's deadline, as outlined in the Regulations.

**Entity's
response from
previous report**

In 2008, the Department informed us that it would continue to track the filing of these statements and would ensure tools such as instructor or program approvals were used to enhance compliance. The Department further indicated that the requirement for a three-month submission after year end dates was closely monitored but institutions often encounter challenges with their accounting service providers.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

"The Department continues its work to ensure audited financial statements are submitted by their due date by holding processing of instructor and program approvals for institutions that are not in compliance."

**Monitoring Private Training Institutions
(2008 Annual Report, Part 2.5)**

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to continue its work to ensure audited financial statements are submitted by their due date.

**Monitoring Private Training Institutions
(2008 Annual Report, Part 2.5)**

PART 2.9

DEPARTMENT OF EDUCATION

**STUDENT LOAN PROGRAM
- DESIGNATION OF EDUCATIONAL INSTITUTIONS**

(2007 ANNUAL REPORT, PART 2.4; UPDATE: 2009, PART 2.4)

Student Loan Program - Designation of Educational Institutions (2007 Annual Report, Part 2.4; Update: 2009, Part 2.4)

Introduction

Our 2007 Annual Report included a review of the Student Loan Program – Designation of Educational Institutions at the Department of Education (the Department). We conducted our review to determine whether the Department:

- is monitoring educational institutions to assess whether they are complying with designation requirements under the *Student Financial Assistance Act and Regulations*;
- has adopted the National Designation Policy Framework relating to the student loan program; and
- has established and is complying with educational institution designation policy and procedures.

What we found

As a result of our review, we reached the following overall conclusions:

The Department could not demonstrate whether the Province had developed policies and procedures to ensure that educational institutions comply with all the designation requirements for the purposes of student loans under the *Student Financial Assistance Act and Regulations*. In particular, the Department did not monitor institutions to determine whether acceptable default prevention plans were in place.

Furthermore, the Province did not adopt the National Designation Policy Framework developed in 2004 because of the absence of socio-economic indicators which could be used in assessing the performance of educational institutions in the Province, as provided for under the Framework. In addition, the Province did not develop the policies and procedures or enter into formal agreements with educational institutions as outlined under the Framework. The agreements, which were required to be in place to maintain Federal student loan program designation, should outline for example, student loan repayment performance targets, required information exchange between institutions and the Province and tuition refund policies.

As a result of the inaction on the part of Government and in accordance with the Framework, all educational institutions in the Province may have been at risk for de-designation for Federal student loan purposes i.e. students would not be eligible for 60% Federal portion of a total student loan. Educational institutions at particular risk would be the 11 of 43 institutions whose student loan repayment performance in July 2007 was rated as “poor” (student loan repayment rate less than 48.7%).

Of particular note was that Department officials indicated none of the educational institutions had been advised of their student loan repayment performance, whether improvements were required and whether there was risk of de-designation. In addition, the Province still had not taken action to monitor and work with educational institutions to address student loan repayment performance.

Our follow-up

In our 2009 Update Report we concluded that none of the original three recommendations resulting from our review had been fully implemented. In February 2010, we contacted the Department of Education requesting an update as to what progress had been made on the three recommendations. The recommendations are as follows:

1. *The Department of Education should develop policies and procedures to ensure that educational institutions comply with the designation requirements for the purposes of student loans under the Student Financial Assistance Act and Regulations.*
 2. *The Department of Education should consider adopting the National Designation Policy Framework. In connection with this the Department should:*
 - *develop socio-economic indicators to be used in assessing the performance of educational institutions in the Province, as provided for under the Framework; and*
 - *develop policies and procedures and enter into formal agreements with educational institutions as outlined under the Framework.*
 3. *The Department of Education should advise all educational institutions in the Province of their student loan repayment performance. In particular, for educational institutions where improvement is required the Department should advise, assist, and monitor these institutions in taking the appropriate action to improve student loan repayment performance.*
-

**Student Loan Program - Designation of Educational Institutions
(2007 Annual Report, Part 2.4; Update: 2009, Part 2.4)**

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Education has made progress in addressing the recommendations from our 2007 Annual Report, two of the original three recommendations had not been implemented and one had only been partially implemented.

We agree with the Department's position that the recommendation numbers 1 and 2 have not been implemented and, therefore, we will follow-up on these recommendations again next year. We agree with the Department's position that the recommendation number 3 has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the three recommendations, the Department will need to:

- develop policies and procedures to ensure that educational institutions comply with the designation requirements for the purposes of student loans under the *Student Financial Assistance Act* and *Regulations*;
- develop socio-economic indicators that could be used to assess the performance of educational institutions under the Framework and develop policies and procedures and enter into formal agreements with educational institutions as outlined under the Framework; and
- advise, assist, and monitor institutions in taking the appropriate action to improve student loan repayment performance, for educational institutions where improvement is required.

Recommendation No. 1

The Department of Education should develop policies and procedures to ensure that educational institutions comply with the designation requirements for the purposes of student loans under the Student Financial Assistance Act and Regulations.

**Student Loan Program - Designation of Educational Institutions
(2007 Annual Report, Part 2.4; Update: 2009, Part 2.4)**

**Entity's
response from
previous report**

In 2009, the Department informed us that it had not developed policies and procedures to ensure that educational institutions comply with the designation requirements for the purposes of student loans under the *Student Financial Assistance Act* and *Regulations*, but was dealing with this issue under Section 3 of the *Regulations* which establishes the requirements for educational institutions designated for student financial assistance.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that:

"The Department is in the process of reviewing its existing policies and procedures with respect to designation."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop policies and procedures to ensure that educational institutions comply with the designation requirements for the purposes of student loans under the *Student Financial Assistance Act* and *Regulations*.

Recommendation No. 2

The Department of Education should consider adopting the National Designation Policy Framework. In connection with this the Department should:

- *develop socio-economic indicators to be used in assessing the performance of educational institutions in the Province, as provided for under the Framework; and*
 - *develop policies and procedures and enter into formal agreements with educational institutions as outlined under the Framework.*
-

**Student Loan Program - Designation of Educational Institutions
(2007 Annual Report, Part 2.4; Update: 2009, Part 2.4)**

**Entity's
response from
previous report**

In 2009, the Department informed us that it had not developed socio-economic indicators that could be used to assess the performance of educational institutions under the Framework because the development of such indicators was still ongoing at the national level. Once the national work was completed, the Department would determine whether the indicators developed were appropriate for the provincial situation and would proceed accordingly.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that:

“National efforts are currently underway in relation to the development of indicators and the Province is assisting in these efforts with final indicator development pending.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop socio-economic indicators that could be used to assess the performance of educational institutions under the Framework and develop policies and procedures and enter into formal agreements with educational institutions as outlined under the Framework.

Recommendation No. 3

The Department of Education should advise all educational institutions in the Province of their student loan repayment performance. In particular, for educational institutions where improvement is required the Department should advise, assist, and monitor these institutions in taking the appropriate action to improve student loan repayment performance.

**Student Loan Program - Designation of Educational Institutions
(2007 Annual Report, Part 2.4; Update: 2009, Part 2.4)**

**Entity's
response from
previous report**

In 2009, the Department informed us that it provided educational institutions with student loan repayment performance information for the 5 year academic period ending 31 July 2008. However, the Department did not indicate any planned action to advise, assist and monitor educational institutions in taking the appropriate action to improve upon their student loan repayment performance, where required.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“The Department provides annual letters to educational institutions based on their repayment performance and has notified them on the posting of performance on the federal government’s CanLearn website. With respect to institutional repayment improvement, the Department is reviewing its existing policies and procedures related to designation.”

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to advise, assist, and monitor institutions in taking the appropriate action to improve student loan repayment performance, for educational institutions where improvement is required.

PART 2.10

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

**MULTI-MATERIALS STEWARDSHIP BOARD
USED TIRE RECYCLING PROGRAM**

(2008 ANNUAL REPORT, PART 2.6)

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

Introduction

Our 2008 Annual Report included a review of the Used Tire Recycling Program at the Multi-Materials Stewardship Board (MMSB). We conducted our review to determine whether:

- MMSB was attaining its goal of collecting, processing, and marketing processed used tires;
- There were adequate management information systems in place to administer the Program throughout the Province;
- The Program was adequately funded from levies and related remittances; and
- MMSB was complying with requirements of governing legislation including *Waste Management Regulations, 2003* under the *Environmental Protection Act*.

What we found

As a result of our review, we reached the following overall conclusions:

One of the goals of the Multi-Materials Stewardship Board (MMSB) has been to collect, process, and market processed used tires under the Used Tire Recycling Program. As a result of our review, we concluded that the MMSB had not been able to ensure that the objectives of the Used Tire Recycling Program had been met.

Since the Program's inception in April 2002, there had been two failed attempts at contracting out the combined used tire collection, transportation, and processing/recycling functions with private operators. Since the MMSB took over the operations of the Program in June 2004, it put an infrastructure in place for the collection and temporary storage of used tires; however, an additional attempt to attract a private operator to take over the processing/recycling side of the operations in 2005 was also unsuccessful.

More than four years after MMSB took over operations of the Used Tire Recycling Program as an interim measure; there was still no solution in place for the processing/recycling of used tires.

In particular, our review indicated the following:

- MMSB had a used tire recovery rate of only 57% for 2007-08. This was considerably lower than their target recovery rate of 70% and the 80% that would be expected in a mature market. There had been no recent promotional efforts and only limited initiatives by MMSB to improve the recovery rate.

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

- At 31 March 2008, there were 1.3 million tires in stockpiles (1.2 million at Placentia and .1 million at Bull Arm) awaiting a processing solution. Since 2002, MMSB had not been able to arrange a processing/recycling solution to deal with the mounting inventory of used tires in the Province.
- There were safety concerns related to the interim storage of .1 million used tires at the Bull Arm site.
- Since the inception of the Used Tire Recycling Program in April 2002 to 31 March 2008, MMSB had tire levy revenues totalling \$8,882,000 and expenses totalling \$8,858,000, resulting in a very small surplus of \$24,000. This shows that although there were 1.3 million unprocessed used tires in the Province at 31 March 2008, MMSB does not have the funds within this Program to pay for processing/recycling.

As a result of the continued maintenance of a large inventory of used tires pending a solution for used tire processing, MMSB had and would continue to pay significant interim contingency costs. For the period 1 June 2004 to 31 March 2008 the cost of storage of tires with a private contractor in Placentia was \$2.1 million. As a result of having no processing/recycling solution implemented, these storage costs continued to escalate. For 2008, storage costs totalled \$663,000. Given the steady increase in the tire inventory, and without a processing/recycling solution, storage costs would continue to increase and could reach \$850,000 for 2009 and more than \$1 million for 2010.

In addition to the \$2.1 million of storage costs, MMSB had incurred \$1.8 million relating to other takeover costs since the Program was assumed from a private operator in June 2004.

- At 31 March 2008, MMSB was seeking Government approval for a proposed in-Province tire processing solution resulting in a tire derived aggregate (TDA) for civil engineering applications. Under the plan, one time costs of at least \$5.7 million in total are estimated for processing existing inventory, transporting aggregate to civil engineering projects, and continued interim storage costs at Placentia.

MMSB has indicated that funds required for the planned initiative are not available from the Used Tire Recycling Program and would have to be obtained from another MMSB source, most likely the Used Beverage Container Recycling Program. This means that at least in the short-term, a portion of the surplus proceeds from deposits paid by consumers on beverage containers would be needed to subsidize the Used Tire Recycling Program.

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

MMSB also indicated that, under the latest TDA proposal, existing levies charged on new tires needed to be raised an estimated \$1.50 to \$2.00 per tire sold in order to sustain the continued future operations of the Used Tire Recycling Program.

Our follow-up In February 2010, we contacted the MMSB requesting an update as to what progress had been made on the 2008 recommendations. The recommendations are as follows:

- 1. The MMSB should ensure that efforts are made to investigate why the used tire recovery rates are declining and that used tires are being recovered at an acceptable rate.*
 - 2. The MMSB should ensure that the inventory of used tires at Bull Arm are stored in compliance with required standards.*
 - 3. Government should ensure that a solution is found to the growing level of stockpiles of ATV and off road tires at dealer sites.*
 - 4. The MMSB should, in conjunction with Government, take the necessary steps to ensure that a sustainable Used Tire Recycling Program is put in place which meets all its objectives of collecting, transporting, processing and recycling of used tires.*
-

Information we requested The MMSB was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

Overall conclusion

While the Multi-Materials Stewardship Board has made progress in addressing the recommendations from our 2008 Annual Report, three of the original four recommendations had only been partially implemented.

We agree with the MMSB's position that the recommendation numbers 1, 3 and 4 had been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the MMSB will need to:

- conclude its analysis on the statistical measurement of the effectiveness of used tire recovery efforts;
- undertake expanded promotional efforts of the Used Tire Recycling Program;
- incorporate the policy direction on ATV tires provided by the Department of Environment and Conservation into the Used Tire Recycling Program; and
- put in place a sustainable Used Tire Recycling Program which meets all its objectives of collecting, transporting, processing and recycling of used tires.

We agree with the MMSB's position that recommendation number 2 has been fully implemented and, therefore, no further follow-up is required on this recommendation.

Recommendation No. 1

The MMSB should ensure that efforts are made to investigate why the used tire recovery rates are declining and that used tires are being recovered at an acceptable rate.

Entity's response from previous report

In 2008, the MMSB informed us that additional promotional activities were planned once a final overall used tire recycling plan for the Province was decided upon.

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

Entity's response to current request

In 2010, the MMSB informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“As indicated in MMSB’s response to the Auditor General’s January, 2009 report, the recovery rate documented in the Auditor General report of 57% for the fiscal year 2007-08 was an anomaly year. Recovery rates for used tires vary from year to year due to a number of factors, not the least of which is that new tires have a relatively long but somewhat unpredictable “life span” extending over several years before they are discarded and made available for recycling. Fiscal 2008-09 saw a recovery rate of 61% and fiscal 2009-10 is currently trending at a recovery rate of 66%. MMSB is currently investigating whether there is a more appropriate statistical measure of the effectiveness of recovery efforts than the current ratio of used tires collected to new tires sold. We expect the results of this analysis during the 2010/11 fiscal year. As well, MMSB is planning to undertake expanded promotional efforts of the Used Tire Recycling Program in 2010/11, to increase awareness of the program and the number of tires collected.”*

Our conclusion

Follow-up Required

We agree with the MMSB’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will need to:

- conclude its analysis on the statistical measurement of effectiveness of used tire recovery efforts; and
- undertake expanded promotional efforts of the Used Tire Recycling Program.

Recommendation No. 2

The MMSB should ensure that the inventory of used tires at Bull Arm are stored in compliance with required standards.

**Used Tire Recycling Program
(2008 Annual Report, Part 2.6)**

**Entity's
response from
previous report**

In 2008, the MMSB informed us that in recognition of the situation at Bull Arm, MMSB had committed that this stockpile would receive priority attention once a final overall recycling plan for the Province was decided upon.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“As was announced by the Minister of Environment and Conservation in December, 2009, the tires which were temporarily stored at Bull Arm have been removed in their entirety. During the spring of 2009, approximately 100,000 tires were removed from the site and shipped to Quebec for final disposal. Approximately 6,000 more were relocated to the Dunville storage yard.”*

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

Government should ensure that a solution is found to the growing level of stockpiles of ATV and off road tires at dealer sites.

**Entity's
response from
previous report**

In 2008, the MMSB informed us that:

- The Board was advised by the Department of Environment and Conservation that the issue of non-program used tires was under active consideration by Government and that appropriate policy direction could be anticipated in the near future to address this issue.
 - In the interim, provincial authorities were working with municipal authorities to open local landfills for the safe disposal of non-program used tires until longer term solutions can be put in place.
-

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

Entity's response to current request

In 2010, the MMSB informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The Department of Environment and Conservation has provided the MMSB with policy direction with respect to ATV tires, which will be incorporated into the Used Tire Recycling Program when a decision is reached on the processing solution for the Program.*

With respect to Off-The-Road (OTR) tires, the Department of Environment and Conservation and the Department of Government Services are working with relevant municipal authorities to clarify the requirement of landfills to accept OTR tires. To further assist in this regard, the Department of Municipal Affairs recently funded the purchase of shears for the Robin Hood Bay Regional Landfill site to allow for the shearing of OTR tires into smaller, more manageable pieces. These shears will also be periodically made available to Central Waste Management's Regional Landfill site in Norris Arm as well as the Regional Facility serving the Western Region.

The Robin Hood Bay Regional Landfill site advised in March that they are now able to accept OTR tires for shearing on a by-appointment-only basis. While OTR tires are not part of the Used Tire Recycling Program run by the MMSB, the Board did proactively communicate this information to the main OTR tire generators in the region for their consideration, and we anticipate that they will take action to dispose of their used OTR tires over the coming months.”

Our conclusion

Follow-up Required

We agree with the MMSB's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will need to incorporate the policy direction on ATV tires provided by the Department of Environment and Conservation into the Used Tire Recycling Program.

Recommendation No. 4

The MMSB should, in conjunction with Government, take the necessary steps to ensure that a sustainable Used Tire Recycling Program is put in place which meets all its objectives of collecting, transporting, processing and recycling of used tires.

Used Tire Recycling Program (2008 Annual Report, Part 2.6)

Entity's response from previous report

In 2008, the MMSB informed us that:

- Government had requested that MMSB hold off on the implementation of its TDA contingency plan until it could consider other potential long-term approaches.
- During this period, MMSB was approached by a private sector proponent with an end use recycling proposal which offered a potential opportunity to meet the objectives of the Used Tire Recycling Program without the need for any processing payments or incentives. Given the potential benefits of this initiative, including the possible ability to sustain the Used Tire Recycling Program, the Board had given serious consideration to the merits of this initiative and was awaiting policy direction from Government.
- The Department of Environment and Conservation had informed MMSB that such direction could be anticipated in the near future which would then enable MMSB to move forward with a firm plan of action.

Entity's response to current request

In 2010, the MMSB informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The MMSB is working aggressively with a private sector proponent with an end-use recycling option which offers good potential to meet the objectives of the Used Tire Recycling Program and the Provincial Solid Waste Management Strategy. Continuous efforts are being made to advance this option as it could provide for numerous long term benefits both to the province and to the long term sustainability of the Program.*

The proponent is working closely with the MMSB and other government departments to complete final modelling and testing, and it is anticipated that this work will be completed over the next several months. Should the outcomes of this work be positive, MMSB will make a formal recommendation to the Minister of Environment and Conservation. In the event the proposal is not positive, or not approved by the Minister, the MMSB has two other alternatives which could be quickly pursued to provide a long term solution for the recycling of used tires.

Under the direction of the Board's new CEO, the MMSB has also been reviewing various operational elements of the Used Tire Recycling Program, with the intent to identify ways to reduce costs, and improve effectiveness and efficiency of the Program, taking into consideration the potential processing alternatives currently being considered.”

**Our
conclusion**

Follow-up Required

We agree with the MMSB's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will need to put in place a sustainable Used Tire Recycling Program which meets all its objectives of collecting, transporting, processing and recycling of used tires.

**Used Tire Recycling Program
(2008 Annual Report, Part 2.6)**

PART 2.11

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

**MULTI-MATERIALS STEWARDSHIP BOARD
USED BEVERAGE CONTAINER RECYCLING PROGRAM**

(2008 ANNUAL REPORT, PART 2.8)

Used Beverage Container Recycling Program (2008 Annual Report, Part 2.7)

Introduction Our 2008 Annual Report included a review of the Used Beverage Container Recycling Program at the Multi-Materials Stewardship Board (the MMSB). The objectives of our review were to determine whether the MMSB:

- had achieved established target recovery rates for beverage containers in the Province;
 - was in compliance with legislation and policies; and
 - had adequate policies and procedures to manage the Green Depot, transportation and processing contracts.
-

What we found As a result of our review, we reached the following overall conclusions:

- The MMSB was not achieving its targeted recovery rates with regards to used beverage containers. The Program had a targeted return rate of 70% of containers while the actual rate has averaged at 68% over the past three years.
- There were questions around the financial viability of the Program if recovery rates increase. MMSB indicated that a recovery rate beyond 75% would not be sustainable by the Program. The Program was able to operate only due to the volume of containers that were not redeemed by the public. Costs to operate the Program had increased by 31.3% over five years while the revenues increased by only 20.3% in the same period.
- The number of containers that were not being returned for recycling was increasing. In 2006, 62.2 million containers were not returned while in 2008, 66.4 million containers were not returned.
- There were instances of non-compliance with the *Public Tender Act* such as 37 Green Depot Operators contracts that had expired being extended on a monthly basis without any public tender call and 2 operators being awarded contracts without exemption by Cabinet to avoid a call for public tender.

Used Beverage Container Recycling Program (2008 Annual Report, Part 2.7)

- There were deficiencies in how the MMSB monitored contract requirements. Service providers were not required to provide proof of insurance during the term of the contract and information on file was limited as to whether these providers had any insurance beyond the initial year of a contract. Service providers were not required to provide a certificate of good standing with the Workplace Health, Safety, and Compensation Commission even though it was required for the bidding process. Performance bonds were not assessed or monitored over the duration of the contract period.
- There were weaknesses in internal controls found in operations in Labrador that resulted in overpayments in excess of \$200,000 that had not been fully addressed.

Our follow-up

In February 2010, we contacted the Department requesting an update as to what progress had been made on the original eight recommendations resulting from our review. The recommendations are as follows:

1. *The Multi-Materials Stewardship Board should improve efforts to increase the actual used beverage container recovery rate and reduce the number of units finding their way into landfills.*
2. *The Multi-Materials Stewardship Board should develop initiatives to increase the target recovery rate beyond 70%.*
3. *The Multi-Materials Stewardship Board should address the issue of a declining break-even point with the objective of increasing financial viability of the Program beyond a 75% recovery rate.*
4. *The MMSB should comply with the Public Tender Act.*
5. *The Multi-Materials Stewardship Board should implement policies and procedures to ensure contractor compliance with legislation, and to minimize risk exposure.*
6. *The MMSB should ensure that policies and procedures are applied consistently across its Program.*
7. *The MMSB should ensure that business arrangements are made with entities having the financial capacity to operate efficiently.*
8. *The MMSB should ensure that it has adequate controls in place over manual adjustments, and that reconciliations are performed on a timely basis.*

Used Beverage Container Recycling Program (2008 Annual Report, Part 2.7)

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Multi-Materials Stewardship Board has made progress in addressing the recommendations from our 2008 Annual Report, three of the original eight recommendations had only been partially implemented.

We agree with the MMSB's position that recommendation numbers 1, 2, and 3 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement these recommendations, the MMSB will need to demonstrate:

- that the new licensing requirements and investment in waste management in the Avalon region have resulted in increases in the recovery and diversion rates for used beverage containers; and
- the effect of these new initiatives on the overall recovery rate for used beverage containers and the continued viability of the Program.

We agree with the MMSB's position that recommendation numbers 5, 6, 7 and 8 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

We disagree with the MMSB's position that recommendation number 4 has been fully implemented because the MMSB maintains that they are not subject to the *Public Tender Act* as these contracts are acquired for the purposes of resale by the Board. However, we maintain that the contracts in question are subject to the requirements of the *Public Tender Act* as they are for the services of the Depot and not for the resale of the used containers. Therefore, given the MMSB's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 1

The Multi-Materials Stewardship Board should improve efforts to increase the actual used beverage container recovery rate and reduce the number of units finding their way into landfills.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that the recovery rate in Newfoundland and Labrador was not comparable to that of other Provinces with more mature recycling programs.

**Entity's
response to
current request**

In 2010, the MMSB informed us that this recommendation had been partially implemented.

Furthermore, it indicated that "*Multi-Materials Stewardship Board ("MMSB" or "The Board") has taken steps to strengthen the Program with a view to improving the actual recovery rate. During 2009/10, the Board made revisions to its transportation and processing arrangements, with the intent of significantly improving levels of service to Green Depots and ultimately to their customers. These revisions have been well received and have dramatically improved service levels relating to the availability of bulk containers, collection times, etc. These improvements ultimately benefit end users by significantly reducing situations where Green Depots would close unexpectedly or had to refuse acceptance of certain types of beverage containers.*

Once these improvements to transportation and processing were complete, the MMSB introduced a new licensing regime and standards requirements for Green Depots, focused on improved levels of customer service (such as targeted and maximum wait times, improved signage, space requirements for customer service and storage, cleanliness, etc.), as well as a review of geographic coverage in certain rural areas, with the intent to reduce the distance travelled to reach Green Depots. All Green Depots have committed to achieving these new standards and to be in compliance by no later than July, 2010. Coincident with these standards, the MMSB has also made available an annual grant of \$2,000 to Green Depots for marketing activities at the Depot-level, to help them increase awareness and usage within their communities. It is anticipated that these new measures will provide for increases over time in the recovery rates being realized as a result of improvements in the recycling experience perceived by the customer.

**Used Beverage Container Recycling Program
(2008 Annual Report, Part 2.7)**

With the new standards now being implemented, the MMSB intends to increase its communications support for the Used Beverage Recycling Program, commencing with the launch of an advertising campaign in the summer / fall of 2010. The intent is to increase awareness and support of the Used Beverage Container (UBC) Program and the Green Depot network.

Finally, as a direct result of the investments made in the Eastern Waste Management Committee and the Robin Hood Bay Regional Landfill site by the MMSB and the Departments of Environment & Conservation and Municipal Affairs, the City of St. John's is now able to introduce a curbside recycling program, which will commence in the Fall of 2010. The MMSB expects that this program will result in an increase in the recovery rate for Used Beverage Containers over time, however, given the voluntary nature of the program, and the current exclusion of glass and tetra containers, the expected impact on the recovery rate for beverage containers in the province is difficult to predict at this point.

With the infrastructure now in place to permit economical processing of recycled containers in the Eastern Region, the MMSB will continue its work with Eastern Waste Management and municipalities to facilitate and encourage the introduction of additional and expanded curbside recycling programs throughout the region, which should further improve the recovery rate for Used Beverage Containers.”

**Our
conclusion**

Follow-up Required

We agree with the MMSB's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will have to demonstrate that changes to the program to improve overall recovery rates, have been effective in achieving this goal.

Recommendation No. 2

The Multi-Materials Stewardship Board should develop initiatives to increase the target recovery rate beyond 70%.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that the policy objective of the Used Beverage Container Program was to meet a set recovery rate which is in line with other jurisdictions.

**Used Beverage Container Recycling Program
(2008 Annual Report, Part 2.7)**

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“As indicated in the previous response, MMSB has taken steps to strengthen the Used Beverage Container Program through the introduction of better transportation and processing arrangements and a new licensing and standards regime. Over time, it is anticipated that the improved levels of service stemming from these actions, combined with more aggressive promotion of the UBC Program, will result in improved recovery rates. As well, the expansion of curbside recycling programs that are facilitated by the new infrastructure being built at the Regional Landfill sites at Robin Hood Bay and Norris Arm, should have a positive impact on recovery rates over time. As the success of these curbside programs is evaluated, the MMSB will consider appropriate revisions to the targeted recovery rate so as to improve Newfoundland and Labrador's performance relative to other jurisdictions.*

**Our
conclusion**

Follow-up Required

We agree with the MMSB's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will have to demonstrate that the changes to the Program have had a positive impact.

Recommendation No. 3

The Multi-Materials Stewardship Board should address the issue of a declining break-even point with the objective of increasing financial viability of the Program beyond a 75% recovery rate.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that the costs of the Program include costs to fund public education programs in addition to recycling efforts. Therefore, a comparison of the cost of operating the program and the recovery rate was not accurate.

Used Beverage Container Recycling Program (2008 Annual Report, Part 2.7)

Entity's response to current request

In 2010, MMSB informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“There are a number of factors which can affect the long-term viability of the UBC Program and the associated break-even recovery rate. Similar issues affect Depot systems in other provinces throughout Canada. For example, the impact of curbside recycling programs could result in the breakeven recovery rate rising above the 75% level referenced by the Auditor General. However, further global economic deterioration beyond that currently foreseen could negatively impact profitability in the form of lower revenues received from the sale of recycled containers. Other factors which could affect the program over time include such items as technology advances in point-of-sale systems for Green Depots and transportation innovations which could reduce administrative and transportation costs associated with the program.*

The MMSB will continue to monitor these and other trends and their impact on revenues and expenses, and assess what actions if any should be implemented to deal with the long-term viability of the UBC program. At present, the Board believes it has a sufficient financial surplus available to weather any unexpected shortfalls that might arise in the short term, and that this surplus will allow sufficient time to assess and implement prudent actions to ensure the UBC program remains sustainable over the long-term.”

Our conclusion

Follow-up Required

We agree with the MMSB's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation next year to assess the progress made from the changes made to the Program.

Recommendation No. 4

The MMSB should comply with the Public Tender Act.

Entity's response from previous report

In the 2008 Annual Report, the MMSB indicated that, in its opinion, the Green Depot contracts are not captured under the *Public Tender Act* as they are acquired for the purposes of resale into the marketplace (per Section 3(2)(g) of the *Public Tender Act*). Therefore, there was no requirement for a Request for Proposal to be approved by Cabinet.

Used Beverage Container Recycling Program (2008 Annual Report, Part 2.7)

Entity's response to current request

In 2010, the MMSB informed us that the recommendation had been fully implemented.

Furthermore, it indicated that “*Section 16 of the Waste Management Regulations under the Environmental Protection Act provides the MMSB with the legislative authority to license (issue a permit) to parties that wish to operate a Green Depot, with the Board also having the legislative authority to prescribe terms and conditions of the license (permit). The policy of the Board has been to do so through an open and transparent Request for Proposals (RFP) process where MMSB also prescribes the price to be paid for elements such as handling fees, as opposed to asking bidders to propose prices. This approach of prescribing prices is consistent with the methodology used in a number of other deposit-based beverage container recycling programs across Canada. In this context, where a licensing (permitting) regime governs the establishment and operation of Green Depots, and also in consideration of the fact that, per Section 3(2)(g) of the Public Tender Act, all materials collected through Green Depots are acquired for the purpose of resale in the market place, it is the Board's and the Department of Environment and Conservation's view that the Green Depot contracts are not captured under the Public Tender Act, and further do not require Cabinet approval for the issuance of an RFP.*”

Our conclusion

Follow-up Not Required

We disagree with the MMSB's position that this recommendation had been fully implemented and that they were exempt from having to comply with the *Public Tender Act* when dealing with these contracts. It is our opinion that the contracts in question are subject to the requirements of the *Public Tender Act* as they are for the services of the Depot and not for the resale of the used containers. However, given the MMSB's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 5

The Multi-Materials Stewardship Board should implement policies and procedures to ensure contractor compliance with legislation, and to minimize risk exposure.

**Used Beverage Container Recycling Program
(2008 Annual Report, Part 2.7)**

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it immediately contacted the party noted in the report and insurance was immediately secured. The Board also indicated that all service providers were reviewed and made sure that documentation of proof of the insurance was on file.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation has been fully implemented.

Furthermore, it indicated that *"All certificates, licences and performance bonds are in place and are current."*

Monitoring processes have been implemented to ensure insurance and WHSCC certificates are current and renewal copies are on file prior to expiration."

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The MMSB should ensure that policies and procedures are applied consistently across its Program.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it implemented new controls and a new internal audit position to ensure that policies and procedures were consistently applied.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation has been fully implemented.

Furthermore, it indicated that *"All recommendations made by our external audit firm on the review completed on Labrador Schools processes have been fully implemented and additional controls have been put in place from an approval, reporting and monitoring perspective."*

**Used Beverage Container Recycling Program
(2008 Annual Report, Part 2.7)**

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The MMSB should ensure that business arrangements are made with entities having the financial capacity to operate efficiently.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it did implement new controls to ensure that these types of discrepancies would be less likely to occur in the future.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation has been fully implemented.

Furthermore, it indicated that *"Subsequent to the Auditor General's observations on the Coastal Labrador School Program, the MMSB has taken steps to scrutinize the financial capacity of its partners where appropriate. Upon award of new contracts, MMSB performs various financial, credit and background checks on potential contractors. In fact, in 2009 a low bidder for a processing contract was disqualified due to financial concerns, and when evaluating proposals for a new Green Depot on Bell Island, significant financial information on the proponent was obtained and reviewed."*

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 8

The MMSB should ensure that it has adequate controls in place over manual adjustments, and that reconciliations are performed on a timely basis.

**Used Beverage Container Recycling Program
(2008 Annual Report, Part 2.7)**

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that in addition to controls already implemented, it would take steps to strengthen internal controls with the creation of an Audit Technician position within the organization.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation has been fully implemented.

Furthermore, it indicated that *“All recommendations made by our external audit firm have been fully implemented. As well, additional controls have been put in place from an approval, reporting and monitoring perspective.”*

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

**Used Beverage Container Recycling Program
(2008 Annual Report, Part 2.7)**

PART 2.12

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

**MULTI-MATERIALS STEWARDSHIP BOARD
NEWFOUNDLAND AND LABRADOR WASTE MANAGEMENT TRUST FUND**

(2008 ANNUAL REPORT, PART 2.8)

Introduction

Our 2008 Annual Report included a review of the Waste Management Trust Fund (the Trust Fund) at the Multi-Materials Stewardship Board (the MMSB). The objectives of our review were to determine whether the MMSB:

- complied with the *Environmental Protection Act* and the *Waste Management Regulations, 2003*;
- complied with the established guidelines for the approval of funding from the Trust Fund;
- had established criteria for the monitoring and inspection of approved projects for compliance with funding conditions and whether such criteria was being complied with; and
- had a strategy for how the Trust Fund would be used for waste management initiatives.

What we found

As a result of our review, we reached the following overall conclusions:

There were issues with governance, the relationship between the Department of Environment and Conservation and the MMSB, and the Trust Fund. Details are as follows;

- Contrary to good governance practice which requires that the same person not hold the offices of Chairperson and Chief Executive Officer simultaneously, at the MMSB one individual served as both Board Chair and CEO.
- The MMSB Strategic Plan for 2004-2010 identified a number of significant concerns relating to the relationship between the Department of Environment and Conservation and the MMSB.
- The MMSB had significant funds in its accounts and in its Trust Fund which, at 31 March 2008 totalled \$18.6 million. These funds were collected to fund waste management initiatives around the province, but of the \$25.2 million transferred to the Fund, only \$12.9 million had actually been used.
- The MMSB did not appear to be proactive in identifying and pursuing significant waste management initiatives aside from approving applications for funding.

- There were no established criteria as to how much or how often funds were transferred into the Trust Fund.
- Not all applications that were received by the MMSB were reviewed by the Board before a recommendation was made to the Minister of Environment and Conservation.
- No formal method of site inspection existed for reviewing applicants that received funding.
- There were issues with the consistency of supporting documentation and compliance with program guidelines.
- There were instances of inconsistent treatment of applicants.

Our follow-up

In February 2010, we contacted the Department requesting an update as to what progress had been made on the original eight recommendations resulting from our review. The recommendations are as follows:

1. *The offices of Chairperson and Chief Executive Officer of the Multi-Materials Stewardship Board should not be held simultaneously by the same person.*
2. *There should be a good working relationship between the Multi-Materials Stewardship Board and the Department of Environment and Conservation, including clear lines of reporting and a co-ordinated effort in internal and external reporting.*
3. *The MMSB should be proactive in identifying and pursuing significant waste management initiatives in the Province.*
4. *The Minister of Environment and Conservation and the MMSB should consider adopting a formal process for the transfer of funds from the MMSB recycling operations to the Waste Management Trust Fund.*
5. *All applications for funding from the Waste Management Trust Fund should be reviewed by the MMSB Board of Directors before a recommendation is sent to the Minister of Environment and Conservation.*
6. *The MMSB should consider a formal method for site inspections or other monitoring for funded initiatives from the Waste Management Trust Fund.*

7. *The MMSB monitoring activities should ensure that program expenditures for funded initiatives meet program guidelines.*
 8. *The MMSB should ensure that the process used for grant or loan funding from the Waste Management Trust Fund is applied consistently.*
-

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Multi-Materials Stewardship Board has made progress towards implementing the recommendations outlined in our 2008 Annual Report, two of the original eight recommendations had not been implemented.

We agree with the MMSB's position that recommendation numbers 1 and 4 had not been implemented and, therefore, we will follow-up on these recommendations again next year. To implement these recommendations, MMSB will need to:

- review the positions of CEO and Chair with reference to the potential conflict of interest that may occur in cases where both positions are held by the same individual. Such conflicts would need to be corrected by the MMSB, either through separating the positions or other means such a review may identify; and
- create a policy or directive that actively monitors the health of the Trust Fund and provides a clear set of guidelines as to when capital is to be transferred into the Trust Fund and the amount of that transfer.

We agree with the MMSB's position that recommendation numbers 2, 3, 5, 6, 7 and 8 have been implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The offices of Chairperson and Chief Executive Officer of the Multi-Materials Stewardship Board should not be held simultaneously by the same person.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it would take the recommendation under consideration.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation had not been implemented.

Furthermore, it indicated that *“We recognize the Auditor General’s views on the potential conflict of interest that exists by having the Chairperson and the CEO as the same individual and have taken his views under advisement.”*

**Our
conclusion**

Follow-up Required

We agree with the MMSB’s position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will need to review the positions of CEO and Chair with reference to the potential conflict of interest that may occur in cases where both positions are held by the same individual. Such conflicts would need to be corrected by the MMSB, either through separating the positions or other means such a review may identify.

Recommendation No. 2

There should be a good working relationship between the Multi-Materials Stewardship Board and the Department of Environment and Conservation, including clear lines of reporting and a co-ordinated effort in internal and external reporting.

Entity's response from previous report In the 2008 Annual Report, the MMSB indicated that the relationship between the Board and the Department had been improved with the strengthening of communication lines and the creation of a full time combined Chair / CEO position.

Entity's response to current request In 2010, the MMSB informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“There is a strong working relationship now in place with the Department of Environment and Conservation, with clear lines of reporting and coordinated efforts in internal and external reporting. To further reinforce the relationship, the Deputy Minister for the Department is a member of the Board of Directors, and the Chair & CEO has regular meetings with the Minister of Environment & Conservation to update her on MMSB activities.”*

Our conclusion

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

The MMSB should be proactive in identifying and pursuing significant waste management initiatives in the Province.

Entity's response from previous report In the 2008 Annual Report, MMSB indicated that it had a well developed three year rolling investment plan designed to aid the Board in fulfilling its mandate and to support the core goals and objectives of the provincial Waste Management Strategy.

**Entity's
response to
current request**

In 2010, MMSB informed us that this recommendation had been fully implemented.

Furthermore, it indicated that *“MMSB continues to be very proactive in identifying and pursuing significant waste management initiatives in the Province. In the current fiscal year, the MMSB has completed extensive work on three major new initiatives, in the pursuit of expanding waste diversion programs throughout Newfoundland and Labrador. First, in the Fall of 2009, the Board undertook industry and public consultations on a new province-wide Waste Paint Recycling Program, and has subsequently been working with various government departments on developing new regulations for Cabinet consideration during 2010/11. Second, the Board of Directors of the MMSB also approved a draft framework for the recycling of electronic waste (e-waste), which has recently been sent to the Minister of Environment and Conservation for consideration. And finally, the Board has recently approved a proposed framework on the recycling of Waste Pharmaceuticals and Medical Sharps within the province, which will be forwarded shortly for the consideration of the Minister.*

To foster increased levels of research and development into waste management issues, the MMSB has developed the Solid Waste Management Innovation Program and has approved the proposed establishment of a new research partnership specific to waste management topics with the Harris Centre of Memorial University, which will be forwarded to the Minister for her consideration. These programs are intended to enlist the support and assistance of both industry and the academic community in furthering the objectives of the Provincial Solid Waste Management Strategy.

In addition to these major new initiatives, the MMSB continues to work with municipalities to advance the concept of community composting, and is funding pilot projects in this area to help communities implement programs that could have a major impact on waste diversion.

Moving forward, MMSB will continue to liaise with stakeholders, stewards in other jurisdictions and industry experts globally, to identify and assess further prospective waste management initiatives, as well as continued improvements to existing programs already in place.”

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The Minister of Environment and Conservation and the MMSB should consider adopting a formal process for the transfer of funds from the MMSB recycling operations to the Waste Management Trust Fund.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that the new three year rolling investment plan directed the use of the funds received by the Trust Fund. All amounts that were in excess from the recycling programs were transferred on a regular basis to the Trust Fund under the direction of the Minister of Environment and Conservation per the investment plan.

**Entity's
response to
current request**

In 2010, the MMSB indicated that this recommendation had not been implemented.

Furthermore, it indicated that *“The MMSB is entering the final year of its three-year strategic plan, and pursuant to the Transparency and Accountability Act, will be developing a new Strategic Plan during the upcoming 2010/11 fiscal year, for consideration by the Minister. At this point, there are sufficient funds in the Waste Management Trust Fund to cover all existing and anticipated expenditures for the next fiscal year. The Board believes it would be prudent to determine what policy directions and consequential funding requirements may flow from its strategic review, in advance of developing any new policies or processes on the future funding of the Waste Management Trust Fund.”*

**Our
conclusion**

Follow-up Required

We agree with the MMSB's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the MMSB will need to create a policy or directive that actively monitors the health of the Trust Fund and provides a clear set of guidelines as to when capital is to be transferred into the Trust Fund and the amount of that transfer.

Recommendation No. 5

All applications for funding from the Waste Management Trust Fund should be reviewed by the MMSB Board of Directors before a recommendation is sent to the Minister of Environment and Conservation.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it would halt the practice of delegating the authority to approve applications to the Chair without reference to the Board for review.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“Since the 2008 report by the Auditor General, all applications for funding have been reviewed by the Board of Directors prior to a recommendation being sent to the Minister. Whenever possible, the MMSB reviews and approves Trust Fund applications during regularly scheduled meetings of the Board of Directors. However, where applications have unavoidable time constraints or where the Board is not scheduled to meet and consider an application in a timely fashion, the MMSB will distribute applications to each member of the Board of Directors and request approval via telephone or email, with subsequent ratification at the next Board meeting. In such situations, so as to not disadvantage applicants, applications are forwarded to the Minister for consideration after receiving approval of a majority of Directors, but before formal ratification.”*

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The MMSB should consider a formal method for site inspections or other monitoring for funded initiatives from the Waste Management Trust Fund.

**Newfoundland and Labrador Waste Management Trust Fund
(2008 Annual Report, Part 2.8)**

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it had initiated steps internally to strengthen project funding monitoring in all Trust Fund projects and rectify any project issues.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation had been fully implemented.

Furthermore, it indicated that "*MMSB has strengthened its policies and procedures for conducting site inspections and other monitoring activities for funded initiatives from the Waste Management Trust Fund (WMTF.) These inspections have already commenced and will continue, to ensure funded initiatives meet the criteria and requirements laid out in the funding agreements.*"

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The MMSB monitoring activities should ensure that program expenditures for funded initiatives meet program guidelines.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that it had initiated steps internally to strengthen project funding monitoring in all Trust Fund projects and rectify any project issues.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation has been fully implemented.

Furthermore, it indicated that it "*has strengthened its policies and procedures for the monitoring of expenditures of funded initiatives from the Waste Management Trust Fund, and endeavours to ensure that all expenditures meet program guidelines.*"

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 8

The MMSB should ensure that the process used for grant or loan funding from the Waste Management Trust Fund is applied consistently.

**Entity's
response from
previous report**

In the 2008 Annual Report, the MMSB indicated that the loans noted in the report were of a nature, form, circumstance and purpose that were substantially different from regular grants and this led the Board to render the decisions on these that it did.

**Entity's
response to
current request**

In 2010, the MMSB informed us that the recommendation had been fully implemented.

Furthermore, it indicated that it "*reviews and considers all Trust Fund applications individually based on merit in keeping with policy direction established through the provincial Waste Management Strategy and the Board's own three-year Trust Fund investment plan as approved by the Minister. The Board continues to strive to ensure consistency in its decision-making process at all times.*"

**Our
conclusion**

Follow-up Not Required

We agree with the MMSB's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

PART 2.13

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

PETROLEUM STORAGE SYSTEMS

(2005 ANNUAL REPORT, PART 2.6; UPDATES: 2007, PART 3.2.8; 2009, PART 2.7)

- Introduction** Our 2005 Annual Report included a review of Petroleum Storage Systems at the Department of Environment and Conservation. We undertook this review to determine whether the Department of Environment and Conservation and the Government Service Centres had satisfactory systems and processes in place to:
- administer the petroleum storage system registration process under the *Storage and Handling of Gasoline and Associated Products Regulations, 2003*;
 - adequately monitor, through the inspection process, the condition of storage systems within the Province to protect the environment on a proactive basis; and
 - enforce compliance with environmental legislation and conditions of approval.
-

- What we found** As a result of our review, we reached the following overall conclusions:
- Only 3,125 of the estimated 7,000 petroleum storage systems required to be registered by 30 November 2004, were registered as at 12 October 2005. Furthermore, information obtained through the registration process was not verified and has resulted in database errors;
 - Inspections were not always performed by the Government Service Centres within established frequencies;
 - The Department of Environment and Conservation's database was not used to assess risk for purposes of scheduling inspections;
 - Inspectors did not always perform verification of information provided by operators during the inspection process;
 - Issues identified during inspections were not always followed-up;
 - Government Service Centres had not been diligent in enforcing the removal of abandoned tanks; and
 - The Department of Environment and Conservation had not taken any enforcement action for facilities that had not registered petroleum storage systems as required.
-

Petroleum Storage Systems
(2005 Annual Report, Part 2.6; Updates: 2007, Part 3.2.8; 2009, Part 2.7)

Our follow-up In our 2009 Update Report we concluded that one of the seven original recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department of Environment and Conservation (the Department) requesting an update as to what progress had been made on the recommendation. The recommendation is as follows:

1. *The Department of Environment and Conservation should ensure compliance with its legislative requirements and work closely with the Department of Government Services to ensure that all requirements of their Memorandum of Understanding are met.*

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Environment and Conservation has made progress in addressing the recommendations from our 2005 Annual Report, one of the original seven recommendations had only been partially implemented.

We agree with the Department's position that the recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department will need to review all files for all tanks in the Province.

Recommendation No. 1

The Department of Environment and Conservation should ensure compliance with its legislative requirements and work closely with the Department of Government Services to ensure that all requirements of their Memorandum of Understanding are met.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- 4,124 tank systems that had been previously issued a Certificate of Approval were not yet registered, and
- 1,688 tank systems had to be followed up to determine the Certificate of Approval number.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“Effective January 2010, the Department has dedicated resources to undertake a systematic review of all available information on storage tanks on the Avalon Peninsula. The intent is to develop a protocol for reviewing these files and to determine a timeframe for a complete review of all files on all tanks in the province based on this trial area.*

At this time, the project has not been completed; therefore, we do not have a firm estimate of the time required to review all files for all tanks in the province. In addition, future work for the remainder of the province will proceed expeditiously. That being said, our early estimate based on work to date is that a complete review of the files will take 2 years.

We are committed to the priority of this project and anticipate to be able to provide you with a more definitive completion date by September 2010 when we anticipate completion or near completion of our review of tanks on the Avalon Peninsula.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to review all files for all tanks in the Province.

Petroleum Storage Systems
(2005 Annual Report, Part 2.6; Updates: 2007, Part 3.2.8; 2009, Part 2.7)

PART 2.14

DEPARTMENT OF FISHERIES AND AQUACULTURE

AQUACULTURE DEVELOPMENT

(2008 ANNUAL REPORT, PART 2.9)

Introduction Our 2008 Annual Report included a review of Aquaculture Development at the Department of Fisheries and Aquaculture (the Department). We conducted our review to determine whether the Department was ensuring that the aquaculture industry was developing in accordance with strategic objectives and whether deficiencies identified in our 2004 report were addressed.

What we found As a result of our review, we reached the following overall conclusions:

We identified a number of issues that, although known by the Department, had not been addressed in a timely manner. For example, the lack of infrastructure to support the current or future aquaculture operations and the Department's failure to finalize the Aquaculture Health Management Plan. These issues will have to be addressed if the aquaculture industry is going to expand in an orderly and sustainable manner.

Details of our findings are as follows:

Atlantic Salmon and Steelhead Trout (salmonids): There had been an increase in investment in the salmonid aquaculture industry since our report in 2004 and the industry was expanding, with established aquaculture companies undertaking operations in Newfoundland and Labrador. However, we identified issues such as the lack of legislation and the failure to update and complete management plans and codes of practice that were necessary to support an orderly and sustainable expansion.

Our review indicated that priority issues identified in the 2005 review of the Industry Strategic Plan had still not been addressed. For example, the Department indicated that there were not enough properly located wharves dedicated to aquaculture on the south coast of the Province, that new roads would be required to access new wharves and that aquaculture development was placing a burden on existing waste management systems.

Atlantic Cod: The Department had done little to advance the development of Atlantic Cod Aquaculture in the Province. We found that construction of a cod hatchery ceased in 2003 due to legal issues between private industry proponents and that approximately \$1 million would have been required to complete construction of the hatchery. Furthermore, the Department had not completed the strategic development, start-up and operation of a commercial scale Atlantic Cod demonstration farm as planned. Given that industry had failed to complete construction of a cod hatchery, and that there was no other cod hatchery in the Province to provide the number of cod the demonstration farm will require annually, the Department indicated it was exploring options to obtain cod from hatcheries in other parts of Atlantic Canada.

Blue Mussels: There was no management plan or code of practice to guide shellfish site operators in the aquaculture of shellfish in the Province. While the Department did prepare a draft document identifying investment initiatives required to expand the salmonid industry, no such document was prepared for Blue Mussels.

Our follow-up In February 2010, we contacted the Department requesting an update as to what progress had been made on the original six recommendations resulting from our review. The recommendations are as follows:

- 1. The Department should review and make recommendations to update the Aquaculture Act and Regulations.*
 - 2. The Department should complete and approve the Aquaculture Health Management Plan.*
 - 3. The Department should develop a code of practice for the aquaculture of shellfish.*
 - 4. The Department should obtain approval and implement the recommendations necessary to support an orderly and sustainable expansion in the salmonid aquaculture industry.*
 - 5. The Department should complete the development, start-up and operation of a commercial scale Atlantic Cod demonstration farm.*
 - 6. The Department should develop and implement a strategy to promote and support the orderly and sustainable expansion of the Blue Mussel industry.*
-

Information we requested The Department was asked to advise whether the recommendation had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Fisheries and Aquaculture has made progress in addressing the recommendations from our 2008 Annual Report, five of the original six recommendations had only been partially implemented.

We agree with the Department's position that the recommendation numbers 1, 2, 3, 4 and 6 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- draft amendments to the legislation, provide input to Legislative Council and consult with the Department of Justice;
- complete and approve the Aquaculture Health Management Plan;
- complete the development of the Blue Mussel Objective-Based Guide to Environmental Management Planning;
- continue with the development of the integrated salmonid strategy to support the internal horizontal policy development and direction to the Government of Newfoundland and Labrador regarding priorities for the sustainable development and management of the salmonid aquaculture sector; and
- complete the strategy to promote and support the orderly and sustainable expansion of the Blue Mussel industry.

We agree with the Department's position that the recommendation number 5 has been fully implemented and, therefore, no further follow-up is required on this recommendation.

Recommendation No. 1

The Department should review and make recommendations to update the Aquaculture Act and Regulations.

**Entity's
response from
previous report**

In 2008, the Department informed us that it was reviewing all legislation, regulations and policies to ensure that they support development and the sustainable management of the Newfoundland and Labrador aquaculture industry in a comprehensive manner.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Current Status - Internal analysis of existing Aquaculture Act and regulations completed and a Cabinet Paper submitted to request authority to amend act and regulations. Cabinet Paper was approved and consultations with stakeholders are ongoing. In addition, an internal DFA drafting committee was formed to provide drafting instructions to Legislative Council.

Future Action Plan(s) - Draft amendments with internal DFA drafting committee and provide input to Legislative Council and consult with the Department of Justice.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to draft amendments to the legislation, provide input to Legislative Council and consult with the Department of Justice.

Recommendation No. 2

The Department should complete and approve the Aquaculture Health Management Plan.

**Entity's
response from
previous report**

In 2008, the Department informed us that the Aquaculture Health Management Plan would be approved and released by December 2009.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Current Status - Aquaculture Health Management Plan drafted, edited and an internal review is completed.

Future Action Plan(s) - Incorporate components in the Aquaculture Act and Regulation amendment review process that include external consultation.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete and approve the Aquaculture Health Management Plan.

Recommendation No. 3

The Department should develop a code of practice for the aquaculture of shellfish.

**Entity's
response from
previous report**

In 2008, the Department informed us that company specific environmental management plans would be integrated into farm management plans and later into the regulatory process, resulting in a harmonized approach that recognizes existing standards while promoting and monitoring the establishment of best practices.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Current Status - A Blue Mussel Objective-Based Guide to Environmental Management Planning (GEMP) has been drafted and circulated for feedback from federal and provincial regulatory agencies. The draft GEMP was shared with the Newfoundland Aquaculture Industry Association (NAIA). Based upon feedback, DFA decided it would concentrate on finalizing the Salmonid and Marine Finfish, Objective-Based Guide to Environmental Management Planning. The salmonid sector has a greater resource capacity to implement the proposed approach. The experience gained during the development of the salmonid sector GEMP will be used when working with blue mussel growers to finalize the blue mussel GEMP.

Future Action Plan(s) - The Blue Mussel Objective-Based Guide to Environmental Management Planning will be developed once the salmon and marine finfish GEMP is completed.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete the development of the Blue Mussel Objective-Based Guide to Environmental Management Planning.

Recommendation No. 4

The Department should obtain approval and implement the recommendations necessary to support an orderly and sustainable expansion in the salmonid aquaculture industry.

**Entity's
response from
previous report**

In 2008, the Department informed us that the recommendations in the Industry Strategic Plan were being implemented and that it:

- allocated funding to determine infrastructure requirements;
- worked on the development of a wharf expansion plan for Belloram;
- secured funding in the 2008/09 budget to complete a wharf infrastructure assessment;
- lobbied for federal financial support for wharf construction;
- established financial programs to improve access by industry to investment;
- completed surveys of potential hatchery sites and expanded financial programs to include hatchery construction; and
- committed additional fish health resources to the industry.

The Department also indicated that management approaches to aquaculture development, licensing, fish health and sustainable management would be adopted as policy.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Current Status - DFA worked with other government departments to address investment, sustainable management, infrastructure, human resources, communications and federal government collaboration. Working groups were established and each group provided a work plan. The work plans were then compiled into an integrated salmonid strategy. This strategy is now being reviewed by DFA.

An infrastructure assessment was completed Spring 2009 by Rutter Engineering, outlining the infrastructure needs of the salmonid aquaculture industry. Four wharf locations were chosen for development, including Harbour Breton, Hermitage, Pools Cove and Belleoram, and \$2 million was allocated in the 2009/10 budget for construction. Designs have been finalized for the wharves with construction tenders awarded for the Hermitage and Pools Cove projects to start in the spring of 2010. The remaining projects, Belleoram and Harbour Breton, are expected to start construction in spring/summer 2010.

The Department has surveyed various sites for hatchery development and has provided technical and financial advice to individual companies. There is one hatchery currently under construction, a site has been chosen for a second, and a third company has indicated they will be constructing a hatchery in the future.

The Department allocated the following resources to fish health:

- 1) three new positions including an Aquatic Veterinarian, Laboratory Technician and Laboratory Technologist;*
- 2) invested in Waste Water Treatment systems for the south coast processing sector to improve biosecurity, and*
- 3) invested in the construction of the Aquatic Centre for Health and Development which will be completed in spring 2011.*

***Future Action Plan(s)** - The planning and design for the four wharves is anticipated to be completed by the spring of 2010 and construction to be completed by March 2011.”*

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to continue with the development of the integrated salmonid strategy to support the internal horizontal policy development and direction to the Government of Newfoundland and Labrador regarding priorities for the sustainable development and management of the salmonid aquaculture sector.

Recommendation No. 5

The Department should complete the development, start-up and operation of a commercial scale Atlantic Cod demonstration farm.

**Entity's
response from
previous report**

In 2008, the Department informed us that it had taken a leadership role in the development of this opportunity and had accomplished the following:

- provided funding to NAIA to complete the strategy for the demonstration farm;
 - allocated \$2 million to the establishment and operation of that farm;
 - completed a Request for Proposals to identify and secure an industry partner;
 - lobbied the Federal Government to become a partner in the project;
 - provided financial support (\$0.5 million) to cod genomics; provided fish health services to cod research at the Ocean Sciences Centre of Memorial University; and
 - completed R&D to develop health approaches for cod culture.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

***Current Status** - The project is operational with the first-year class of fish introduced to the site in the spring of 2009.*

***Future Action Plan(s)** - DFA will work with the industry partner to identify and establish second year marine grow out sites. In addition, DFA will work with the other funding partners on an advisory and technical steering committee which the Department will chair."*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The Department should develop and implement a strategy to promote and support the orderly and sustainable expansion of the Blue Mussel industry.

**Entity's
response from
previous report**

In 2008, the Department informed us that the strategy would be completed by 31 March 2010.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

***“Current Status** - All of the source material required to complete the strategy has been compiled and a draft copy of the document is nearing completion. The Department has commissioned a study to evaluate the province's mussel industry, determine the perception and potential of Newfoundland product in the North American market and provide some recommendations on the future development of the sector.*

***Future Action Plan(s)** - The provincial mussel industry study is expected to be completed by the end of April 2010. The strategy will be completed following the completion of the evaluation study. Recommendations from the evaluation study will be incorporated into the mussel strategy.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete the strategy to promote and support the orderly and sustainable expansion of the Blue Mussel industry.

PART 2.15

DEPARTMENT OF FISHERIES AND AQUACULTURE

AQUACULTURE INSPECTIONS

(2008 ANNUAL REPORT, PART 2.10)

Introduction Our 2008 Annual Report included a review of Aquaculture Inspections at the Department of Fisheries and Aquaculture (the Department). We conducted our review to determine whether the Department was complying with inspection requirements and whether deficiencies identified in our 2004 report were addressed.

What we found As a result of our review, we reached the following overall conclusions:

We identified a number of issues with regards to the Department's aquaculture inspection activities. For example:

Aquaculture Site Inspections: The Department only completed 125 or 86% of the 146 annual inspections that were required in 2007 and officials indicated that the Department was not successful in inspecting all aquaculture sites in 2005 and 2006. In addition:

- The Department did not know whether closed aquaculture sites had been returned to their natural state as required under the *Aquaculture Act*.
- Inspectors were not accurately completing Aquaculture Site Inspection and Directive Reports (Inspection Report) and the Inspection Report was not adequate to support inspection activity. We had difficulty determining whether deficiencies and hazards did or did not exist.
- There was no requirement that the site operator sign the Inspection Report acknowledging the inspection results and related directives, and the Department did not take measures to ensure site operators received the reports that were mailed to them, as required by Department policy.
- Our review of 163 Inspection Reports prepared in connection with inspections of aquaculture sites in 2007 indicated that directives were not always included in the Inspection Report to site operators to correct identified deficiencies. Contrary to Departmental policy, follow-up inspections were not always carried out to ensure identified deficiencies were corrected.

- The Department provided little guidance in its policy manuals as to what would be considered a hazard at an aquaculture site. Notwithstanding the lack of clarity with regards to the definition of a hazard, our review indicated that 30 or 18% of 163 aquaculture sites inspected in 2007 were identified as having a hazard at the time of the inspection. There was no immediate correction at any of the 30 sites and, contrary to Department policy, site operators were not asked to provide an action plan to indicate how the hazard was to be mitigated. Furthermore, we found that 16 of the 30 sites still had the same hazards noted in their 2008 annual inspection.

The Code of Containment: There were no established guidelines for the amount of weight to be used by site operators in the weighing of nets secured to marine cages; there were no established standards for mooring systems to hold marine cages in place; the Department had no mooring system inspection program; and there was no requirement that the Department carry out a subsurface dive inspection to ensure that site operators were maintaining cage systems in accordance with the Code.

The Department was not always carrying out the required number of annual cage systems inspections as required under its Code of Containment. Cage System Audit Reports did not always indicate whether repairs were required to cages and nets and, where repairs to cages and nets were required, compliance dates were not always given and follow-up inspections were not always indicated as being carried out.

Aquaculture Licensing Information System: Information recorded in the Aquaculture Licensing Information System database was neither complete nor accurate. Information entered into the system was not always captured and reports produced from the system did not always contain the information requested.

Our follow-up In February 2010, we contacted the Department requesting an update as to what progress had been made on the original 11 recommendations resulting from our review. The recommendations are as follows:

1. *The Department should ensure inspectors accurately complete the Aquaculture Site Inspection and Directive Report.*
2. *The Department should revise the Aquaculture Site Inspection and Directive Report to address the weaknesses noted in our report.*
3. *The Department should ensure site operators acknowledge inspection results in the Aquaculture Site Inspection and Directive Report.*

4. *The Department should inspect aquaculture sites annually as required.*
5. *The Department should inspect aquaculture sites when they are closed and obtain the equipment necessary to ensure closed sites have been returned to their natural state as required by the Aquaculture Act.*
6. *The Department should ensure hazards and deficiencies identified during inspections are corrected as required under Department policy.*
7. *The Department should update Department policy to assist inspectors in determining whether deficiencies or hazards exist at aquaculture sites.*
8. *The Department should review and update the Code of Containment to address the weaknesses noted in our report.*
9. *The Department should comply with the Code of Containment.*
10. *The Department should revise the Cage System Audit Report to address the weaknesses noted in our report.*
11. *The Department should review and make improvements to the Aquaculture Licensing Information System to ensure that all information entered into the system is captured and that reports produced from the system are complete, accurate and timely.*

Information we requested

The Department was asked to advise whether the recommendation had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Fisheries and Aquaculture has made progress in addressing the recommendations from our 2008 Annual Report, 5 of the original 11 recommendations had only been partially implemented.

We agree with the Department's position that recommendation numbers 5, 6, 7, 8 and 11 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- obtain suitable equipment to assist with the inspections of closed sites in a cost effective manner;
- develop and implement the necessary procedures to ensure hazards and deficiencies identified during inspections are corrected as required;
- review and update its aquaculture policies and procedures to ensure inspectors are provided with the necessary guidance to identify whether deficiencies and hazards exist at aquaculture sites;
- complete its review of the Code of Containment, including the current recapture technology, and update the Code of Containment where necessary; and
- complete the work necessary to implement the new information system.

We agree with the Department's position that recommendation numbers 1, 4 and 9 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

We disagree with the Department's position that recommendation number 2 has been fully implemented because the Department maintains it has revised the Site Inspection and Directive Report to address some of the weaknesses noted in our report. However, 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

We disagree with the Department's position that recommendation number 3 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, 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

We disagree with the Department's position that the recommendation number 10 has been fully implemented because the Department maintains that it is sufficiently testing nets and that there is adequate inspection documentation to support the net testing. However, the Department has not revised Cage System Audit Reports to indicate whether 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 1

The Department should ensure inspectors accurately complete the Aquaculture Site Inspection and Directive Report.

**Entity's
response from
previous report**

In 2008, the Department did not inform us of any planned actions.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

***“Current Status** - The Department has met with inspectors to identify where there were inconsistencies in the directive reports. We now have mechanisms established to ensure accurate and consistent reporting.*

***Future Action Plan(s)** - To hold regular meetings with the inspectors to talk through issues that may arise with the directive reports. Reports will be reviewed on a regular basis to ensure accuracy and consistency.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Department should revise the Aquaculture Site Inspection and Directive Report to address the weaknesses noted in our report.

**Entity's
response from
previous report**

In 2008, the Department informed us that it would review the inspection report form prior to the start of the 2009 inspection season and make any necessary changes.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

*“**Current Status** - The directive report was reviewed and revised to incorporate some changes that addressed the weaknesses noted in the AG's report. Staff are supported by management to ensure that accuracy, consistency and timeliness are maintained.*

***Future Action Plan(s)** - Annual reviewing of directive reports to ensure that they are updated and relevant for the inspection program.”*

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation has been fully implemented because the Department maintains it has revised the Site Inspection and Directive Report to address some of the weaknesses noted in our report. However, 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 3

The Department should ensure site operators acknowledge inspection results in the Aquaculture Site Inspection and Directive Report.

**Entity's
response from
previous report**

In 2008, the Department did not inform us of any planned actions regarding how it was going to ensure that site operators acknowledged inspection results in the Aquaculture Site Inspection and Directive Report.

In addition, the Department indicated that it would no longer require inspection reports be signed by site operators due to difficulties with delivering the reports to site operators on a timely basis.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

*“**Current Status** - Based upon an internal review of the inspection reporting process it was determined that, by using regular mail to deliver inspection reports, there was no way to verify that the site operators received the inspection report.*

***Future Action Plan(s)** - In the 2010 inspection season the Department will have the directive reports hand delivered to an authorized officer of the company by fisheries inspection officers. If there is a hazard on site, the inspector is still required to notify the company as soon as possible, usually by phone, to make them aware of the issue and insist that the problem be fixed.”*

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position 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, 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 4

The Department should inspect aquaculture sites annually as required.

**Entity's
response from
previous report**

In 2008, the Department informed us that it had a second dedicated inspector in place and the 2008 inspection program completed 151 out of 155 general inspections.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

***Current Status** - The 2009 site inspection season resulted in 100% of licensed/active sites having the primary inspections completed. Only three re-inspections were not completed, one of which consisted of gear being sunk due to ice issues, one had all gear removed, according to the owners, and will need to be verified, and the third site could not be re-inspected due to time and weather constraints. Staff are supplied with all necessary vehicles, boats and equipment to ensure coverage of all sites. In 2009, there were 470 fish health site inspections and biosecurity audits conducted.*

***Future Action Plan(s)** - The Department will ensure that all sites are being inspected annually."*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 5

The Department should inspect aquaculture sites when they are closed and obtain the equipment necessary to ensure closed sites have been returned to their natural state as required by the Aquaculture Act.

**Entity's
response from
previous report**

In 2008, the Department informed us that it would determine whether there was suitable equipment available to assist with the inspections of closed sites in a cost effective manner.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

*“**Current Status** - All closed/abandoned sites with gear at the surface are inspected annually to ensure that we are aware of what gear is present. Sites with no gear at the surface are not checked annually due the fact that we do not have the necessary equipment to view underwater to see if there is any gear located on site.*

***Future Action Plan(s)** - The Department is evaluating solutions for underwater inspections and will implement as soon as appropriate technology can be identified and acquired.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to obtain suitable equipment to assist with the inspections of closed sites in a cost effective manner.

Recommendation No. 6

The Department should ensure hazards and deficiencies identified during inspections are corrected as required under Department policy.

**Entity's
response from
previous report**

In 2008, the Department informed us that where any inspection identifies a hazard, inspection staff were instructed to directly notify the owner/operators, at the earliest opportunity, to ensure that they were aware of the hazard and to advise them to take the appropriate course of action to have it corrected. Also, the Department indicated that if an inspection report noted a deficiency it would also indicate a correction timeframe if the noted deficiency was part of provincial jurisdiction.

However, the Department did not indicate how it would monitor the identified hazards and deficiencies to ensure they are corrected as required.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

*“**Current Status** - All sites that had deficiencies or hazards identified, with the exception of three, were re-inspected to ensure that all the directives were in compliance. In order to deal with the non-compliance issues, we are developing test case files to present to the senior Crown Attorney for a legal opinion and instruction to develop a case file that will be successful in court. Also, the Department is engaged in a process of reviewing the Aquaculture Act and regulations to ensure that non-compliance issues are dealt with accordingly.*

***Future Action Plan(s)** - Work with DFA solicitor on test case files and review the Aquaculture Act and regulations with regards to non-compliance issues.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop and implement the necessary procedures to ensure hazards and deficiencies identified during inspections are corrected as required.

Recommendation No. 7

The Department should update Department policy to assist inspectors in determining whether deficiencies or hazards exist at aquaculture sites.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

- The Aquaculture Policy and Procedure Manual specifically defined a hazard as “*any condition that constitutes a health/safety issue or obstructs, impedes, or renders navigation in navigable waters more difficult or dangerous*”.
 - This definition provided inspection staff with the guidance necessary for them to use their knowledge and experience to make assessments of the conditions that exist at aquaculture facilities.
 - Monitoring and enforcement activities were ongoing where any failure to comply with directives was identified.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Current Status - Inspectors are briefed and trained to identify possible hazards and deficiencies. The current definition of a hazard provides inspection staff with the guidance necessary for them to use their knowledge and experience to make assessments of the conditions that exist at aquaculture facilities. It would be impractical to develop an exhaustive list of all possible site hazards and deficiencies as each site is different and an inspector needs to have flexibility in order to effectively deal with the site hazards and deficiencies. However, they are provided with guidelines to

adjust to new technology, site configuration, etc. This information is shared with all inspectors and will be included in future inspection manuals.

***Future Action Plan(s)** - The issue of defining hazards and/or deficiencies will be further addressed following review of aquaculture policies and the ensuing legislative and regulatory amendments.”*

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to review and update its aquaculture policies and procedures to ensure inspectors are provided with the necessary guidance to identify whether deficiencies and hazards exist at aquaculture sites.

Recommendation No. 8

The Department should review and update the Code of Containment to address the weaknesses noted in our report.

**Entity’s
response from
previous report**

In 2008, the Department informed us that:

- Prescribing mandatory net weights in general terms was not an appropriate management tool; however, it does check to see if net weights are in place during Cage System Audit inspections.
- Consultation during the development of the Code of Containment concluded that mooring systems did not pose a substantial risk for fish escape.
- It does not conduct sub surface dive inspections of mooring and cage systems as these are completed by site operators. Furthermore, the Department did not indicate how it would ensure that sub surface dive inspections were carried out by site operators in accordance with the Code of Containment.

- They and industry had recognized the ineffectiveness of the current recapture technology. The Department also indicated that there had been several attempts over the years to refine the recapture technology with marginal improvement and that it planned to address this with industry and federal counterparts at the next meeting of the committee governing the Code of Containment.
- It recognized that the Industry Code of Practice was outdated and that practices had changed and evolved; however, despite the lack of an updated Code of Practice, the practices as outlined in the existing Code have been approved as adequate for the purposes of the Code of Containment.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

*“**Current Status** - The Department recommended to the Aquaculture Liaison Committee in the 2008 Annual Code of Containment Report that site holders submit a "Mooring Maintenance Replacement Plan" for the sites. The plan would be updated whenever a system is significantly modified or replaced or if a site has had a change in ownership.*

The Department recommended to the Aquaculture Liaison Committee in the 2008 Annual Code of Containment Report that a review be conducted of recapture plans at the next Aquaculture Liaison Committee meeting, including gear and methods, to determine if there is a need for further work or revisions.

***Future Action Plan(s)** - The Department will work with the Aquaculture Liaison Committee to ensure that the results of the review of recapture methods and other elements of the Code are changed.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete its review of the Code of Containment, including the current recapture technology, and update the Code of Containment where necessary.

Recommendation No. 9

The Department should comply with the Code of Containment.

**Entity's
response from
previous report**

In 2008, the Department did not inform us of any planned actions.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

*“**Current Status** - All active farm sites are inspected during the spring and fall. In some instances farms active in the spring are no longer active in the fall and vice versa. This may have contributed to the discrepancy between the farms active during the year and the number of inspections. Post inspection correspondence with the farm operators indicates needed repairs, date for compliance or date of follow-up inspection. The Department holds all correspondence for future reference. All site inspection reports are signed by company individuals. In some instances there are no site crew members present during inspection. After inspectors return to shore, the inspection report is faxed to a company representative for signing.*

***Future Action Plan(s)** - The Department will maintain compliance with the Code of Containment.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 10

The Department should revise the Cage System Audit Report to address the weaknesses noted in our report.

Entity's response from previous report In 2008, the Department informed us that it would review the process of auditing nets and provide recommendations for amendments as considered necessary.

The Department did not indicate whether it would revise the Cage System Audit Report to address the weaknesses noted in our report.

Entity's response to current request In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

*“**Current Status** - All active farm sites are inspected during the spring and fall rounds of inspection. In some instances, farms active in the spring are no longer active in the fall and vice versa. This may have contributed to the discrepancy between the farms active during the year and the number of inspections.*

The Department recommended to the Aquaculture Liaison Committee that the frequency of net testing be extended from once every 12 months to testing after net changes. Nets are changed throughout the production cycle on salmon and steelhead sites; however, the frequency varies by production scheme and species. Nets may be in the water between 9 and 20 months. Changing nets for the sake of net testing puts fish at risk of escape and will increase the frequency of net changes. It is proposed that nets be tested after regular net changes, according to the production cycle. This can be monitored through net inventories, audits and site inspections.

Post-inspection correspondence with farm operators would indicate needed repairs, date for compliance or date of follow-up inspection. The Department holds all correspondence for future reference.

All net tag numbers are recorded during the site inspection. Post inspection correspondence with farm operators request verification of net age. The Department holds all correspondence for future reference.

***Future Action Plan(s)** - A regular review of the cage system audit report will be conducted to ensure that report information is accurate, pertinent and completed in the prescribed manner.”*

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation has been fully implemented because the Department maintains that it is sufficiently testing nets and that there is adequate inspection documentation to support the net testing. However, the Department has not revised Cage System Audit Reports to indicate whether 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 11

The Department should review and make improvements to the Aquaculture Licensing Information System to ensure that all information entered into the system is captured and that reports produced from the system are complete, accurate and timely.

**Entity's
response from
previous report**

In 2008, the Department informed us that it recognized the issues related to the Aquaculture Licensing Information System and was working with the Office of the Chief Information Officer to identify and acquire a suitable replacement for its information systems.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

***Current Status** - The Department and OCIO have worked over the last year with a consultant to complete a needs analysis of a new aquaculture licensing information system. This has included a review of existing and future program requirements, staff and industry consultations, and a technical description of the system requirements. Tender for the design and provision of the system will be let this spring.*

***Future Action Plan(s)** - The Department will work with OCIO on the analysis and selection of bidders for the replacement of ALIS."*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete the work necessary to implement the new information system.

Aquaculture Inspections
(2008 Annual Report, Part 2.10)

PART 2.16

**DEPARTMENT OF GOVERNMENT SERVICES
FOOD PREMISES INSPECTION AND LICENSING PROGRAM
(2007 ANNUAL REPORT, PART 2.7; UPDATE: 2009, PART 2.11)**

Introduction

Our 2007 Annual Report included a review of the Food Premises Inspection and Licensing Program at the Department of Government Services. We conducted our review to determine whether the Department of Government Services, through its Government Service Centres (GSC), and/or the Department of Health and Community Services:

- was complying with food premises inspection and licensing requirements;
- was complying with the Memorandum of Understanding (MOU);
- was monitoring the food inspection and licensing program; and
- had addressed deficiencies identified in our 2003 report.

What we found

As a result of our review, we reached the following overall conclusions:

Not all of the deficiencies identified in our 2003 report had been addressed by the GSC. In particular:

Licensing of Food Premises: At the time of our review, 442 or 11% of food premises in the GSC database were indicated as operating without a valid licence as required by the *Food Premises Regulations*. Furthermore, during the year ended 31 December 2006, we found that 35% of the food premises files that we examined in the database had operated without a valid licence for a period of time during the year. As a result, the GSC did not always ensure that food premises were operating with a valid licence as required by the *Food Premises Regulations*.

Risk Management: We found that food premises are not always assessed for health risk in accordance with the Risk Management Framework that was developed under the MOU between the GSC, the Department and the Regional Integrated Health Authorities.

Inspection of Food Premises: For the three year period ending 2006-07, the GSC did not carry out the required number of inspections for moderate and high risk food premises and carried out more inspections than required for low risk and seasonal food premises.

We found that in 28% of the files examined, where the food premises was licensed in 2005, there was no evidence in the file to indicate that the premises was assessed for risk by an Environmental Health Officer (EHO). As a result, we could not determine the required inspection frequency for these premises for the year and whether the inspections actually carried out for these premises were sufficient to control the health risk posed to public.

We found that in 218 of 224 inspection reports reviewed where a critical health hazard was identified, the EHO did not indicate on the inspection report whether the critical hazard was corrected or controlled on completion of the inspection as required by Department of Health and Community Services policy.

We found five food premises where critical health hazards occurred in two consecutive inspections and the total critical hazard score in the second inspection was less than 48, however the food premises was not closed as required by Department of Health and Community Services policy (critical hazards included cold holding of foods at too high a temperature, improper cooking and holding of food, and cross-contamination of food).

A significant number of food premises had the same health hazards recurring in consecutive inspections indicating that these hazards are not being corrected. In one food premises, we found that two critical health hazards identified had recurred in eight consecutive inspections (critical hazards included cold holding of foods at too high a temperature and thermometer not present or not working). The Department of Health and Community Services has no policy that addresses the situation where the same critical health hazard recurs more than once.

Information Management: We found that the database was incomplete and inaccurate. Information resulting from inspections such as identified health hazards, compliance dates and inspection scores was not captured in the database. In addition, risk assessment score history and calculation detail was not maintained in the database. As a result, important health information was unavailable to the GSC, the Department of Health and Community Services, and the Regional Integrated Health Authorities.

Compliance with the MOU: The MOU was not evaluated on an annual basis as required. As a result, it may not be reflective of current practices and issues relating to food premises inspection and licensing. The GSC does not provide the Department of Health and Community Services with an annual report of statistical and narrative information on program activity as required under the MOU.

Management of the Program: Monitoring of the program by the GSC was inadequate because the database used to monitor inspection activity was not accurate or complete; risk assessment score detail, inspection score detail, identified health hazards and hazard correction dates were not recorded in the database; and management did not always review completed inspection reports and risk assessment worksheets.

Our follow-up In our 2009 Update Report we concluded that 5 of the original 13 recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department of Government Services and the Department of Health and Community Services requesting an update as to what progress had been made on the 5 recommendations. The recommendations are as follows:

1. *The GSC should comply with the Food Premises Regulations.*
2. *The GSC should comply with Department policy as follows: ensure that inspections are carried out in accordance with the uniform frequency required in the Risk Management Framework.*
3. *The GSC should comply with Department policy as follows: food premises should be closed where required.*
4. *The GSC, Department of Health and Community Services, and the Regional Integrated Health Authorities should evaluate the MOU annually as required.*
5. *The GSC should provide the Department with an annual report as required.*

Information we requested The Department of Government Services and the Department of Health and Community Services were asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Government Services and the Department of Health and Community Services have made progress in addressing the recommendations from our 2007 Annual Report, one of the original 13 recommendations had only been partially implemented.

We agree with the Department of Health and Community Services' position that recommendation number 4 is partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department of Health and Community Services will need to evaluate the MOU annually as required.

We agree with the Department of Government Services' position that recommendation numbers 1, 2, 3 and 5 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The GSC should comply with the Food Premises Regulations.

**Entity's
response from
previous report**

In 2009, the Department of Government Services informed us that 198 food premises continued to operate without valid licenses as at 13 March 2009 and that a detailed review of the reasons why these licenses were operating without valid licenses was being undertaken.

**Entity's
response to
current request**

In 2010, the Department of Government Services informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The Department did a review of the 198 food premises and as provided in the update of March 2009 there were a variety of reasons for expired registrations. As explained at that time many of these premises 70 (35%) were seasonal premises where the registration would only be issued when the premises was inspected prior to opening.

The issuance of an annual registration does not affect the level of risk to public health. Changes to the Food Premises Regulations under the Provincial Food and Drug Act have removed the requirement for an annual registration renewal while retaining the issuance of a permanent license. Beginning in October of 2009, establishments will be issued a permanent license as their registration expires. This process will be substantially complete by October 2010. This approach will allow inspection and support staff to spend more time concentrating on inspection processes rather than administrative issues such as printing and mailing registrations which does not contribute to public health. This will also reduce red tape for business.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The GSC should comply with Department policy as follows: ensure that inspections are carried out in accordance with the uniform frequency required in the Risk Management Framework.

**Entity’s
response from
previous report**

In 2009, the Department of Government Services informed us that, in 2007-08, it had achieved the following results in comparison with the target inspection frequencies: 87% of high risk; 88% of medium risk; and 126% of low risk.

The Department also indicated that it was planning to:

- upgrade the AMANDA database system to improve program documentation, develop additional management reports, and introduce additional work planning processes in an effort to achieve the target or desired inspection frequency outlined in the 2003 Risk Management Framework; and
- hold further discussions with the Department of Health and Community Services to determine whether the annual inspection frequency targets were appropriate.

**Entity's
response to
current request**

In 2010, the Department of Government Services informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“As outlined in the 2009 update the Department of Government Services has implemented a work planning process using a work scheduler for all inspectors, in addition to the automatic scheduling of inspections generated by the AMANDA system. These schedules are reviewed regularly by management staff at the regional level to optimize the achievement of inspection targets.

In addition, to ensure that inspection reports are being recorded and filed in the proper manner, an internal audit process has been developed and is being used to monitor documentation contained in individual inspection files. This file audit is done on a quarterly basis and involves a manager reviewing a sample of food premises files for each inspector. This process began in April of 2009 and the department is currently in its 4th quarterly review.

In addition to the file audit and work planning process, all managers have also had additional training in the use of AMANDA reports to monitor the food inspection program.

Discussions with the Department of Health and Community Services on the frequency of inspections for food premises have not resulted in any anticipated changes to the inspection frequency targets currently used.

In the 2008-2009 fiscal year, the Department achieved the following frequency percentages 89% of High risk, 93% of Moderate risk and 94 % of Low risk. This was an improvement over the results achieved in 2007-2008.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented as the inspection frequency percentages have improved. Therefore, no further follow-up is required.

Recommendation No. 3

The GSC should comply with Department policy as follows: food premises should be closed where required.

**Entity's
response from
previous report**

In 2009, the Department of Government Services informed us that it was not following the Closure policy because inspectors were appropriately applying their professional expertise and judgment in the application of their authority under the *Food Premises Regulations* to close a food establishment if required. The Department also indicated that the Closure policy was being reviewed in consultation with the Department of Health and Community Services to clarify the guideline for inspectors in the field.

**Entity's
response to
current request**

In 2010, the Department of Government Services informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"A new closure guidance document is in place and the old closure policy has been rescinded"

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The GSC, Department of Health and Community Services, and the Regional Integrated Health Authorities should evaluate the MOU annually as required.

**Entity's
response from
previous report**

In 2009, the Department of Health and Community Services informed us that it expected to have an initial evaluation of the MOU completed during 2009-10, and that an MOU standing committee would be appointed to oversee working groups assigned to evaluate the various sections of the MOU.

**Entity's
response to
current request**

In 2010, the Department of Health and Community Services informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“The above recommendation has been partially implemented. A Standing Committee has been established with representatives from the Department of Health and Community Services, two Regional Health Authorities, the Department of Government Services and the Department of Child Youth and Family Services.

To begin the evaluation of the MOU during 2009-2010 a questionnaire was developed and presented to Committee members for completion by March 26, 2010.

The results of the questionnaire will be compiled late in 2009-2010 and form the basis for further activities related to the MOU in 2010-2011.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the GSC, Department of Health and Community Services, and the Regional Integrated Health Authorities would need to evaluate the MOU annually.

Recommendation No. 5

The GSC should provide the Department with an annual report as required.

**Entity's
response from
previous report**

In 2009, the Department of Government Services informed us that it had not provided the Department of Health and Community Services with annual reports as required, but that draft reports for 2006-07 and 2007-08 were in the process of being finalized and would be provided to the Department of Health and Community Services shortly. The Department also indicated the process of providing an annual report after the end of a given fiscal year was being reviewed with the objective of providing more timely documents.

**Food Premises Inspection and Licensing Program
(2007 Annual Report, Part 2.7; Update: 2009, Part 2.11)**

**Entity's
response to
current request**

In 2010, the Department of Government Services informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“Annual Reports for fiscal years 2006-2007, 2007-2008 and 2008-2009 were provided to the Department of Health and Community Services on 31 March 2010.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Food Premises Inspection and Licensing Program
(2007 Annual Report, Part 2.7; Update: 2009, Part 2.11)

PART 2.17

DEPARTMENT OF GOVERNMENT SERVICES

INSURANCE ON MOTOR VEHICLES

(2007 ANNUAL REPORT, PART 2.8; UPDATE: 2009, PART 2.12)

Introduction Our 2007 Annual Report included a review of Insurance on Motor Vehicles at the Department of Government Services (the Department). We conducted our audit to determine:

- what systems were in place to prevent the operation of motor vehicles without insurance;
- what systems were in place to ensure the detection of the operation of motor vehicles without insurance; and
- whether penalties for operating a motor vehicle without insurance were being enforced as provided by legislation.

What we found As a result of our 2007 review, we reached the following overall conclusions:

Our review of activities at the Motor Registration Division as well as fines imposed and collected indicated there was not a significant deterrent for those who choose to operate motor vehicles without insurance. For the period 1 April 2001 to 31 March 2006, there were 5,161 convictions of driving without insurance against 3,518 individuals, which indicated that a significant number of individuals were operating motor vehicles without insurance.

Commercial Vehicles

The existence of insurance policies for commercial vehicles was not always verified as required. As a result of our review we determined that staff at the MRD office in Mount Pearl did not receive requests from the Clarenville, Grand Falls-Windsor or Corner Brook offices to verify insurance for registrations made at these offices.

Furthermore, certificates of insurance were not always on file as required. Our review of a sample of 100 registrations indicated that 16 did not have the insurance certificate on file and 17 had an insurance certificate on file but the policy number did not agree with the information contained in the MRD database.

Private Vehicles

There were no controls to prevent individuals from registering vehicles without insurance because MRD did not verify insurance information provided at registration and had no means of verifying the information it received as it did not have online access to insurance industry systems.

As well, insurance companies were not required to notify MRD of insurance cancellations. Therefore, MRD was not able to prevent individuals from purchasing insurance when registering a motor vehicle and subsequently cancelling the insurance policy.

Enforcement

We noted that Highway Enforcement Officers were not able to verify whether an insurance card being presented as proof of insurance actually represented a valid, in-force insurance policy. In addition, in cases where proof of insurance was not presented or was invalid, follow-up letters were not always issued by MRD as required to be certain that all warning tickets to provide proof of insurance had been acted upon.

Furthermore, in cases where individuals were convicted of operating a motor vehicle without insurance, MRD is not complying with the requirements of the *Act*, in that vehicles were not impounded, nor were drivers' licences suspended. Also, many of the fines imposed remained unpaid. As at 31 March 2006, the balance of unpaid fines related to operating a motor vehicle without insurance totalled \$9.5 million.

Our follow-up In our 2009 Update Report we concluded that the original recommendation resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the recommendation. The recommendation is as follows:

1. *The Department should review activities at the Motor Registration Division to determine the extent to which they prevent or detect the operation of motor vehicles without insurance.*

Information we requested The Department was asked to advise whether the recommendation had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Government Services has made progress in addressing the recommendation from our 2007 Annual Report, the original recommendation has only been partially implemented.

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department of Government Services will need to:

- pursue improvements to the auditing of private vehicle insurance coverage; and
- review the seizure and impoundment of uninsured vehicles as required under the *Highway Traffic Act*.

Recommendation No. 1

The Department should review activities at the Motor Registration Division to determine the extent to which they prevent or detect the operation of motor vehicles without insurance.

**Entity's
response from
previous report**

In 2009 the Department indicated:

Private Vehicles

- In 2008, the Atlantic Registrars had held several conference calls on the implementation of an on-line verification program and were still in active discussions with the Insurance Bureau of Canada. The Department further indicated that the economic and administrative feasibility of implementing an on-line insurance verification system had not yet been determined and, as such, there was no date set for implementation of this system.
- It had begun a review of the MRD mainframe computer system with a view to developing a replacement system and insurance verification (for private vehicles) would be considered as a component of that review. It was further indicated that should the monthly audit or on-line verification options (for insurance on private vehicles) prove feasible in the meantime, the Department may be able to pursue these alternatives separately.

Compliance with the *Highway Traffic Act*

- It had commenced its review of vehicle seizure and impoundment as it related to uninsured vehicles. The Department further indicated that there were a number of factors requiring in-depth consideration, including the lack of available towing/impound facilities in rural and isolated areas, as well as consultation with stakeholders such as the police agencies and private industry. The Department indicated that these issues were being addressed in a comprehensive practical manner before any further action was taken.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“There has not been any further progress among the Atlantic Registrars regarding on-line insurance verification. Three of the four provinces, including Newfoundland and Labrador, have implemented, or are in the process of implementing, new computer systems. Further consideration will be given as the provinces establish their new computer systems, but this process is expected to take a substantial period of time (three to five years) given the magnitude of these projects.

As stated in our 2009 response, development of an on-line insurance verification process (for private vehicles) will be a component of a replacement computer system.

The Department is still exploring significant issues regarding vehicle seizure and impoundment. Defining a time frame for completion of this review is not possible at this time.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- pursue improvements to the auditing of private vehicle insurance coverage; and
- review the seizure and impoundment of uninsured vehicles as required under the *Highway Traffic Act*.

Insurance on Motor Vehicles
(2007 Annual Report, Part 2.8; Update: 2009, Part 2.12)

PART 2.18

DEPARTMENT OF GOVERNMENT SERVICES

SCHOOL BUS SAFETY UPDATE

(2008 ANNUAL REPORT, PART 2.11)

Introduction Our 2008 Annual Report included a review of School Bus Safety at the Motor Registration Division (MRD) of the Department of Government Services (the Department). We conducted our review to determine whether:

- there were established policies, procedures, standards and guidelines in place to adequately reflect school bus safety processes;
 - practices in place were adequate in addressing program objectives; and
 - management received information necessary for planning, decision making, control and ensuring compliance with legislative responsibilities.
-

What we found As a result of our review, we reached the following overall conclusions:

Although there had been some improvements since our 2004 report, there was still no comprehensive school bus safety plan in place. We noted, however, that such a plan was being developed and was currently in draft form. In addition, we continued to be concerned about the high incidence of defects identified by Highway Enforcement Officers during school bus inspections.

During 2007-08, 864 school bus inspections resulted in 867 defects being identified – an average of about 1 defect per inspection. In addition, 113 licensed school buses were placed out of service as a result of significant deficiencies noted during the inspections. The deficiencies included such items as issues with brakes and exhaust. This was particularly significant considering that almost all school bus inspections were arranged by advance appointment. Although private contractors operated 660 (66%) of the 1,007 licensed school buses, they accounted for 92 (81%) of the 113 licensed school buses placed out of service.

Other findings included:

- MRD did not perform the required annual inspection for 3 of the 42 Official Inspection Stations operated by school bus operators for the 2008 year;
- not all Official Inspection Stations had their annual license renewed as required by the *Official Inspection Station Regulations*;

- a significant number of older licensed school buses were operating in the Province. For example, 360 (36%) were model year 1998 or older (10 years or older). The 360 licensed school buses were comprised of 323 (90%) operated by private contractors and 37 (10%) operated by school boards. Only private contractors had licensed school buses 12 years and older. There were 135 of these licensed school buses of which 98 were 12 years old, 28 were 13 years old, and 9 were 14 years old;
- deficiencies were identified with the school bus program such as: surprise inspections represent a very small percentage of total inspecting; all Highway Enforcement Officers were not consistently completing the individual inspection items on the school bus inspection form as required by policy; there was no coordinated effort to ensure the optimum deployment of Highway Enforcement Officers; and there is no overall policy and procedures manual to provide guidance on all areas of a school bus inspection program. A particular area of weakness noted was with planning and assignment of school bus inspections;
- the specially designed brake meters used to test the braking efficiency of a school bus were not always being recalibrated at least every two years as required by the manufacturer; and
- in relation to the National Safety Code carrier safety rating system for commercial motor carriers within the Province, which includes school bus operators, we found that, contrary to MRD policy, for 3 school bus operators assigned a “conditional” safety rating, significant delays of 9, 8 and 5 years had occurred without a follow-up facility audit.

Our follow-up

In February 2010, we contacted the Department requesting an update as to what progress had been made on the original 10 recommendations resulting from our review. The recommendations are as follows:

1. *The Department of Government Services should implement procedures to coordinate the assignment and scheduling of school bus inspections.*
2. *The Department of Government Services should increase its efforts in the area of surprise school bus inspections.*
3. *The Department of Government Services should ensure that all Highway Enforcement Officers complete the school bus inspection forms by checking each inspection item completed, as instructed.*

4. *The Department of Government Services should introduce a review and approval process for school bus inspection forms by the supervisor of the Highway Enforcement Officers.*
5. *The Department of Government Services should develop a policy and procedures manual to provide further guidance on the school bus safety program to Highway Enforcement Officers.*
6. *The Department of Government Services should monitor the brake meter maintenance program in place to ensure that all brake meters are recalibrated at least every two years as recommended by the manufacturer.*
7. *The Department of Government Services should take action to address the issue of school bus inspections being performed by unlicensed Official Inspection Stations.*
8. *The Department of Government Services should review procedures in place to ensure that all inspections of Official Inspection Stations are performed as required.*
9. *The Department of Government Services should maintain an accurate account of safety rating for commercial carriers.*
10. *The Department of Government Services should conduct the follow-up facility audits on a timely basis.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Government Services has made progress in addressing the recommendations from our 2008 Annual Report, three of the original 10 recommendations had only been partially implemented and one had not been implemented.

We agree with the Department's position that the recommendation numbers 5, 8, and 10 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- provide further guidance for enforcement officials in the planned guide for the school bus safety program;
- complete its enforcement plan;
- ensure all inspections of Official Inspection Stations are performed as required;
- perform required follow-up facility audits on the 4 school bus contractors identified in the 2008 Annual Report; and
- ensure there is a process in place to conduct future required follow-up facility audits.

We agree with the Department's position that the recommendation number 7 has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- review its legislation and administrative practices related to Official Inspection Station renewal fees; and
- determine and implement an appropriate course of action regarding the current legislative requirements for payment of Official Inspection Station license fees.

We agree with the Department's position that the recommendation numbers 1, 2, 3, 4, 6, and 9 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department of Government Services should implement procedures to coordinate the assignment and scheduling of school bus inspections.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

A process was put in place in the Fall of 2008 that assigns a designated number of school bus contractors to each inspection team. The inspection teams are responsible for the scheduling and performance of inspections of those operators under their assignment. Additionally, management conduct frequent checks on the number of school bus inspections that have been completed or have yet to be performed.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“Regional managers assign school bus inspections by providing enforcement staff with a listing of school buses by individual contractor. The enforcement staff is then responsible for the scheduling and inspection of the entire fleet of school buses belonging to those contractors. During the course of the inspections, managers conduct periodic reviews of the status of the inspections that have been performed by staff under their direction. Additionally, the Register of Motor Vehicles periodically reviews the status of school bus inspections for each region and obtains updates on same.*

This process has proven to [be] very effective in ensuring that school buses are inspected in a timely manner while affording managers ongoing reports on the status of school buses in their respective areas.

Since September 2009, enforcement staff have conducted at least one inspection of every operable school bus in the province, in addition to the two required by Official Inspection Stations (July and December).”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Department of Government Services should increase its efforts in the area of surprise school bus inspections.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

MRD implemented a plan to ensure that a minimum of 10% of school bus inspections for the 2009-10 fiscal year would be conducted without prior notification. Additionally, changes were planned for 2009 to enable recording and electronic tracking of announced and unannounced inspections.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"In 2009, significant changes were made to the Bus Inspection Report, including the addition of fields on the report form to capture whether inspections were announced or unannounced. Additionally, corresponding database changes were implemented that enables the electronic tracking of the number of announced and unannounced school bus inspections.*

For the period April 6, 2009 to March 8, 2010, 38.5% of school bus inspections were unannounced. The Department will continue to ensure that annually, a minimum 10% of all school bus inspections are unannounced, while ensuring that bus operators can continue normal bus transportation schedules for their students."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

The Department of Government Services should ensure that all Highway Enforcement Officers complete the school bus inspection forms by checking each inspection item completed, as instructed.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

In addition to the existing comprehensive manual on out-of-service criteria, it was planned to develop a guide for enforcement personnel on the proper method of completing the inspection form.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“In November 2009, an in-service session was held for enforcement staff to provide training on the proper procedures on completion of the revised Bus Inspection Form. Measures have also been implemented that requires MRD management to review, verify and sign off on each school bus inspection conducted by enforcement staff.*

It is anticipated that the Inspection Guide will be completed by September 2010. In addition, the Department is working with the Office of the Chief Information Officer to develop and implement an in-field electronic inspection system to further improve the inspection recording process.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The Department of Government Services should introduce a review and approval process for school bus inspection forms by the supervisor of the Highway Enforcement Officers.

**School Bus Safety
(2008 Annual Report, Part 2.11)**

**Entity's
response from
previous report**

In 2008, the Department informed us that:

In addition to the existing comprehensive manual on out-of-service criteria, it was planned to develop a guide for enforcement personnel on the proper method of completing the inspection form.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“Regional managers must review and sign-off on every completed school bus inspection prior to submitting the inspections for updating in the MRD computer system. In instances where an inspection form is found to be incomplete or illegible, the manager will return the form directly to the officer who is required to immediately resubmit the form in accordance with departmental guidelines.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 5

The Department of Government Services should develop a policy and procedures manual to provide further guidance on the school bus safety program to Highway Enforcement Officers.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

A formal guide would be developed for enforcement personnel incorporating procedures on the proper method of completing the inspection form, the verification process that is used by supervisory staff to ensure all school bus inspection reports are reviewed, and procedures for assigning school bus inspections to enforcement officers.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“While a formal guide is not finalized, training on the proper completion of the revised Bus Inspection Report, has already been provided to enforcement staff. An effective method for verification of inspection forms has been implemented, and the assignment of school bus inspections to enforcement staff has been revamped and implemented.”*

The Department has developed an instructional guide and procedures document for inspectors on the use of brake meters. This document has been added as an appendix to the provincial Out-Of-Service criteria manual that officers use when conducting school bus inspections.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to provide further guidance for enforcement officials in the planned guide for the school bus safety program.

Recommendation No. 6

The Department of Government Services should monitor the brake meter maintenance program in place to ensure that all brake meters are recalibrated at least every two years as recommended by the manufacturer.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

MRD implemented a process whereby the brake calibration schedule will be reviewed by a senior manager on a quarterly basis, to ensure the timely calibration of all brake meters occurs. Also, the Division has expanded its tracking system, to include the request date for calibration and the “placed back in service” date, to ensure that brake meters are calibrated after two years of service. Furthermore, the Division planned to investigate the possibility of purchasing more modern technology to be utilized for brake testing procedures.

**School Bus Safety
(2008 Annual Report, Part 2.11)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“As indicated in our 2009 response [2008 Annual Report] MRD has implemented a process whereby the brake calibration schedule is reviewed by a senior manager on a quarterly basis, to ensure the timely calibration of all brake meters occurs. As well, in 2009 the Department purchased 14 new electronic brake meters with accompanying printers that record and provide the enforcement officer with an electronic printout of brake test results. A policy has been adopted that requires enforcement staff, who are assigned electronic brake meters, to attach a copy of the brake test result printout to corresponding Bus Inspection Reports.”*

The Bus Inspection Report and the MRD database have also been modified to allow for entry of brake meter test results.

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The Department of Government Services should take action to address the issue of school bus inspections being performed by unlicensed Official Inspection Stations.

**Entity's
response from
previous report**

In 2008, the Department did not indicate a planned action in its response.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that *“As stated in our response of January 14, 2009, the expiry of the Official Inspection Station license by November 30th of each year is an administrative process designed to ensure payment of a fee and does not diminish the integrity of inspections performed by certified mechanics. An inspection certificate issued for a motor vehicle after November 30th in a given year, where the operator of the facility has not renewed the license, or has mailed the payment for renewal which has yet to be processed, is as authentic as if the licence was re-issued by November 30th. The same mechanics are conducting the same inspection to the same standards, regardless of whether the licence renewal fee has been submitted and processed.*

The Department agrees it would be preferable to have received and processed all Official Inspection Station renewal fees no later than November 30th each year. However, an operator of a garage can forward payment of his or her fee on November 30th and a period of time could elapse before the payment is processed. The Department will be evaluating whether amendments to the current legislative requirements for payment of Official Inspection Station license fees by November 30th each year is appropriate.

Despite these challenges, in December 2009 the Department requested a computer generated report and in early January 2010 staff made contact with a number of Official Inspection Station operators who had not yet submitted their renewal fee. By January 15, 2010, all payments had been received.”

As well, the Department subsequently provided further clarification to its 2010 response to our recommendation.

It indicated that “As noted in our response and in our subsequent discussion, while we make every effort to ensure that OIS clients pay their annual registration renewal on time (by November 30th each year), a delay in receipt of this payment or in posting the renewal certificate is an administrative process and does not mean a station or its mechanics are not capable of performing proper inspections. The inspections continue to be done by “authorized inspection mechanics” as required by the legislation. However, we recognize that the annual expiry of the certificate of appointment under the regulations and its renewal being tied to the payment of an annual fee, creates difficulty. As such, as previously noted, we will be reviewing the legislation and our administrative practices to determine an appropriate course of action on this recommendation.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- review its legislation and administrative practices related to Official Inspection Station renewal fees; and
- determine and implement an appropriate course of action.

Recommendation No. 8

The Department of Government Services should review procedures in place to ensure that all inspections of Official Inspection Stations are performed as required.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

As part of a workload analysis, MRD officials were in the process of implementing an enforcement management plan that was designed to ensure that any gaps in required inspections were recognized and corrected early in the process.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The process of developing an enforcement plan is ongoing. At the time of our response in January 2009 there were in excess of 800 Official Inspection Stations in the province and every effort was being made to ensure that all stations were inspected on an annual basis, although there is no requirement for them to be inspected annually. There are currently 710 licenced Official Inspection Stations and currently approximately 122 remain to be inspected."*

In an effort to streamline the process of OIS inspections, Motor Registration Division, has implemented a process whereby the Registrar of Motor Vehicles receives regular electronic updates on the current status of garages that have been, or remain to be, inspected. Additionally, efforts are being made to better utilize enforcement staff by having garage inspections assigned and coordinated around the scheduling of other inspections in specific areas.

Despite geographical and human resource challenges, the Registrar has set March 31st as the deadline for all stations to have undergone inspection, and every reasonable effort will be made to meet this deadline. In cases of Fleet Service (FS) licensed facilities that operate seasonally, and in remote regions of the province where travel is not scheduled until April, there will be a small number of inspections that will not meet the March 31st deadline.”

As well, the Department subsequently provided an update to its 2010 response to our recommendation.

It indicated that *“To update the statistics provided in our February response, as of March 31, 2010, only 21 garages of the 710 remained to be inspected. This is significantly less than the 122 reported in February.”*

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- complete its enforcement plan; and
- ensure all inspections of Official Inspection Stations are performed as required.

Recommendation No. 9

The Department of Government Services should maintain an accurate account of safety rating for commercial carriers.

**School Bus Safety
(2008 Annual Report, Part 2.11)**

**Entity's
response from
previous report**

In 2008, the Department informed us that:

The Annual Report indicated that a school bus operator had not had their current carrier record status updated to reflect the score received on a follow-up facility audit. This was subsequently done and the carrier record accurately reflected a "satisfactory audited" safety rating.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"As indicated in our response of January 14, 2009, in December of 2005 the Department implemented revised Carrier Safety Regulations and a National Safety Code (NSC) rating system which involves an in-depth, automatic and ongoing tracking and recording process of all National Safety Code carriers. Thresholds are based on average fleet size over a two year period. The process involves the assignment of points to carriers for out-of-service inspections, accidents and convictions. Intervention levels are set at 15%, 50%, 70% and 100% and may involve warning letters, compliance review and/or a facility audit which could result in a revision to the carrier's safety rating."*

The revised Carrier Safety Regulations requires registrants of commercial vehicles to submit a National Safety Code Carrier Registration Form no later than 90 days of having commenced operation as a National Safety Code carrier. There are specific deadlines set within the regulations that require owners of commercial vehicles to submit the form within prescribed periods of time. The MRD database was enhanced to provide automatic notification to the supervisor when a carrier has failed to fulfill its obligation of registering as a carrier. Furthermore, the MRD system automatically suspends all vehicle transactions where an owner of a commercial vehicle has failed to register as a carrier."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 10

The Department of Government Services should conduct the follow-up facility audits on a timely basis.

**Entity's
response from
previous report**

In 2008, the Department informed us that:

The four school bus operators that had a conditional rating would be reviewed to determine if the rating was still justified. One of the four school bus operators was audited in 2007 and was identified as requiring a facility audit again in 2009.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The threshold levels of all carriers, particularly school bus operators are continually monitored. The carrier identified in last year’s report as having a conditional rating had undergone a subsequent facility audit and had received an exceptional score, yet the database had not been updated. This has since been completed.*

There were four additional school bus contractors with a conditional rating at the time of last year’s report. Their threshold levels at the time were 1%, 3%, 5% and 16% respectively. The Department has conducted a compliance review on one of those carriers as of February 2010.

During the past 24 months, the Facility Auditor position has been vacant for extensive periods of time due to vacancies and unanticipated sick leave. During those periods, in spite of extensive work loads, some Highway Enforcement Officers have conducted facility audits on commercial carriers. The focus has been on commercial carriers with threshold levels that exceed the designated intervention levels, who would potentially pose a greater risk to public safety. The Department of Government Services is committed to conducting follow-up facility audits on the four remaining school bus contractors that were identified in last year’s report as soon as it is feasible to do so.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- perform required follow-up facility audits on the four school bus contractors identified in the 2008 Annual Report; and
- ensure there is a process in place to conduct future required follow-up facility audits as required.

PART 2.19

DEPARTMENT OF GOVERNMENT SERVICES

SPECIAL PERMITS AND IN-TRANSIT PERMITS

**(2004 ANNUAL REPORT, PART 2.22; UPDATES: 2006,
PART 3.2.20; 2007, PART 3.2.13; 2009, PART 2.14)**

Special Permits and In-Transit Permits

(2004 Annual Report, Part 2.22; Updates: 2006, Part 3.2.20; 2007, Part 3.2.13; 2009, Part 2.14)

Introduction Our 2004 Annual Report included a review of Special Permits and In-Transit Permits at the Motor Registration Division (MRD) of the Department of Government Services (the Department). We conducted our review to determine the policies, procedures, standards and guidelines governing the issuance of these permits.

What we found As a result of our review, we reached the following overall conclusions:

Special Permits

In 2003, there were 165 Special Permits issued to allow mobile cranes and construction equipment, which exceeded the defined limits for weight and/or dimensions, to travel on the Province's roads. These vehicles were not required to have an annual inspection performed and therefore may have been unsafe for the Province's roads.

Highway Enforcement Officers did not complete a mechanical inspection of mobile cranes and construction equipment when these vehicles were stopped on the Province's roads from time to time.

In-Transit Permits

In-Transit Permits issued for unlicensed and/or unregistered vehicles may have contributed to the existence of unsafe vehicles on the Province's roads because no inspection of the vehicle was required.

Certain mobile crane operators may have been obtaining In-Transit Permits because the cumulative cost of these permits was cheaper than the annual licensing fee.

Our follow-up In our 2009 Update Report we concluded that the original recommendation resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the recommendation. The recommendation is as follows:

1. *The Department of Government Services should continue with efforts to review and address issues surrounding Special and In-Transit permits.*
-

Special Permits and In-Transit Permits

(2004 Annual Report, Part 2.22; Updates: 2006, Part 3.2.20; 2007, Part 3.2.13; 2009, Part 2.14)

Information we requested The Department was asked to advise whether the recommendation had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Government Services has made progress in addressing the recommendation from our 2004 Annual Report, the original recommendation had only been partially implemented.

We agree with the Department's position that the recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department will need to:

- finalize its plan for mobile cranes and other heavy equipment; and
- submit the plan to Cabinet.

Recommendation No. 1

The Department of Government Services should continue with efforts to review and address issues surrounding Special and In-Transit permits.

Entity's response from previous report

In 2009, the Department informed us that:

- In-Transit Permits had been eliminated for commercial vehicle transport and replaced with a single trip permit. The single trip permit requires the vehicle to have a valid vehicle inspection, safety inspection, insurance certificate, review and recommendation by the National Safety Code Section for safety compliance and final sign off by the Registrar of Motor Vehicles.

Special Permits and In-Transit Permits

(2004 Annual Report, Part 2.22; Updates: 2006, Part 3.2.20; 2007, Part 3.2.13; 2009, Part 2.14)

- Oversized vehicles, such as mobile cranes and other heavy equipment, must also comply with the new requirements under the single trip permit, in addition to existing requirements under the special permits. The Department's submission of a plan to Cabinet with respect to special permits for such vehicles was still under research and development. It was hoped that this could be finalized soon. The Department noted, however, that any legislative or other regulatory changes required to implement new measures could require additional time, particularly any changes that require approval of House of Assembly.

Entity's response to current request

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"As previously indicated, the issue of In-Transit permits for private vehicles and commercial vehicles has been addressed. With respect to mobile cranes, recommendations are being finalized in consultation with the Occupational Health and Safety Branch of the Department."*

Our conclusion

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- finalize its plan for mobile cranes and other heavy equipment; and
- submit the plan to Cabinet.

Special Permits and In-Transit Permits

(2004 Annual Report, Part 2.22; Updates: 2006, Part 3.2.20; 2007, Part 3.2.13; 2009, Part 2.14)

PART 2.20

DEPARTMENT OF GOVERNMENT SERVICES

SUPERINTENDENT OF PENSIONS

(2006 ANNUAL REPORT, PART 2.9; UPDATE: 2009, PART 2.13)

Introduction Our 2006 Annual Report included a review of the Superintendent of Pensions at the Department of Government Services (the Department). We conducted our review to determine whether the Department adequately monitors the activities of registered pension plans as required by the *Pension Benefits Act, 1997*.

What we found As a result of our review, we reached the following overall conclusions:

- The monitoring of the activities of pension plans was inadequate in that the Department did not have a formal risk assessment process to identify pension plans which did not comply with legislation or did not have sufficient assets to provide pension benefits to members when they retired. Furthermore, there was no requirement for Pension Plan Administrators to submit financial statements, and field inspections and audits had never been conducted by Department officials.
 - The Department's database of pension information was inaccurate.
 - Correspondence from Pension Plan Administrators requiring a response by the Department was not always addressed on a timely basis.
 - The Superintendent was not reporting on the pension plans in the Province.
 - Formal training was not provided to the Compliance Officer.
-

Our follow-up In our 2009 Update Report we concluded that three of the original six recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the three recommendations. The recommendations are as follows:

1. *The Department should ensure Annual Information Returns received from Pension Plan Administrators are checked for reasonability, accurately recorded and that any issues identified are appropriately resolved.*
2. *The Department should respond on a timely basis to correspondence received from Pension Plan Administrators.*
3. *The Department should prepare regular reports on the activities of the Superintendent including progress made on the goals and objectives of the Office, and the current state of the pension plans.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Government Services has made progress in addressing the recommendations from our 2006 Annual Report, two of the original six recommendations had either not been implemented or had only been partially implemented.

We agree with the Department's position that the recommendation numbers 2 and 3 have not been implemented or have only been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- respond to the backlog of correspondence from the pension plan administrators; and
- complete a report on the activities of the Superintendent of Pensions for the 2009-10 fiscal year.

We agree with the Department's position that the recommendation number 1 has been fully implemented and, therefore, no further follow-up is required on this recommendation.

Recommendation No. 1

The Department should ensure Annual Information Returns received from Pension Plan Administrators are checked for reasonability, accurately recorded and that any issues identified are appropriately resolved.

Entity's response from previous report In 2009, the Department informed us that:
The Compliance Officer reviewed the returns when they came in and checked to see if there were major differences from previous reports. If so, the Compliance Officer advised the Manager and the returns were reviewed to ensure issues were resolved.

Entity's response to current request In 2010, the Department informed us that the recommendation had been fully implemented.
Furthermore, it indicated that "*A checklist has been prepared and is currently in use.*"

Our conclusion **Follow-Up Not Required**
We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Department should respond on a timely basis to correspondence received from Pension Plan Administrators.

Entity's response from previous report In 2009, the Department informed us that:
They believed current issues were being responded to on a timely basis. Furthermore, an additional position in the Pensions Section had been approved and when this was filled they expected that further improvements would be made to response time.

Entity's response to current request In 2010, the Department informed us that the recommendation had been partially implemented.
Furthermore, it indicated that "*We continue to address priority correspondence on a timely basis but the backlog will not be completely brought up to date until the new position is filled. A position description has been prepared for the new position and we expect to have it classified in the next couple of months, at which time the hiring process will commence.*"

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to respond to the backlog of correspondence from the pension plan administrators.

Recommendation No. 3

The Department should prepare regular reports on the activities of the Superintendent including progress made on the goals and objectives of the Office, and the current state of the pension plans.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

Separate reports on the activities of the Superintendent of Pensions had not yet been prepared. The Department prepared an Annual Report on the activities of the Department as a whole but this report did not give much detail on the activities of the Superintendent of Pensions. A separate report on pensions similar to the one completed on the activities of the Superintendent of Insurance, may be useful and the process of determining what should be included in such a report had commenced. Completion of such a report was targeted for the 2009-10 fiscal year.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that *"Before the end of the 2010-11 fiscal year we will complete a report on the activities of the Superintendent of Pensions for the 2009-10 fiscal year."*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete a report on the activities of the Superintendent of Pensions for the 2009-10 fiscal year.

PART 2.21

DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

HOSPITAL-ACQUIRED INFECTIONS

(2007 ANNUAL REPORT, PART 2.9; UPDATE: 2009, PART 2.15)

Hospital-Acquired Infections

(2007 Annual Report, Part 2.9; Update: 2009, Part 2.15)

Introduction

Our 2007 Annual Report included a review of Hospital-Acquired Infections at the Department of Health and Community Services (the Department). We conducted our audit to: review the role and responsibilities of the Department as it relates to hospital-acquired infection control; determine the incidence of hospital-acquired infections; determine whether the Regional Health Authorities (the Authorities) and their predecessor organizations had the basic requirements of an infection control program in place to prevent, detect, contain and treat hospital-acquired infections and monitor trends; and review the implementation status of recommendations contained in the Provincial Task Force Report, *Back to Basics*.

What we found

As a result of our review, we reached the following overall conclusions:

Subsequent to the SARS outbreak in the Spring of 2003, Government appointed a Task Force to review the standards, policies, procedures and resources related to control and prevention of communicable diseases that exist in facilities and medical clinics operated by institutional health boards. In March 2004, the Task Force issued a report titled "*Back to Basics*," which identified that there was a lack of Provincial direction/standards for best practices in infection control, limited time and resources had been dedicated to developing and implementing policies and procedures, and training of hospital personnel was inadequate. Over three years later, none of the recommendation areas have been fully acted upon.

Our audit focused on hospital-acquired infections which were included in the issues addressed in the *Back to Basics* report. We concluded that Government does not know either the number of hospital-acquired infections or the number of deaths resulting from such infections in the Province. This situation has resulted because the Department does not require the Authorities to provide information on hospital-acquired infections, and the Authorities do not accumulate information on hospital-acquired infections using comparable methods. Furthermore, the Authorities do not keep statistics on whether any deaths have resulted from hospital-acquired infections.

Our review indicated that the Department has not developed a Province-wide infection control program relating to the prevention, detection and control of hospital-acquired infections. As a result, there are multiple infection control programs developed by the former health care boards which are currently in use at the four Authorities. Furthermore, the Department has not made any determination about the adequacy of the various infection control programs currently in use throughout the Province and is not monitoring how such programs are being delivered or their success in preventing, detecting and controlling hospital-acquired infections. Without a determination of program adequacy, including an appropriate assessment of risk and implementation of

Hospital-Acquired Infections

(2007 Annual Report, Part 2.9; Update: 2009, Part 2.15)

program monitoring, the Province may not be as well prepared to manage hospital-acquired infections as it should be. This could result in increased risk to the public in contracting hospital-acquired infections.

The following findings identified during our review of the various infection control programs currently in place at the Authorities further illustrate these concerns:

- none of the four Authorities meet the minimum standards for the number of Infection Control Practitioners as recommended by Health Canada;
- only two of the eight former health care boards conducted regular clinical self-audits or equipment/facilities self-audits to assess adherence to infection control practices. The other six former health care boards conducted self-audits on a reactive basis. The lack of regular self-audits is a concern since issues associated with such items as contaminated gowns, hand washing, and equipment not being cleaned on a regular basis were noted in some Infection Control Committee (ICC) minutes;
- protective equipment and supplies were not always in place; and
- the Authorities do not always notify discharged patients of their possible exposure to hospital-acquired infections. For example: an improperly cleaned gastrointestinal video scope used on 72 individuals in the former Avalon Health Care Institutions Board; and a scabies outbreak in the former Central East Health Care Board.

Our follow-up

In our 2009 Update Report we concluded that 4 of the original 11 recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the 4 recommendations. The recommendations are as follows:

1. *The Department should develop Province-wide policies and standards for hospital-acquired infection control and monitor compliance by the Authorities to those policies and standards.*
2. *The Department should discuss with the Authorities their capacity to provide statistical information for management of hospital-acquired infections on a Province-wide basis.*

Hospital-Acquired Infections
(2007 Annual Report, Part 2.9; Update: 2009, Part 2.15)

3. *The Department should 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.*
4. *The Department should establish minimum requirements for the Authorities to carry out and report on regular audits of equipment/facilities hygiene.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Health and Community Services has made progress in addressing the recommendations from our 2007 Annual Report, 4 of the original 11 recommendations had not been implemented.

We disagree with the Department's position that the recommendation numbers 1, 2, 3, and 4 have been fully implemented because the Department maintains that the actions associated with these recommendations are mainly the responsibility of the Authorities. These four recommendations were aimed at the Department developing Province-wide infection control policies and then implementing a reporting system for the Authorities to obtain statistics, monitor compliance and ensure consistency in the application of the policies by the Authorities. The Department indicated that it has implemented policies and reporting systems to obtain statistics on two drug resistant infections which are required by Health Canada. In addition, the Department indicated that surveillance of hospital-acquired infections and the monitoring of compliance with associated policies is the responsibility of the Authorities. Since the Department sits on various committees with the Authorities, they maintain this is sufficient to monitor compliance by the Authorities. Therefore, given the Department's position on these recommendations, further follow-up will be of no further benefit.

Recommendation No. 1

The Department should develop Province-wide policies and standards for hospital-acquired infection control and monitor compliance by the Authorities to those policies and standards.

**Entity's
response from
previous report**

In 2009, the Department informed us that it now has Province-wide policies and standards for hospital-acquired infection control. Officials provided copies of six such policies and indicated another was under development.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"Policies are available on the Government of NL website at <http://www.health.gov.nl.ca/health/divisions/publichealth/default.htm>

The monitoring component of this recommendation involves the Infection Control managers from each Regional Health Authority meeting with provincial representatives on a monthly basis to review and update policies related to Infection Prevention and Control, including selected Health-Care Acquired Infections.

The Provincial Infection Control Nurse Specialist attends regional meetings if there is a specific issue with which they require consultation."

**Our
conclusion**

Follow-Up Not Required

We disagree with the Department's position that this recommendation has been fully implemented because the Department maintains it has developed Province-wide policies and standards for hospital-acquired infections and is monitoring compliance at the Authorities. However, 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 2

The Department should discuss with the Authorities their capacity to provide statistical information for management of hospital-acquired infections on a Province-wide basis.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- the Office of the Chief Information Officer in consultation with the Department had developed a database in 2008 which was piloted by Western Health in the fall of 2008. Implementation in 2009 with the full year of baseline data for 2009 anticipated; and
 - the Department participates in the Provincial Patient Safety Committee. Regular updates are provided regarding initiatives such as hand washing/infection control practices as well as patient safety initiatives under the Safer Healthcare Now! Campaign.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“The four Regional Health Authorities report infections and colonizations to the Department on a quarterly basis. Reports were reduced from monthly to quarterly due to the very low rates of infection. For example, during the October to December 2009 quarter, 2.1 MRSA infections were reported per 1,000 admissions. Department staff compile and analyze the data on a quarterly basis for trending and to ensure that infection rates are not increasing. The rates for 2009 have decreased or remained the same for each quarter. Any spikes in rates will cause for investigation.”

**Our
conclusion**

Follow-Up Not Required

We disagree with the Department's position that this recommendation has been fully implemented because although the Department is receiving regular surveillance statistics, these statistics are limited to two specific multi-drug resistant infections. Surveillance statistics on these two infections is required by Health Canada. Also, these statistics are not limited to instances where these infections were hospital-acquired. There are many other hospital-acquired infections that the Authorities are keeping statistics on. However, the Department maintains that monitoring these other hospital-acquired infections is the responsibility of the Authorities. The Department maintains that its responsibility is limited to infections targeted by Health Canada. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 3

The Department should 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.

**Entity's
response from
previous report**

In 2009, the Department informed us that implementation planning continues. The Department provided a copy of Provincial surveillance protocols for Healthcare associated infections (HAIs): *Clostridium difficile* and Methicillin resistant *Staphylococcus aureus*. They also indicated a database had been developed with a pilot project at Western Health; however, a sample of a monthly report was not provided.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“Surveillance for Hospital Acquired Infections is completed and a reporting system is in place in each RHA. Reports provide the RHA and the Department with baseline data for 2009. These reports are now forthcoming on a quarterly basis to the Department and over time will provide information and data to track infections more thoroughly and identify any spikes in infection rates which require further surveillance and investigation.”

**Our
conclusion**

Follow-Up Not Required

We disagree with the Department's position that this recommendation has been fully implemented because the Department maintains surveillance for hospital-acquired infections is completed and a reporting system is in place when 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 ICCs is the responsibility of the Authorities. The Department maintains that its 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. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 4

The Department should establish minimum requirements for the Authorities to carry out and report on regular audits of equipment/facilities hygiene.

**Entity's
response from
previous report**

In 2009, the Department informed us that it participated in the Provincial Patient Safety Committee which included review of the Accreditation Canada Reports. Regular updates were provided regarding initiatives such as hand washing/infection control practices as was patient safety initiatives under the Safer Healthcare Now! Campaign.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The Department has reviewed this recommendation with the Regional Health Authorities. The Authorities have a system of equipment cleaning and hygiene in place based on best practices within the materials management industry. Cleaning and disinfecting of equipment, furniture and supplies is based on manufacturers and the authorities standards and guidelines. The Department works with the RHAs to ensure that established practices and standards are consistently being adhered to."

**Our
conclusion**

Follow-Up Not Required

We disagree with the Department's position that this recommendation has been fully implemented because the Department maintains that it has reviewed this recommendation with the Authorities and are satisfied with the systems the Authorities have in place to address audits of equipment/facilities hygiene. However, the Department has not established minimum requirements for the Authorities to carry out and report on audits of equipment/facilities hygiene because this is an operational requirement of the Authorities and not the responsibility of the Department. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

PART 2.22

**DEPARTMENT OF HEALTH AND COMMUNITY SERVICES
LABRADOR-GRENFELL REGIONAL HEALTH AUTHORITY
(2007 ANNUAL REPORT, PART 2.9; UPDATE: 2009, PART 2.16)**

Introduction Our 2007 Annual Report included a review of the Labrador-Grenfell Regional Health Authority (the Authority). We conducted our review to determine whether the Authority was:

- adequately monitoring its financial position and operations;
 - recruiting and compensating its employees in accordance with Authority and Government policy;
 - properly approving, monitoring and controlling its expenditures;
 - complying with the *Public Tender Act and Regulations*; and
 - adequately monitoring its capital assets.
-

What we found As a result of our review, we reached the following overall conclusions:

- After 21 months of integration, as at 31 December 2006, the Authority still operated as two separate entities in many areas, continued to follow former board policies/practices and did not have an integrated financial information system. The Authority's financial position continued to deteriorate, operating deficits continued, and expected administrative savings did not materialize. In addition, monthly financial information was not being provided to the Department of Health and Community Services to monitor the financial operations of the Authority.
- The Authority's human resource practices were not always consistent with those established by Government, hiring and compensation practices were sometimes either inconsistent or in excess of those approved by Government, termination benefits were either not always consistently applied or were in excess of those approved by Government, available leave balances were sometimes exceeded, and overtime payments were sometimes in excess of Government policy. In addition, leave systems were not integrated and the Authority had no policy governing the use of accrued overtime.
- The Authority did not tender for 15 purchases totalling \$1,309,761, which were over \$10,000, did not obtain quotes for 5 purchases totalling \$33,997 under \$10,000 and neither tendered nor evaluated its food services contracts since being integrated in April 2005. In addition, the Authority did not keep tenders in a locked box, tender envelopes were not date-stamped, and explanations of why rejected tenders did not meet tender specifications were not always documented.

- The Authority was not adequately controlling and monitoring its travel and relocation expenditures and was not complying with Government's travel and relocation policies.
- The Authority was not adequately monitoring the usage and cost of its 89 cellular telephones.
- The Authority contravened Government's *Guidelines for the Hiring of External Consultants* for two consulting contracts over \$50,000, by not obtaining 3 proposals or conducting a public call for proposals and in one of the two contracts, relating to the provision of orthodontist services, by not obtaining Cabinet approval for the contract. In this case, as well, the Authority had not reviewed the service arrangement since it was first put in place in 1998.
- Controls over the Authority's capital assets were inadequate and could result in missing assets not being detected. The Authority did not tag all of its assets once received and did not maintain a capital asset ledger. As well, periodic inventory counts were not performed and assets were not reconciled to the Authority's financial records.

In addition, the Authority did not monitor the costs and usage of its 77 vehicles, did not maintain vehicle logbooks to monitor vehicle usage, and did not record operating costs by vehicle to monitor vehicle costs.

Our follow-up In our 2009 Update Report we concluded that 5 of the original 24 recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Authority requesting an update as to what progress had been made on the 5 recommendations. The recommendations are as follows:

1. *The Authority should address its accumulated operating deficits and increasing bank indebtedness.*
2. *The Authority should integrate its accounts receivable systems, properly age patient receivables, and ensure adequate follow-up on all receivables.*
3. *The Authority should ensure compensation practices are in line with Government policies.*

4. *The Authority should develop and implement policies and procedures governing the identification, recording, controlling, and monitoring of capital assets and ensure assets are tagged once received, all information is recorded in a capital asset ledger, and assets are periodically inventoried and reconciled to financial records.*
5. *The Authority should capture and monitor vehicle costs by vehicle and maintain vehicle logbooks.*

Information we requested

The Authority was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Labrador-Grenfell Regional Health Authority has made progress in addressing the recommendations from our 2007 Annual Report, 2 of the original 24 recommendations had only been partially implemented and two had not been implemented.

We agree with the Authority's position that the recommendation numbers 2 and 4 have been partially implemented and, therefore, we will follow-up on these recommendations again next year.

To fully implement the recommendations, the Authority will need to:

- integrate its accounts receivable systems; and
- finalize its Capital Asset Policy and develop a capital asset ledger to record and track all capital assets.

In addition, we agree with the Authority's position that the recommendation number 5 has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Authority will need to record vehicle movement and monitor the related vehicle expense.

We disagree with the Authority's position that the recommendation number 3 has been fully implemented because the Authority maintains 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, our Office disagrees with the Authority on this issue and concludes that Government policy should be applied consistently. Therefore, given the Authority's position on this recommendation, further follow-up will be of no further benefit.

We agree with the Authority's position that the recommendation number 1 has been fully implemented and, therefore, no further follow-up is required on this recommendation.

Recommendation No. 1

The Authority should address its accumulated operating deficits and increasing bank indebtedness.

**Entity's
response from
previous report**

In 2009, the Authority informed us that:

- For the year ended 31 March 2008 the deficit had increased by \$1.2 million and a similar increase was expected for fiscal year 2009;
 - All but essential travel outside the region had been curtailed;
 - Market based pharmaceutical pricing and dispensing fees had been implemented in southern Labrador;
 - Hostel fees had been increased; and
 - Two ICU beds in St. Anthony had been closed.
-

**Entity's
response to
current request**

In 2010, the Authority informed us that the recommendation had been fully implemented.

Furthermore, it indicated that "*Labrador-Grenfell Regional Health Authority continues to work with the Department of Health and Community Services to obtain sufficient funding to meet operational demands. For the year ended March 31, 2009 the authority reduced its operational deficit by \$358,036 and it is expected to have a similar surplus for the year ended March 31, 2010.*"

**Our
conclusion**

Follow-up Not Required

We agree with the Authority's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Authority should integrate its accounts receivable systems, properly age patient receivables, and ensure adequate follow-up on all receivables.

**Entity's
response from
previous report**

In 2009, the Authority informed us that integration of its accounts receivable was pending decisions surrounding the possible merger of the Meditech system with that of the Western Regional Health Authority.

**Entity's
response to
current request**

In 2010, the Authority informed us that the recommendation had been partially implemented.

Furthermore, it indicated that "*Labrador-Grenfell Regional Health Authority still maintains two separate systems for its accounts receivable but has taken steps to review both systems to ensure processes and codes are consistent. We do agree that an integrated system is desirable and we will continue to move towards that end goal. We continue to work with Western Regional Health Authority to review the Meditech system. Accounts receivable are reviewed on a regular basis for collections and follow up.*"

**Our
conclusion**

Follow-up Required

We agree with the Authority's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Authority will need to integrate its accounts receivable systems.

Recommendation No. 3

The Authority should ensure compensation practices are in line with Government policies.

**Entity's
response from
previous report**

In 2009, the Authority informed us that:

- Many new positions were approved by the Department of Health and Community Services as part of the annual budget process, in line with the Department's Strategic Directions. These new positions were formally communicated to the Health Authority in writing. Others were approved during the fiscal year as initiatives, in consultation with the [Authority], were announced and implemented by the Department of Health and Community Services. These were also communicated in writing.

If these new positions were unclassified, they were posted with the provision that they were "subject to classification" and the successful applicant and their supervisor submitted them to the Classification and Pay Division of the Public Service Secretariat when a formal job description had been duly developed and in place for period of time.

- The over payment to the Associate VP of Medical Services, as calculated by Labrador-Grenfell Health, had been repaid in full (\$32,266).
-

**Entity's
response to
current request**

In 2010, the Authority informed us that the recommendation had been fully implemented.

Furthermore, it indicated that "*Labrador-Grenfell Regional Health Authority, in general, agrees with this recommendation. As the four Regional Health Authorities were being developed within the province Labrador-Grenfell had qualified individuals employed that could be retained as key members of the senior executive team within our Board. Because this area of the province is extremely challenged to retain and recruit professional staff at all levels, a compensation arrangement had to be implemented to address the position in question.*"

**Our
conclusion**

Follow-up Not Required

We disagree with the Authority's position that this recommendation has been fully implemented because the Authority maintains 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, our Office disagrees with the Authority on this issue and concludes that Government policy should be applied consistently. Therefore, given the Authority's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 4

The Authority should develop and implement policies and procedures governing the identification, recording, controlling, and monitoring of capital assets and ensure assets are tagged once received, all information is recorded in a capital asset ledger, and assets are periodically inventoried and reconciled to financial records.

**Entity's
response from
previous report**

In 2009, the Authority informed us that draft capital asset policies had been developed, but were under further review prior to implementation.

**Entity's
response to
current request**

In 2010, the Authority informed us that the recommendation had been partially implemented.

Furthermore, it indicated that "*Labrador-Grenfell Regional Health Authority agrees with this recommendation. A Capital Asset Acquisition form has been developed and a "Draft" Capital Asset Policy has been prepared. We will follow up in the coming months to ensure this policy is finalized and approved. "New" capital assets are now being recorded and tracked but a capital asset ledger listing previously purchased capital assets has yet to be developed. We are presently exploring various software programs that might be suitable for our needs.*"

**Our
conclusion**

Follow-up Required

We agree with the Authority's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Authority will need to finalize its Capital Asset Policy and develop a capital asset ledger to record and track all capital assets.

Recommendation No. 5

The Authority should capture and monitor vehicle costs by vehicle and maintain vehicle logbooks.

**Entity's
response from
previous report**

In 2009, the Authority informed us that:

- Vehicle repairs were tendered and were mostly being carried out by two vendors. Expenditure was tracked by vehicle facility code and vendor. Tracking by specific vehicle number was not being done but would be done in the very near future after the award of the fuel contract.
- Logbooks were not being used but would be when the system was set up with fuel and finance.

**Entity's
response to
current request**

In 2010, the Authority informed us that the recommendation had not been implemented.

Furthermore, it indicated that *“Labrador-Grenfell Regional Health Authority agrees with this recommendation but has not implemented the required changes to comply. Responsibilities have been assigned and some investigation has been undertaken to identify an appropriate software package that will allow for the proper recording of vehicle movement as well as the related vehicle expense monitoring. Our goal is to have an adequate process in place by the end of the 2010/11 fiscal year.”*

**Our
conclusion**

Follow-up Required

We agree with the Authority's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Authority will need to record vehicle movement and monitor the related vehicle expense.

PART 2.23

DEPARTMENT OF HUMAN RESOURCES, LABOUR AND EMPLOYMENT

PROVINCIAL NOMINEE PROGRAM

(2008 ANNUAL REPORT, PART 2.12)

Introduction Our 2008 Annual Report included a review of the Provincial Nominee Program at the Department of Human Resources, Labour and Employment (the Department). We conducted our review to determine whether the Department was monitoring the Provincial Nominee Program (PNP) to determine whether the PNP goals were being met; complying with internal policies and procedures, and with the provisions of the Canada-Newfoundland and Labrador Agreement on Provincial Nominees; and maintaining adequate records of all nominee files and certificates.

What we found As a result of our review, we reached the following overall conclusions:

In 1999, the Province entered into the Canada-Newfoundland and Labrador Agreement on Provincial Nominees (Agreement) and created the Provincial Nominee Program (PNP). The purpose of the PNP is to nominate immigrants who can contribute to the economic and social goals of the Province. In 2007, the Province announced in its immigration strategy that it intended to significantly increase the attraction and retention of immigrants to the Province. The PNP is administered by the Department of Human Resources, Labour and Employment.

The responsibility of the Province with regards to the PNP is to process applications from potential nominees, ensure that the applicants meet the criteria established by the Federal and Provincial PNP requirements and monitor the status of the nominated applicants and immigrants. We would expect the Department to monitor the investment money from nominees to determine whether the planned business venture outlined in the business plans and accompanying agreements between the nominee and the local business are realized.

Our review indicated that Government is unable to determine whether the PNP has achieved its intended results and there were significant issues with regards to how the PNP was administered and monitored. Details are as follows:

- The Province does not know how many of the 530 individuals it nominated moved to Newfoundland and Labrador. As a result, it is not possible for the Province to make any conclusion about whether the PNP achieved its goals of attracting and retaining immigrants to the Province. Landing reports provided by Citizenship and Immigration Canada (CIC) identified that 314 of the Province's 530 nominees landed in Canada. Of these 314, only 214 indicated that they intended to settle in Newfoundland and Labrador. Even though 214 nominees indicated that they intended to settle in the Province, the Department does not followup on their status and location after they enter Canada to determine whether the nominees actually settled here.

- The Department does not know what, if anything, local businesses did with the investment provided by the nominee. From 1999 to November 2008, a total of 312 nominees either invested or indicated that they intended to invest a total of \$72.2 million in the local business community.

There were very few, if any, requirements on local businesses with regards to how monies they received were to be used. For example:

- one business venture received approximately \$39.8 million from 150 nominees who contributed \$265,000 each. Although each nominee was to receive one share in the business venture which could be redeemed for an upscale chalet, the Department has no information as to how many nominees redeemed their share or how many ultimately received the chalet as outlined in the contract with the business venture.
- one business venture received approximately \$9.8 million from 49 nominees who contributed \$200,000 each. Although the money was intended to establish an Internet business website “*to educate the investing public*”, the Department has no information about the status of the intended website.
- As of April 2008, the Province had \$1.385 million held in trust related to 24 nominees. Of these 24, CIC ’s monthly report indicated that 19 landed in Canada and, of these 19, only 4 indicated that they intended to settle in Newfoundland and Labrador. Other than the information provided by CIC, the Province does not know the status of the 24 nominees and whether or not a refund is required. The Department has only recently started to investigate the status of nominees in relation to the required final disposition of these trust funds.
- Contrary to the requirements of the PNP, not all required documentation was on file to support the potential nominee assessment decisions. For example, we identified instances where there were no copies of passports, no net worth statements, no assessment forms and/or no letters from a bank indicating sufficient funds. We also identified instances where not all documentation was date stamped or had the file number noted and not all assessment forms were appropriately signed.
- The electronic database was incomplete in that not all potential nominee files were recorded and not all required applicant information was always entered into the database. As a result, the database does not readily provide useful PNP information for management purposes.

Our follow-up In February 2010, we contacted the Department requesting an update as to what progress had been made on the original three recommendations resulting from our review. The recommendations are as follows:

- 1. The Department should meet its goals for retention of immigrants by increasing its efforts to track nominees once they land in the Province.*
- 2. The Department should follow policies and procedures developed for the PNP, and ensure that all files contain documentation to support the approval for nomination of an individual.*
- 3. The Department should improve the documentation on file in its database and certificate log to assist it in tracking nominations of individuals in the PNP.*

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Human Resources, Labour and Employment has made progress in addressing the recommendations from our 2008 Annual Report, two of the original three recommendations had only been partially implemented.

We agree with the Department's position that the recommendation numbers 1 and 3 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- undertake the planned retention study and continue their efforts in monitoring clients in the Entrepreneur category; and
- complete the enhancements of their database including its file management and reporting capabilities.

We agree with the Department's position that the recommendation number 2 has been fully implemented and, therefore, no further follow-up is required on this recommendation.

Recommendation No. 1

The Department should meet its goals for retention of immigrants by increasing its efforts to track nominees once they land in the Province.

**Entity's
response from
previous report**

The Department indicated in its response to the 2008 Report that:

- goals on retention were first introduced as part of the provincial immigration strategy in 2007;
 - they were planning a retention study for sometime in 2010. This would be three years after the PNP was transferred over from the Department of Innovation, Trade and Rural Development;
 - a new database for the PNP was operational with data since 2006 and while it does not contain all information from the applicants from the earlier years, hard copies of all files were available and can be entered into the new database. The Department intends to work with the Office of the Chief Information Officer to enhance the database to include more monitoring and reporting functions in support of their retention and monitoring policy;
 - they were now actively monitoring all applications in the Entrepreneur category, including tracking investment and residency; and
 - they were in the process of auditing eight applicants who had met the one year anniversary date from their landing in Canada to determine if they qualified for a refund of deposits made to the Department.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“As previously noted in our original response, in 2010 the Office of Immigration and Multiculturalism (OIM) intends to undertake a retention study. Follow up will be conducted with each principal applicant who has been nominated under the PNP since April 2007.

In addition, in spring 2009, the OIM implemented a retention follow-up policy whereby nominees are tracked by Settlement Officers over a three (3) year period.

This follow up is intended to not only determine retention but to discuss settlement and integration issues our nominees have with a view to addressing them to help ensure they remain in the province.

An update on the database is outlined in our response to recommendation # 3.

Further to our earlier response, OIM continues to monitor the files of clients in the Entrepreneur category of the PNP. There were a total of 26 clients who made deposits to the trust fund from 2005 to 2008. To date, a total of twenty (20) audits have been completed on cases that were nominated while the program was administered by INTRD. The audits commenced one (1) year after the nominee had received permanent resident status. Of the twenty (20), sixteen (16) failed to demonstrate they had established a residence in the Province. Eight (8) of these sixteen (16) cases, the funds have been returned to the Province through the Newfoundland Exchequer Account. The remaining eight (8) deposits are in the process of being returned to the Newfoundland Exchequer Account.

One (1) nominee of the twenty (20) failed to receive a permanent residence visa and therefore was eligible for a refund of the trust deposit plus interest. Three (3) cases were able to prove that they met the conditions of their Performance Contracts and were issued a refund plus interest. Of the remaining six (6) cases, one (1) case is in the queue to be audited immediately, two (2) cases audits are due to begin in April 2010, one (1) case the audit is due in October 2010. The two (2) cases remaining are not yet completed the federal immigration process.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to undertake the planned retention study and continue their efforts in monitoring clients in the Entrepreneur category.

Recommendation No. 2

The Department should follow policies and procedures developed for the PNP, and ensure that all files contain documentation to support the approval for nomination of an individual.

**Entity's
response from
previous report**

The Department indicated in its response to the 2008 Report that it had evaluated past procedures and had implemented changes that had improved processing and accountability.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"1) Pre-screening Process:

OIM has a position of Assessment Officer, whose main responsibility is to screen all applications for completeness, ensuring that all necessary forms, fees and supporting documentation are included. Once the screening for completeness of the application has been completed, the Assessment Officer then enters the client's information into the database which then generates a file number. The Assessment Officer will then prepare a letter for the client that acknowledges the receipt of the application and processing fee, and if required, a request to submit any missing documentation. Once this process is completed, the Assessment Officer will notify the Manager and the file is assigned to a Program Officer for final assessment.

2) *File Maintenance Procedures:*

For each category of the PNP there is a list of documents that each client file must contain. A document checklist is included in each file and the list is checked against the submitted documents to ensure it is complete. Clients are notified if documents are missing and are given ten (10) business days to submit the remaining documents. If there is no response within the ten (10) days, a second request will be made. The file is also organized in accordance to the list.

3) *Due Diligence Checklist:*

OIM has introduced a due diligence checklist to outline the necessary due diligence activities that Program Officers are to undertake to complete a thorough investigation of the information contained in the file. These activities on the list have to be ticked when completed and dated and signed by the Officer. If the due diligence process uncovers a concern, it will be immediately brought to the Manager for direction.

4) *Interview Procedures:*

Program Officers who are conducting interviews with prospective nominees must ensure that another OIM official participates in the interview process to record notes. This increases the quality and quantity of information collected during the interview. These notes are initially handwritten but following the interview are typed and entered into the client's file on the database.

5) *Assessment Policy:*

Program Officers must complete assessment forms for nominee applicants whether they are recommended or not recommended for nomination. Once the Program Officer completes the assessment and is recommending the applicant for nomination, the assessment form along with supporting documentation (due diligence checklist, copies of work permits, information release forms, nomination letter and certificate and any other document that is deemed essential and supports the recommendation) is forwarded to the Manager and Executive Director for approval. Assessments that do not recommend nomination will follow the same procedures.

6) *Audits of Trust Account Funds:*

Audits are conducted on nominees who deposit in trust with the Provincial Nominee Trust Account to determine if they meet the conditions outlined in their Good Faith Deposit contract or Performance contract. The Senior Policy and Program Officer is dedicated to these audits and is responsible for completing an audit assessment form that is then forwarded to the Manager and Executive Director for approval.

7) *Approval Process for Nominations:*

Recommendations for Nominations are now reviewed by both the Manager and Executive Director. The Manager signs off on the recommendation and then it is forwarded to the Executive Director for final approval.

8) *Data Collection:*

A Statistician has been hired to compile weekly, monthly and yearly reports on nominations, landings and a number of other areas associated with PNP (i.e. demographics, employment, gender). This position will also be responsible for retention studies.

9) *Receipt of Applications:*

Applications that are submitted and addressed to individual Program Officers are opened by the receptionist and date stamped. Program Officers have been instructed to pass any hand delivered applications to the Receptionist to be date stamped. The Receptionist then forwards to the Assessment Officer to pre-screen the application and set up the file in the database. This process allows for improved tracking and recording of all applications in the database.

10) *Application Fees Policy:*

The process for the collection and deposit of application fees has been improved. The fee which normally comes in cheque form is attached to the application. Once the Assessment Officer screens the application, the cheque is then delivered to the receptionist who is responsible for deposits to the NL Exchequer Account. The receptionist will complete a deposit form, copy the form and cheque for both the Record of Deposit file and for the client file. Once the deposit is completed a receipt is issued. The original is placed in the Record of Deposit file and a copy on the client's file.

11) File (Hardcopy) Maintenance:

Policy has been established to ensure that client files are organized and bound together to ensure that all documents contained in the file are secured and that there is minimal risk of documents being misplaced or misfiled.

12) Enhanced PNP Policy and Procedures Manual:

The PNP Policy and Procedures manual has been enhanced. The manual contains all current policy and procedures as it relates to the operations of the NLPNP.

13) Due Diligence Binders:

Program Officers now have individual Due Diligence binders that contain information and fraud reports from Federal Government and copies of sample fraudulent documents. This binder is used in the due diligence process.”

**Our
conclusion**

Follow-Up Not Required

We agree with the Department’s position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

The Department should improve the documentation on file in its database and certificate log to assist it in tracking nominations of individuals in the PNP.

**Entity’s
response from
previous report**

The Department indicated in its response to the 2008 Report that it intended to work with the Office of the Chief Information Officer to enhance their database to include more monitoring and reporting functions in support of their retention and monitoring policy.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“The OIM maintains two (2) separate databases. The older database that contains all the information on nominees prior to 2007 is maintained separately as the mandate of the PNP at that time does not reflect the current program today. The use of this older information in current reporting would not accurately reflect the current objectives and outcomes of the Program.

Information in the older database is accessible if required for reporting; however, all applications received since April 2007 are recorded in the new database. The new database is designed to collect the information required for tracking, monitoring, and retention and also generates file numbers and nomination certificate numbers.

In July 2009, the OIM met with the Office of the Chief Information Officer to discuss the plan to revise existing fields in the database and the enhancement of the existing reporting functions. It was decided that revisions of existing fields would be implemented first and then once this was completed to move forward with enhancements. The enhancements were deemed to be a larger project, requiring more time and resources compared to the revisions.

Revisions have been made to the PNP database which will allow for more detailed data collection and improved file management. These changes are currently in testing mode and are expected to "go live" by April 2010. The OIM is currently working on a proposal to submit to the Office of the Chief Information Officer that will address the enhancements required to enable the database to produce more efficient reporting and monitoring in support of retention and monitoring.

The nomination certificate log (word document) is continually updated by individual officers who issue the certificates. In addition, hard copies of the certificates are placed in binders and are organized sequentially by number and by year of issue.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete the enhancements of their database including its file management and reporting capabilities.

**Provincial Nominee Program
(2008 Annual Report, Part 2.12)**

PART 2.24

DEPARTMENT OF INNOVATION, TRADE AND RURAL DEVELOPMENT

SMALL BUSINESS FUNDING PROGRAM

(2007 ANNUAL REPORT, PART 2.14; UPDATE: 2009, PART 2.19)

Small Business Funding Program (2007 Annual Report, Part 2.14; Update: 2009, Part 2.19)

Introduction Our 2007 Annual Report included a review of Small Business Funding Programs at the Department of Innovation, Trade and Rural Development (the Department). We conducted our review to determine whether the Department adequately assessed and approved project applications; ensured payments were adequately supported and approved; and monitored approved projects.

What we found As a result of our review, we reached the following overall conclusions:

Our review indicated that there were weaknesses in the Department's assessing, approving, disbursing and monitoring of loans and investments under the Small and Medium-sized Enterprise (SME) Fund and the Small Business and Market Development (SBMD) Program. Specifically:

- loans were provided to businesses which appeared to be non-financially viable;
- complete application information was not always obtained;
- funding was not always approved in accordance with Department policy;
- security was either not always obtained or not always registered;
- adequate documentation was not always provided to support expenses claimed;
- applicants' investment was not always verified;
- companies provided with funding were not always adequately monitored; and
- companies which had not complied with conditions in previous Offers of Financing were provided additional funding.

In addition, we were of the opinion that there was no explicit authority under the *Financial Administration Act* for the Department to make direct investments in three companies. There were also no documented due diligence procedures for approving, disbursing and monitoring such direct investments and we found inconsistencies between the requirements under the SME Fund and for the three direct investments reviewed.

**Small Business Funding Program
(2007 Annual Report, Part 2.14; Update: 2009, Part 2.19)**

Our follow-up In our 2009 Update Report we concluded that 1 of the original 12 recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the recommendation. The recommendation is as follows:

1. *The Department should ensure all required documentation is on file to support applications, payments for funding and monitoring.*

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

We agree with the Department of Innovation, Trade and Rural Development position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 1

The Department should ensure all required documentation is on file to support applications, payments for funding and monitoring.

Entity's response from previous report

In 2009, the Department informed us that:

- Regional and Corporate office staff were made aware of the concerns and were advised to make every effort to ensure that files were documented to the extent possible, as required by the Policy and Procedures Manual, prior to processing funding requests and making any approved disbursements.
- The SME Policy and Procedures Manual had been reviewed to ensure that documentation requirements were feasible in all circumstances and were adequately addressed.

Small Business Funding Program
(2007 Annual Report, Part 2.14; Update: 2009, Part 2.19)

- Further, the Department had developed an Internal Audit function process whereby randomly chosen files would be reviewed on a periodic basis with a view to ensuring proper documentation for processing, disbursement and monitoring purposes.
- It was anticipated that a proposal seeking approval from the Board of the Business Investment Corporation to amend the Policy and Procedures Manual to accommodate the referenced Internal Audit function and any other required Manual changes, would be presented for the Board's consideration by mid-2009.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"The Department has developed an internal audit process with audits set to begin early in the fiscal year."*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Small Business Funding Program
(2007 Annual Report, Part 2.14; Update: 2009, Part 2.19)

PART 2.25

DEPARTMENT OF JUSTICE

ADULT CUSTODY PROGRAM

(2007 ANNUAL REPORT, PART 2.15; UPDATE: 2009, PART 2.20)

Introduction Our 2007 Annual Report included a review of the Adult Custody Program at the Department of Justice (the Department). We conducted our review to determine whether the Department's management practices and controls were adequate in the following areas of adult custody services:

- planning and reporting;
- human resource management;
- purchasing and tendering;
- inventory and capital assets;
- information management and technology; and
- legislation.

What we found As a result of our review, we reached the following overall conclusions:

For 2006-07, Adult Custody Services had approximately 279 inmates and incurred total expenditures of \$18.5 million, representing an average cost per inmate of approximately \$66,000. Our review identified a number of concerns regarding administrative practices in the areas of planning and reporting, human resource management, purchasing and tendering, inventory, information management and technology, and legislation as follows:

Planning and reporting

Our review indicated there were no long-term goals and objectives relating specifically to adult custody services; there were no operational plans relating to the provision of adult custody services; and centres were not reporting (e.g. overtime, sick leave, training and food services) quarterly to the Superintendent as required by policy. As well, some of the centres did not report semi-annually, and others which did report semi-annually did not include all of the required information; required contingency plans were not in place for all identified critical situations such as natural disaster, loss of utilities, noxious/toxic substance threats and suspicious letter/parcel; and none of the centres had an Emergency Planning Committee in place and, as a result, a statement of training requirements specific to each critical situation had not been developed.

Human resource management

As salary costs account for 82% of total expenditures, we would expect adequate controls over staffing, callback and overtime, and sick leave. Our review indicated that callback and overtime, and sick leave were not being adequately monitored and controlled and had increased in the last three years. For example callback and overtime increased by 158% in the last three years, from \$455,000 in 2004-05 to \$1.17 million in 2006-07 (HMP increased by 291% from \$153,000 to \$597,000). Sick leave increased by an estimated 33% in the last three years, from \$918,000 in 2004-05 to \$1.23 million in 2006-07 (HMP increased by 19% from \$553,000 to \$659,000). In addition, no procedures manual had been developed outlining the objectives, administration procedures and controls related to tracking leave and overtime, centres were not reporting quarterly information to the Superintendent and annual staff performance appraisals were not being performed.

Purchasing and tendering

Our review indicated that the Department did not comply with the *Public Tender Act* (six purchases totalling \$94,473 were not publicly tendered) and the *Financial Administration Act* (18 instances totalling \$87,000 where goods and services were ordered and received without the prior issuance of a purchase order). In addition, issues with the on-site food service contracts at four centres were identified, the on-site food service operator was not complying with the food services contracts and the centres were not complying with policies in relation to food service contracts e.g. providing written reports to the Superintendent on nutritional adequacy of meals and menu planning effectiveness.

Inventory and capital assets

Our review indicated that there was inadequate control over inventory and capital assets and not all cost information was provided to the Comptroller General as required by Government's financial management policy and procedures.

Information management and technology

The Department's IT practices were inadequate in that backups were not tested regularly for data integrity, network passwords were not changed on a regular basis and there was no documented disaster recovery plan. In addition, physical security over adult custody services' files was inadequate in that in some cases inmate records were kept in unlocked file cabinets.

Legislation

The Department was not in compliance with the *Adult Corrections Act* in that the Departmental Board of Corrections had never been established. In addition, the Department was not in compliance with the *Prisons Act* in that the Superintendent did not submit any reports to the Minister containing information pertaining to prisoners released.

Our follow-up

In our 2009 Update Report we concluded that 17 of the original 21 recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the 17 recommendations. The recommendations are as follows:

1. *The Department should develop long-term goals and objectives relating to adult custody services.*
2. *The Department should develop operational plans relating to the provision of adult custody services.*
3. *The Department should require that centres report specific information as outlined in the policy.*
4. *The Department should develop the required contingency plans for all critical situations.*
5. *The Department should require that centres have an Emergency Planning Committee in place.*
6. *The Department should monitor and control callback, overtime and sick leave.*
7. *The Department should develop a procedures manual for RUS [Resource Utilization System] and distribute to all centres.*
8. *The Department should conduct annual performance appraisals of all adult custody staff.*
9. *The Department should address issues identified with the on-site food service contracts.*
10. *The Department should adhere to its policies in relation to food service contracts.*

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

11. *The Department should consider using the computer inventory system for recording and tracking stores supplies.*
12. *The Department should consider adapting or replacing the existing computer system for tracking movable capital assets.*
13. *The Department should develop a comprehensive preventative capital asset maintenance program and inspection schedule.*
14. *The Department should provide reports on capital asset maintenance costs or maintenance history.*
15. *The Department should conduct annual inventory counts and account for capital assets.*
16. *The Department should strengthen its IT and physical security controls over adult custody services' files.*
17. *The Department should comply with the Adult Corrections Act and the Prisons Act.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Justice has made progress in addressing the recommendations from our 2007 Annual Report, 7 of the original 21 recommendations had only been partially implemented and 4 had not been implemented.

We agree with the Department's position that the recommendation numbers 2, 4, 5, 7, 14, 16 and 17 have only been partially implemented and, therefore, we will follow-up on these recommendations again next year. In addition, we agree with the Department's position that the recommendation numbers 11, 12, 13, and 15 have not been implemented and, therefore, we will follow-up on these recommendations again next year.

To fully implement the recommendations, the Department will need to:

- develop operational plans relating to the provision of adult custody services;
- continue to develop the required contingency plans for all critical situations;
- ensure that all centres have an Emergency Planning Committee in place;
- develop a procedures manual for RUS and distribute to all centres;
- replace the computer inventory system for recording and tracking stores supplies with a system more appropriately designed to capture the required information;
- replace the existing computer system for tracking movable capital assets;
- develop a comprehensive preventative capital asset maintenance program and inspection schedule;
- provide reports on capital asset maintenance costs or maintenance history;
- conduct annual inventory counts and account for capital assets;
- continue to strengthen its IT and physical security controls over adult custody services' files; and
- fully comply with the applicable legislation.

We disagree with the Department's position that recommendation number 8 will not be implemented. The Department indicated that it has been determined that performance appraisals will not be possible for Adult Custody during the 2010/2011 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 feel 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. A performance evaluation system helps to establish individual goals and objectives, and provide any necessary feedback and coaching. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

We agree with the Department's position that the recommendation numbers 1, 3, 6, 9 and 10 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department should develop long-term goals and objectives relating to adult custody services.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

In responding to this recommendation, Strategic Plan 2008-11 clearly identifies 'Adult Corrections Planning' as a component of Strategic Direction # 3: Public Trust and Confidence (page 29). Adult Corrections Planning is committed to be addressed in the Department's Operational Plan. The Department of Justice Operational Plan 2008-11 clearly identifies Issue 7: Adult Corrections Planning. It contains goals and objectives for Adult Corrections to 2011. Much of this is based on the recent Corrections Report 'A Review of the Prison System in Newfoundland and Labrador: Decades of Darkness – Moving towards the Light'. This Report has far reaching recommendations involving infrastructure, legislation, programming and staffing. Some of the recommendations were readily accepted for implementation while others require budget support and longer term planning. A team has been assigned to work on planning and implementation.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"In addition to the above, the Department has also drafted several long-term goals for Adult Custody that are related to the Decades of Darkness - Moving Towards the Light Report. These goals have been circulated to the Superintendent advising him to distribute them to his institutional heads. This will assist them in identifying future short term goals and objectives for their institutions.

As Newfoundland and Labrador Adult Custody continues on its path of improvement, through the guidance of the Decades of Darkness - Moving Towards the Light Report we will strive to reach the following long-term goals:

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- *A correctional system that recognizes that public safety and confidence is contingent upon effective and efficient rehabilitation and reintegration of offenders.*
- *A correctional system that recognizes the professional nature of correctional officers, through training and development to meet the challenges and opportunities of the future.*
- *A correctional system that recognize equity, fairness, a culture of trust, and humane treatment for all.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department’s position that this recommendation has been fully implemented.

Recommendation No. 2

The Department should develop operational plans relating to the provision of adult custody services.

**Entity’s
response from
previous report**

In 2009, the Department informed us that:

Provincial wide policy directives related to Adult Corrections were not consistently applicable to all institutions. Accordingly, there was a need to review and revise directives. Meetings have now been held with all institutional heads to address this issue and draft directives have been developed. This has resulted in more streamlined policy directives with flexibility and adaptability for individual facilities to develop their own operational plans. Timelines for this initiative will be better determined once final approval for the draft policy directives has been given.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“In addition to the above, the Department has also drafted several long-term goals for Adult Custody that are related to the Decades of Darkness - Moving Towards the Light Report. These goals have been circulated to the Superintendent advising him to distribute them to his institutional heads. This in turn will drive the development of the operational plans and policies for the institutions. Draft policies have been developed by the institutional heads. A new policy format is being implemented to facilitate revision and document control. The Superintendent is currently reviewing each policy in order to confirm feasibility with the first 6 policies expected to be uploaded to the employee intranet by April 1, 2010.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop operational plans relating to the provision of adult custody services.

Recommendation No. 3

The Department should require that centres report specific information as outlined in the policy.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

Officials have finished reviewing the frequency of reporting requirements and have recommended semi-annual reports. Institutional Heads are currently reporting on a semi-annual basis. The semi-annual report format has been standardized to capture a consistent source of information for Adult Custody. This approach will be formalized in the new policy directives.

**Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“Institutional Heads are currently reporting on a semi-annual basis. The semi-annual report format has been standardized to capture consistent information with respect to Adult Custody. This approach will be formalized in the new policy directives. Currently the Department is receiving the Semi-Annual Reports. A desk audit was completed on the April - September 2009 semi-annual reports that were received by the Division in the interest of continuous improvement. As a result the Division has created a worksheet to monitor and track the statistics from the Semi-Annual Reports, and will provide this information to the Superintendent, Institutional Heads, and the Director. This information will help the institutions monitor items such as overtime and call backs. Analysis of Semi-Annual Reports will assist greatly with determining future Adult custody needs and objectives.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented.

Recommendation No. 4

The Department should develop the required contingency plans for all critical situations.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- Contingency Plans have been developed for critical situations in Bishop Falls Correctional Centre, Labrador Correctional Centre, Newfoundland and Labrador Correctional Centre for Women and the West Coast Correctional Centre. Outstanding plans for the Her Majesty's Penitentiary, St. John's Lockup, and Corner Brook Lockup are being developed.
- A statement of training requirements specific to each critical situation remains outstanding.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“The institutional contingency plans that remain outstanding are for Her Majesty's Penitentiary, St. John's Lockup, and Corner Brook Lockup. The division will address this issue during the first annual contingency review meeting in March 2010. The division will also use this meeting to re-launch the Emergency Planning committee that will oversee all future development and implementation of contingency plans. The contingency plans will be reviewed and submitted to the Superintendent and the Director semi-annually.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to continue to develop the required contingency plans for all critical situations.

Recommendation No. 5

The Department should require that centres have an Emergency Planning Committee in place.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

Since the Department last reported the Emergency Planning Committees for the Bishop Falls Correctional Centre, the Newfoundland and Labrador Correctional Centre for Women, the West Coast Correctional Centre and Her Majesty's Penitentiary met to develop contingency plans for outstanding potential critical situations.

In addition, the Acting Superintendant is in the process of giving direction for the Emergency Planning Committees in each of the provincial institutions to renew this work and for all committees to meet on a quarterly basis. These committees will be tasked with developing the training components in the contingency plans.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that

“Due to the creation of Emergency Planning Committees in Bishop Falls Correctional Centre, Labrador Correctional Centre, Newfoundland and Labrador Correctional Centre for Women and the West Coast Correctional Centre, there are now contingency plans in place for critical situations. As previously stated, outstanding plans for Her Majesty's Penitentiary, St. John's Lockup, and Corner Brook Lockup are in the process of being developed. To ensure further development and creation of contingency plans, the Manager of Public Safety and Enforcement for the Department has been assigned the task of chairing the Provincial Emergency Planning Committee. Once the committee is fully functional, it will address any training requirements that arise as a result of contingency plan implementation.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to ensure that all centres have an Emergency Planning Committee in place.

Recommendation No. 6

The Department should monitor and control callback, overtime and sick leave.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response from
previous report**

In 2009, the Department informed us that:

While the Attendance Management protocol is still in place, it is recognized that the protocol does not meet the current needs of Adult Custody. The Department is working with the Manager of Integrated Disability Management to develop a more proactive policy focused on assisting employees to return to work. Furthermore, a spreadsheet has been provided to each of the institutional leave management staff across the province to keep track of callback and overtime. As a proactive approach, each Assistant Superintendent reviews this on a monthly basis. This information is being reported in the semi-annual reports that are sent to the Acting Superintendent and the Director.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The Division has created a database to monitor and track the statistics from the Semi Annual Reports including overtime hours for sick leave and training, inmate to staff ratios, incidents and temporary absences. The Division has provided this information to the Superintendent, Institutional Heads, and the Director. This information will help the institutions monitor items such as overtime and call backs. Additionally, the Division consistently submits budget monitoring reports to the Department which clearly outline the year to date and projected overtime costs. This method has proven invaluable as it provides detailed explanation of costs, allowing the Department to react accordingly prior to year end whenever possible."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented.

Recommendation No. 7

The Department should develop a procedures manual for RUS [Resource Utilization System] and distribute to all centres.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Adult Custody Division was unable to identify a dedicated resource to complete the RUS procedures manual in fiscal year 2007-08. Every attempt will be made to address this concern in fiscal year 2009-10. While we acknowledge a procedures manual would maximize the efficiency in utilizing RUS, it should be noted that RUS continues to assist the Adult Corrections Division as a useful leave management and scheduling tool.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“OCIO is spearheading the initiative to replace the Resource Utilization System (RUS) with a Government-wide Human Resource Management System (HRMS). Request For Proposal (RFP) responses are being evaluated by the Government Purchasing Agency (GPA) for this project. A timeline of 4 - 7 years will be needed to complete the project with certain features of the program becoming usable as they are completed. As an interim measure a summer student has been hired to develop a basis manual outlining how to use the system and steps to generate various types of reports.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop a procedures manual for RUS and distribute to all centres.

Recommendation No. 8

The Department should conduct annual performance appraisals of all adult custody staff.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

At present, the Division does not conduct any individual performance appraisals. However, in early 2005, the Adult Custody Division of the Department of Justice was a pilot site within government for the introduction of Work Planning, which is now referred to as Performance Management.

Work Planning began as a Pilot Project in 2005-06, in relation to government's HR Strategy: Creating Tomorrow's Public Service. The Work Plan details the key work goals and targets for the individual. The Plan identifies how the work of the Manager will contribute to the strategic and operational goals of the Department, as well as related priority issues.

Work plans provide a joint manager-employee mechanism to ensure alignment of an employee's work with the priorities of the unit and in accordance with the overall priorities of the Department and government.

Work Planning facilitates:

- alignment of daily work activities with departmental and corporate directions.
- ongoing communication and feedback to review achievements and impacts of competing priorities.
- identification of resource needs.
- strategic learning and development processes.

By mid 2007, 28 of the 31 managers in the Adult Custody Division (90%) had developed and filed work plans. These work plans were mainly operational in nature. Since 2007, the Work Planning process has been redeveloped by the Public Service Secretariat as the Performance Management Program. There are currently fourteen (14) Adult Custody managers waiting to complete the following training module.

The Performance Management: Planning for Results module will define Performance Management and review the linkage between individual performance and the achievement of organizational results. The module will also identify methods to engage others in effective performance management through the Planning for Results cycle, (required training for managers in the provincial government as part of the Resource Management Package).

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

It is a goal for the Department that all managers have a Performance Management Plan in place by March of 2010. While management may consult with and involve non-management employees in the development of divisional performance enhancement plans, throughout government, the requirement to complete performance enhancement plans has not been extended beyond management levels.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation will not be implemented.

Furthermore, it indicated that:

“At present individual performance appraisal are not conducted. While the Division does see the value of performing performance appraisals, the Division must ensure that the proper mythology is used and that a system is in place to manage and support the process.

After careful review and consideration, it has been determined that performance appraisals will not be possible for Adult Custody during the 2010/2011 fiscal year. Until such time as the Division is able to conduct appraisals, relevant policy will be changed to reflect that performance appraisals are not required. As we move forward, the policy regarding future performance appraisals will be further examined.”

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation will not be implemented. The Department indicated that it has been determined that performance appraisals will not be possible for Adult Custody during the 2010/2011 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 feel 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. A performance evaluation system helps to establish individual goals and objectives, and provide any necessary feedback and coaching. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 9

The Department should address issues identified with the on-site food service contracts.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Department is in the process of tendering all three on-site food contracts which includes Her Majesty's Penitentiary (including the St. John's Lockup), the West Coast Correctional Centre, and the Labrador Correctional Centre for the new fiscal year and the issues raised by the Auditor General will be addressed accordingly. Each individual tender will include both food costs and labour costs in the one tender call. Furthermore, once contracts are awarded, all required documentation, such as medical certificates for staff, insurance certificates, and proof of good standing with the Workplace Health and Safety Compensation Commission must be submitted by the successful bidder and be confirmed annually. Annual audit reports will be required from each on-site food provider. It should be noted that required documentation has been provided at the West Coast Correctional Centre under the current food-contract.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has been fully implemented.

Furthermore, it indicated that:

"All three on-site food contracts were re-tendered and awarded in March 2010. As part of the bid process, the requirements put forth by the Auditor General were included in the RFP and are now included in the contract. These items will be closely monitored by the Standards and Compliance group on a go-forward basis."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented.

Recommendation No. 10

The Department should adhere to its policies in relation to food service contracts.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Department is in the process of tendering three on-site food contracts at Her Majesty's Penitentiary (including the St. John's Lockup), the West Coast Correctional Centre, and the Labrador Correctional Centre for the new fiscal year. By doing so, the Department will ensure that it is compliant with the policy items identified by the Auditor General, specifically food services assessments not being completed and quarterly reports not being prepared. The current tender document which was recently provided to the Government Purchasing Agency and posted on its website will be amended to reflect these requirements.

For your information, the menus at Her Majesty's Penitentiary and the St. John's Lockup have been revised by a registered dietician, focusing on portion sizes and healthy food choices. There are now new menus for:

- Regular Meal Diet
- Vegetarian Diet
- Diabetic/Weight loss Diet
- Soft Foods Diet
- Low Cholesterol Diet

The menus listed above are presently in use at Her Majesty's Penitentiary and the St. John's Lockup (implemented as of March 1, 2009). The Division will be monitoring these for the next 4 to 6 months to see if there are any changes that will be needed. Once this is completed, these menus will be reviewed for use in the other centres across Newfoundland and Labrador. In the meantime, the menus at the West Coast Correctional Centre were also recently revised by a Nutritionist and have been successfully implemented at that institution.

As the off-site catering contracts expire, all policy deficiencies outlined by the Auditor General will be incorporated in the tender call.

With respect to staff meal rates being subsidized, the Department has implemented a process whereby posted staff meal rates are reflective of the average cost of meals. Hence, staff meals are no longer subsidized.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

The Department acknowledges that the current policy regarding food services, for both on-site and off-site catering, requires revision to meet the current and future needs of inmates. Despite this commitment to ensure compliance, the Department will be amending these policies to ensure that they are consistent with the needs of the organization on a go-forward basis.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has been fully implemented.

Furthermore, it indicated that:

“On November 18, 2010, Atlantic Catering ceased services to Her Majesty's Penitentiary (including the St. John's Lockup), the West Coast Correctional Centre, and the Labrador Correctional Centre therefore; the Department re-tendered all three on-site food contracts which were awarded to a new service provider in March 2010. By doing so the Department has ensured that it is compliant with the policy items identified by the Auditor General, as previously reported.”

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented.

Recommendation No. 11

The Department should consider using the computer inventory system for recording and tracking stores supplies.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Department did consider the present computer inventory system and found it deficient for its needs and is currently in discussion with the Office of the Chief Information Officer to develop a system more appropriately designed to capture the requisite information.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented.

Furthermore, it indicated that:

"The Department is currently in discussion with the Office of the Chief Information Officer to develop a system more appropriately designed to capture the required information. We acknowledge that the computer inventory system "Quartermaster" that is being used is still deficient for our needs."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to replace the computer inventory system for recording and tracking stores supplies with a system more appropriately designed to capture the required information.

Recommendation No. 12

The Department should consider adapting or replacing the existing computer system for tracking movable capital assets.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Department did consider adapting the existing computer system for tracking movable capital assets and found it deficient for its needs and is currently in discussion with the Office of the Chief Information Officer to develop a system more appropriately designed to capture the requisite information.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented.

Furthermore, it indicated that:

"The issue of replacing the computer system for tracking moveable capital assets was discussed in the Planning Services and Delivery Committee Meeting in March 2010. The Finance Division of the Department will complete a departmental scan to determine what products other departments are using, and whether they would fit our needs."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to replace the existing computer system for tracking movable capital assets.

Recommendation No. 13

The Department should develop a comprehensive preventative capital asset maintenance program and inspection schedule.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Adult Custody Division was unable to accomplish the development of a comprehensive preventative capital asset maintenance program and inspection schedule. Every attempt will be made to address this in fiscal 2009-10.

However, it should be noted that, over the past few months, the Department of Justice has worked with the Department of Transportation and Works to have many life safety and maintenance issues throughout adult corrections addressed. The recent Adult Corrections Report 'A Review of the Prison System in Newfoundland and Labrador – Decades of Darkness – Moving Towards the Light', recommended improvements to a number of life safety and maintenance issues for the various facilities. The Adult Custody Division has compiled a list of work to be completed.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented.

Furthermore, it indicated that:

“The Adult Custody Division was unable to accomplish its goal of a comprehensive preventative capital asset maintenance program and inspection schedule. Although we were unable to establish this program this fiscal year, through the ‘Decades of Darkness - Moving Towards the Light’ funding we were able to make considerable improvements to our facilities. As all facilities are owned by Transportation and Works, the Department of Justice is looking to obtain their assistance with capital asset maintenance going forward.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop a comprehensive preventative capital asset maintenance program and inspection schedule.

Recommendation No. 14

The Department should provide reports on capital asset maintenance costs or maintenance history.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Department recognizes that reporting on capital asset maintenance costs and history is dependent on developing a comprehensive capital asset maintenance program and inspection schedule and creating an appropriate automated program to manage this system.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has been partially implemented.

Furthermore, it indicated that:

"The Department recognizes that the successful implementation of this recommendation goes hand-in-hand with the previous recommendation. In partnership with Transportation and Works, we have received the Building Historical Expenditure and Construction Projects by Building Reports. The Building Historical Expenditure Reports summarizes maintenance and operational expenditures for all adult facilities province wide. The Construction Projects by Building Report provides a breakdown of all maintenance and constructions projects for each of the same facilities described above. Each institution also has a Corrections Fleet Manager who coordinates all vehicle maintenance through Transportation and Works. One area of improvement that we have identified is for the Division to request Transportation and Works to provide reports quarterly and forward them to Institutional Heads for review."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to provide reports on capital asset maintenance costs or maintenance history.

Recommendation No. 15

The Department should conduct annual inventory counts and account for capital assets.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

The Department has indicated that the present computer inventory system is deficient and requires significant upgrade. Once that has been accomplished in partnership with the Office of the Chief Information Officer the Department will be in a position to conduct accurate and comprehensive annual inventory counts and account for capital assets.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented.

Furthermore, it indicated that:

"The Department continues to work with OCIO with the intention of developing and implementing an inventory system to track and report on all assets at year end. The present computer inventory system is deficient and requires significant upgrade. There are currently no resources in place to complete this recommendation."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to conduct annual inventory counts and account for capital assets.

Recommendation No. 16

The Department should strengthen its IT and physical security controls over adult custody services' files.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

A formal DR plan is not yet documented for PCOMS or RUS but the OCIO wide project for Disaster Recovery is an ongoing priority and DR plans are currently being developed for 20 of government's most critical applications. Depending on the completion time for the top 20 plans, other applications will then be prioritized and DR plans will be scheduled to be completed.

While no formal DR plan is in place the OCIO has several documents which could be used to help recover in the event of a disaster. These include application installation instructions and network diagrams. These will form part of a formal DR plan.

A Chart of Authorities has been signed for each application and is stored in TRIM.

The Active directory is now in place for the Adult Correction Division.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has been partially implemented.

Furthermore, it indicated that:

“In the interest of increasing the physical security of inmate files has resulted in all facilities across the island being upgraded to lockable cabinets. In the past, the original security room at Her Majesty's Penitentiary also housed maintenance equipment items. A wall has been erected to separate the security space from the maintenance space with a locking door that is checked each night. The Division will create a checklist that will be filled out during the end of day rounds to ensure that these items are being secured. Currently a complete camera monitoring system is being installed in order to increase building security. With respect to electronic security, OCIO currently backs-up all data saved on shared drives in facilities on and off the island. OCIO is also currently developing a system which will allow access to certain programs in the interest of business continuity and disaster recovery.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to continue to strengthen its IT and physical security controls over adult custody services' files.

Recommendation No. 17

The Department should comply with the Adult Corrections Act and the Prisons Act.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

**Entity's
response from
previous report**

In 2009, the Department informed us that:

A review of the legislation has begun. The recent Adult Corrections Report 'A Review of the Prison System in Newfoundland and Labrador – Decades of Darkness – Moving Towards the Light', has recommended that the *Prisons Act* and the *Prison Regulations* be thoroughly revised and approved by the Government of Newfoundland and Labrador. The Department of Justice has accepted this recommendation and work is currently underway in relation to both *Acts* referenced above. We would note that the Acting Superintendant is now complying with the *Prisons Act* by submitting monthly reports to the Minister relating to each prisoner released during the preceding month.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has been partially implemented.

Furthermore, it indicated that:

"The Superintendent continues to comply with the Prisons Act by submitting monthly reports to the Minister relating to each prisoner released during the preceding month. A working group has been established and jurisdictional scans have now been completed towards the introduction of new consolidated legislation to replace the Prisons Act and the Adult Corrections Act as per the "Decades of Darkness – Moving Towards the Light" recommendation. During this process the working group will review all elements of the legislation to determine relevance to contemporary Corrections practices including for example, the requirement for an internal advisory committee. The new Correctional Services Act will provide the legal foundation for a more modern, progressive and humane corrections system."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to fully comply with the applicable legislation.

Adult Custody Program
(2007 Annual Report, Part 2.15; Update: 2009, Part 2.20)

PART 2.26

DEPARTMENT OF JUSTICE

COMMUNITY CORRECTIONS

(2006 ANNUAL REPORT, PART 2.11; UPDATE: 2009, PART 2.21)

Introduction Our 2006 Annual Report included a review of Community Corrections at the Department of Justice (the Department). We conducted our review to determine:

- compliance with the policies and procedures to manage community correctional services;
- the adequacy of information systems to manage community correctional services;
- compliance with contractual arrangements for providing community-based programming; and
- compliance with relevant legislation.

What we found As a result of our review, we reached the following overall conclusions:

We identified issues with the Community Corrections Program. For example, not all offenders are being assessed for risk to re-offend and are not always supervised in accordance with Program guidelines. In particular:

1. Case Management

An Acknowledgement of Court Order form is to be completed and signed by an offender to document their acknowledgement and understanding of the conditions of the court order. The Branch is not ensuring that these forms are completed. During our examination of records relating to 66 offenders, the Department could not provide completed forms for 16.

The Branch's risk assessment of offenders referred by court order is essential in determining the required level of supervision. The Branch is not adequately performing risk assessments of offenders. During our examination of the risk assessment process related to 66 offenders we found issues with 11. Issues with risk assessment included 9 which were not completed within the required time frame, 1 which was never completed and 1 (a property offence) which was completed incorrectly, resulting in a medium risk level instead of high and therefore less supervision than required.

Case planning is required to determine the role of the Branch and the offender in complying with the requirements of the provisions of the orders. The Branch is not doing a good job in developing case plans. Our review of case plans relating to 66 offenders identified issues with 24. Issues included 16 which did not adequately reflect the conditions in the order or target the relevant criminal factors, 3 which were never completed, 3 which did not reflect the completion of a secondary risk assessment, 1 which did not reflect the completion of a progress review and 1 which was not completed within the required timeframe.

Supervision of offenders is critical to monitor compliance with and enforce conditions imposed by the court. There are significant issues with the Branch's supervision of offenders. Our review of the supervision process relating to 66 offenders identified issues with 19. Issues included 17 with insufficient supervision (1 sexual assault, 2 domestic assaults, 3 other assaults, 6 property offences, 3 traffic offences and 2 drug offences), 1 where the selected supervision for a domestic assault offence was lower than required and 1 where documentation was insufficient to determine whether the offender was being supervised properly.

In addition, we reviewed 33 offenders designated as administratively inactive and no longer being supervised and found that there was no documentation on file to support the elimination of supervision for 5 offenders.

A progress review is required to be completed at the end of every 12 months for each offender under supervision for at least 12 months. The Branch is not always completing progress reviews in accordance with policy. During our examination of progress reviews related to 66 offenders, we found issues with 5. Issues included 4 which were not completed within the required time frame and 1 which was never completed.

2. Information System

The Provincial Correctional Offender Management System is a real-time computerized system through which the Branch can enter information and document the progress of individual offenders through the case management process. We identified the following issues:

- Information contained in System reports was not current. Reports produced by the System in March 2006 indicated that the following were not completed - 103 progress reviews, 64 primary risk assessments and 70 case plans. Although some of these may have been completed, officials indicated that the System may not have been updated. As a result, management does not have access to complete information.

- While staff have access to specific reports concerning case management, the System has a limitation in that not all report capabilities have been activated for use in the overall case management process. Therefore, reports have to be produced by IT personnel.
- The only formal training was upon implementation of the program in 2002, provided to staff in the Branch at that time. In addition, there is no training manual or user manual.

3. Contractual Arrangements

The Department has entered into four contracts with service providers (John Howard Society and Stella Burry Corporation) to deliver a learning resources program in St. John's, a community based intervention program in Corner Brook and Stephenville, a community re-integration program in St. John's, and a residential addictions treatment program in St. John's. Our review identified the following issues:

- The Department is not complying with Government's policy on the hiring of consultants because no public proposals calls were made and authority from the Lieutenant-Governor in Council for three contracts in excess of \$100,000 was not requested.
- The Department paid for services that were never received. For example, the minimum number of contracted hours and/or sessions was not always delivered.
- The Department did not receive sufficient information from contractors to assess program delivery. As a result of the reports not being received or not containing program results, the Department could not evaluate contractor performance.

4. Other Issues

The Department of Justice leases the equipment required to provide the Electronic Monitoring Program and is required to make monthly payments in accordance with the lease contract. However, the Department is not verifying the accuracy of monthly invoices. We found that, during the period November 2003 to October 2005, the Department overpaid the contractor by \$5,466. The Department was not aware of the overpayment until advised by my Office, but has since made provisions to recover the overpayment.

The Department is unable to determine whether the Assistant Adult Probation Officers Program is functioning as intended because of the lack of information to determine compliance with established policies and procedures relating to recruitment (e.g. resumes and criminal record checks) and responsibilities of the officers (e.g. filing monthly reports and performance assessments).

Our follow-up In our 2009 Update Report we concluded that none of the original four recommendations resulting from our review had been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the four recommendations. The recommendations are as follows:

1. *The Department of Justice should ensure compliance with its policies and procedures relating to case management including risk assessment and supervision of offenders.*
 2. *The Department of Justice should, with regards to the computerized database, ensure timely and complete input of data; activate the report generating capabilities; and provide staff training.*
 3. *The Department of Justice should, with regards to community-based programming contracts, comply with Government's Consultant Guidelines; and ensure that services paid for are received.*
 4. *The Department of Justice should ensure compliance with its policies and procedures relating to the Assistant Adult Probation Officers Program.*
-

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Justice has made progress in addressing the recommendations from our 2006 Annual Report, all of the original four recommendations had only been partially implemented.

We agree with the Department's position that all the recommendations have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- ensure compliance with its policies and procedures relating to case management including risk assessment and supervision of offenders;
- with regards to the computerized database, ensure timely and complete input of data, and activate the report generating capabilities;
- with regards to community-based programming contracts, ensure that services paid for are received; and
- ensure compliance with its policies and procedures relating to the Assistant Adult Probation Officers Program.

Recommendation No. 1

The Department of Justice should ensure compliance with its policies and procedures relating to case management including risk assessment and supervision of offenders.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- Monitoring of performance is an ongoing objective. The implementation of the new risk assessment tool, Level of Service/Case Management Inventory (LS/CMI), and the phasing out of the Primary Risk Assessment (PRA) (previously utilized risk assessment tool) has resulted in a parallel process, thereby creating constraints in the monitoring of policy. A December 2007 directive outlines the use of both tools during the implementation/phasing out process. Consequently, statistics do not reflect a true picture of risk assessment completion. Each file has to be reviewed individually to ensure that there is compliance with the directive. Statistics are expected to accurately reflect policy adherence by the Fall of 2010 when the PRA has been fully phased out.

A comprehensive file audit will be completed by the Chief Adult Probation Officer by September 2009.

- A new risk assessment tool was implemented in the Fall of 2007. The Level of Service/Case Management Inventory is being utilized by the Adult Probation Officers (APO's) in this Division. This has created a formalized linkage between risk assessment and case management. Adult Probation Officers, employed with the Division at the time of implementation received training in this particular tool. Motivational Interviewing Training is planned for the upcoming fiscal year. This will further enhance the APO's ability to address the LS/CMI. In addition, work is underway to have several APO's trained as trainers in the LS/CMI so that any APO's who have not received the formalized training may be trained within the Province utilizing our own resources.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Compliance with Department of Justice's policies and procedures is an objective related to the monitoring of performance. This recommendation is currently "partially implemented" when evaluated against the AG Report on Community Corrections, but will satisfy the prerequisites of the original recommendation by the fall of 2010.

Since September of 2007 usability of the PRA had been disabled on the COM System in support of the LS/CMI. Performance monitoring of the Department's policies and procedures is a continuing function administered under the personal direction of the Chief Probation Officer. All Provincial offices are undergoing operational internal auditing to ensure compliance to all applicable policies and procedures, as well as the balanced phasing out of the previously utilized PRA through administration of the LS/CMI. The methodology employed to conduct operational internal auditing consists of visits by the Chief Probation Officer who reviews a representative sampling of individual case files and engages in a discussion with Case Managers. A total of eleven offices have been completed with the remaining three offices to have their audits completed by June 2010. Inclusive of on-site audit activities; electronic auditing of files through PCOMS has been completed for all offices throughout the province. Complete phase-out of the PRA is anticipated to occur in September of 2010 through the natural progression of case files, and will accurately reflect policy adherence by October 2010.

The LS/CMI is the risk assessment tool currently utilized by Adult Probation Officers (APO's) for all active clients admitted since September 2007. Any prior existing PRA files still open are a result of being added to the system prior to the introduction of the LS/CMI. Training programs related to the use and administration of the LS/CMI occurred in July 2009 when eleven Adult Probation Officers (APO's) and one Classification Officer (CO) successfully completed the LS/CMI Train-the-Trainer course facilitated by a recognized certified instructor. Two APO's (strategically located within the Province) who have successfully completed the LS/CMI Train-the-Trainer undertook the task of training the remaining APO's and CO's. Hence all APO's and CO's in the Province to date are now certified users of LS/CMI.

From the 22nd - 24th of March 2010, all APO's will be participating in additional training for Motivational Interviewing Training which will be conducted by representative of Orbis and is key to the LS/CMI Training already received. On a go forward basis; any new staff hired by Probation will receive mandatory training by certified Train-the-Trainer APO's, who are strategically located throughout the province, in LS/CMI prior to receiving their case load.

Operational Internal Auditing will continue to be utilized throughout the remainder of 2010 and continue in 2011 (and beyond) as a proactive measure by the Department of Justice to ensure continued compliance to the original directive.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to ensure compliance with its policies and procedures relating to case management including risk assessment and supervision of offenders.

Recommendation No. 2

The Department of Justice should, with regards to the computerized database, ensure timely and complete input of data; activate the report generating capabilities; and provide staff training.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

Standard and management report capabilities are being developed in consultation with the Office of the Chief Information Officer (OCIO).

In addition, the Department of Justice has initiated stakeholder (Community and Institutional Corrections) meetings to further identify and develop report capabilities. The assurance of timely and complete input of data is monitored on an annual basis through the Community Corrections auditing process.

A Provincial Corrections Offender Management System (PCOMS) Committee has been initiated to address data integrity. This is expected to result in enhanced reporting capabilities. This is a prerequisite to formalized PCOMS training. Presently, new staff are coached in the use of the PCOMS by senior APO's. In addition, the LS/CMI is automated within the PCOMS. Training in the use of this tool is provided by senior APO's. In the interim, notifications of enhancements to PCOMS are completed electronically through the OCIO to PCOMS users.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Work completed to date on the AG Report on Community Corrections compared to the initiatives currently being implemented and planned seem to specify "partial implementation" of the original recommendation. A Provincial Corrections Offender Management System (PCOMS) Committee has been established to address data integrity and meets on a regular basis.

Members of the committee, who represent all facets of the Provincial Justice system work closely with a representative of the Office of the Chief Information Officer (OCIO), who is also an active member of the committee, in enhancing the systems administrating and reporting capabilities. Current members of the PCOMS Committee include the following:

- *Manager Standards & Compliance (Dept. of Justice)*
- *Programmer Analyst (Office of the Chief Information Officer)*
- *Prison Sentence Administrator (Dept. of Justice)*
- *Probation Services (Dept. of Justice)*
- *Captain of Adult Custody (Dept. of Justice)*
- *Correctional Officer (Dept. of Justice)*

- *Captain of Adult Custody (Dept. of Justice)*
- *Supervisor - Adult Probation - (Dept. of Justice)*
- *Employee (Office of the Chief Information Officer)*

The version of the PCOMS software / hardware currently implemented is scheduled to be updated to the newest release version in the near future, and will continue to operate in conjunction with the Community Corrections auditing process to monitor the timely and complete input and output of data.

To ensure the integrity, understanding, and standardization of the work completed by the members of the PCOMS Committee, an updated User Manual is currently being drafted. The content of the User Manual will in turn form the basis of the content to be contained within training material related to the administration and use of PCOMS. Completion of the User Manual will coincide with the administration and conducting of training to all applicable staff.

In its current format, and maximizing the resources available, new users are trained in PCOMS by senior APO's using a mentor-type process. This method of training has proven to be quite effective in communicating comprehension of the PCOMS system and generating data of the process / software.

Processing and administration of the information / data obtained from PCOMS is closely monitored by the Chief Probation Officer who regularly utilizes PCOMS to review a representative sampling of case files from each office as part of the annual operational auditing process.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to, with regards to the computerized database, ensure timely and complete input of data; and activate the report generating capabilities.

Recommendation No. 3

The Department of Justice should, with regards to community-based programming contracts, comply with Government's Consultant Guidelines; and ensure that services paid for are received.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- In fiscal year 2008-09 the Department proceeded on the basis that these contracts were governed by the *Public Tender Act* and accordingly sole source exceptions under paragraph 3(e) were obtained and filed with the Government Purchasing Agency. Consequently, the requirement for Lieutenant Governor-in-Council approval under the Consultant's Guidelines would not have been applicable. Due to the ambiguity around this issue, the matter is now under review within the Department and a legal opinion has been requested.
- An addition to the John Howard - Learning Resources Program contract identified the unique nature of the broad scope of services provided for Corrections' clients. For example, Corrections could, in one given year, have client numbers that would warrant 5 OASIS programs. While in another given year, it may only have enough offenders with this need area to offer 3 OASIS programs. As a result, the new addition to the contract allows flexibility to offer a range of programming options that are directly related to the current offender needs profile. Offender profiles and referrals will determine the frequency of group programs. Please compare clause 3 in the 2008-09 contract with clause 3 in the 2005-06 contract. Unlike the prescriptive wording in the 2005-06 contract, the 2008-09 contract states that "offender profiles and referrals will determine the frequency of group programs" allowing for flexibility.

We note that the Department recently filled the position of Manager of Standards and Compliance for Corrections. This position will be directed to develop a formal process to assess contractor compliance.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

"The first part of the recommendation requiring the Department of Justice to comply with the "Government's Consultant Guidelines" for community-based programming contracts has not been implemented due to the Department's position that it is not applicable based on the nature of the services provided by these contracts.

Following receipt of a legal opinion, the Department of Justice maintains its position as conveyed in last year's update. Accordingly, in fiscal year 2009 - 10 the Department proceeded on the basis that these contracts were governed by the Public Tender Act and therefore; sole source exception under Paragraph 3(e) was obtained and filed with the Government Purchasing Agency (GPA).

The second part of the recommendation on ensuring that changes in service delivery are reflected in contract amendment and that payment is only made for services delivered have had mechanisms implemented to satisfy partial implementation of the recommendation.

For the 2009-10 fiscal year the John Howard Society and Stella Burry Corporation contracts contained a clause requiring that the organizations submit interim reports (mid-term & final reports) to the Department of Justice. The content of the reports must clearly identify how the funding allocated to the organization has been used in relation to the services that have been provided up to the date of the report."

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to, with regards to community-based programming contracts, ensure that services paid for are received.

Recommendation No. 4

The Department of Justice should ensure compliance with its policies and procedures relating to the Assistant Adult Probation Officers Program.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

No, a review has not been completed. On a go forward basis the Assistant Adult Probation Officer (AAPO) Program will be reviewed and related policy and procedures will be altered accordingly. A comprehensive review of the AAPO program will examine the effectiveness of how Newfoundland Labrador Community Corrections addresses Probation supervision in remote/rural locations.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Although this recommendation has not been fully implemented, the Department has commissioned several reviews / studies to provide data related to policy, procedures, and processes for Adult Probation Services. The corrective actions taken in response to the reviews / studies will be used to not only ensure compliance, but to improve the administration in all areas of Probation Services / Supervision, especially in rural / remote locations.

The first initiative undertaken was the Chief Probation Officer requesting an independent organizational review of the St. John's office by the Public Service Secretariat. This review was conducted throughout much of 2009 and focused on Adult Probation Officers (APO's) from the perspective of work flow processes in comparison to case load assignments of the various APO's. This review is still considered active pending the drafting and release of the official report including recommendations for improvement. The approved recommendations from the report will not only be applied to the St. John's office, but to all Provincial Probation offices throughout the Province.

The Department of Justice has engaged a consultant to conduct a full external review of Probation Services commencing in February 2010. In addition, a Memorial University Masters of Social Work student working with Adult Probation has completed a report comparing AAPO policies, procedures, and processes of other provincial jurisdictions to the Province of Newfoundland & Labrador. As part of the review the consultant will analyze the report completed by the student and use the information contained within as a reference for his own work.

Additionally, the consultant has been provided with the authority to conduct a thorough review of all sectors of Probation Services, including the applicable processes related to the administration and management of services provided to clients. Upon its completion the report will be submitted to the Department of Justice.

This is considered by the Department of Justice to be the most effective means of available resources to accomplish the objective of a full review of Probation Services. The hope is that Probation Services will set in motion positive improvements within Community Corrections in the same manner that the Decades of Darkness report has done for Adult Custody.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to ensure compliance with its policies and procedures relating to the Assistant Adult Probation Officers Program.

Community Corrections
(2006 Annual Report, Part 2.11; Update: 2009, Part 2.21)

PART 2.27

DEPARTMENT OF JUSTICE

NEWFOUNDLAND AND LABRADOR HUMAN RIGHTS COMMISSION

(2008 ANNUAL REPORT, PART 2.13)

Introduction Our 2008 Annual Report included a review of Newfoundland and Labrador Human Rights Commission (the Commission). We conducted our review to determine whether human rights complaints were handled in a timely manner, appropriately investigated and resolved, and in full compliance with the *Human Rights Code*.

What we found As a result of our review, we reached the following overall conclusions:

- The Commission did not maintain either a manual or electronic database to record the receipt and track the final disposition of each complaint. As a result, information on the status of complaints was not readily available. Furthermore, this situation likely contributed to statistical inaccuracies in the Commission's annual report to the House of Assembly for 2008.
- Outstanding complaints had been steadily increasing over the past three years.
- The Commission was not addressing complaints on a timely basis.
- Other than occasionally obtaining a statement from a witness, investigations at the respondents' premises were rarely done. Officials cited staff shortage, work load and funding issues as the reasons for not doing this. Investigations were, in the vast majority of cases, carried out through requests for information. It was acknowledged that visits to the respondents' premises would provide additional evidence and better information in order to make final complaint determinations.
- As a result of the Commission not gathering all relevant information during the intake, review and assessment of the complaints, in 2008 it undertook work on 5 complaints that were outside of its jurisdiction.
- There were issues with regards to the documentation of decisions of the Commission. None of the minutes of Commission meetings were signed by either the Chairperson or the Executive Director as Secretary of the Commission, making it difficult to verify the authenticity of the Commission's decisions and not all decisions of the Commission were recorded in the minutes.

- There could be a perceived conflict of interest when the Commission has to hear cases in which Government is named as a respondent given the current budget and reporting process. The Commission's budget was approved by the Department of Justice and, unlike the Canadian Human Rights Commission which reports directly to Parliament, the Commission had to provide its annual report to the Minister of Justice who was then responsible for tabling it in the House of Assembly.
 - There were deficiencies in the Commission's activity plan and annual report for 2008. The activity plan had no goals, objectives, and measures for two of its four lines of business, and the annual report did not provide historical or targeted information necessary for the reader to assess the Commission's performance.
-

Our follow-up

In February 2010, we contacted the Commission requesting an update as to what progress had been made on the original seven recommendations resulting from our review. The recommendations are as follows:

1. *The Commission should develop an information system that will record and track complaints until they are resolved so that accurate statistical reports can be compiled.*
 2. *The Commission should develop a plan to address the increasing number of outstanding investigations.*
 3. *The Commission should request adequate levels of staffing and funding so more thorough investigations can be conducted.*
 4. *The Commission should improve its procedures for assessing complaints with a view to screening out those that have not established a "prima facie case".*
 5. *The Commission should ensure proper minutes are maintained that document the resolution of every complaint received by the Commission.*
 6. *The Commission should seek to improve the perception of independence by submitting its annual report directly to the House of Assembly.*
 7. *The Commission should set goals, objectives and measures for all of its lines of business and provide historical information and target references in its annual report.*
-

Information we requested The Commission was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Newfoundland and Labrador Human Rights Commission has made progress in addressing the recommendations from our 2008 Annual Report, two of the original seven recommendations had only been partially implemented.

We agree with the Commission's position that the recommendations numbers 4 and 7 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Commission will need to:

- address the issue of "prima facie" cases in its Policy and Procedure Manual; and
- provide historical information and target references for all its lines of business in its annual report.

We agree with the Commission's position that the recommendation numbers 1, 2, 3, and 5 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

We agree with the Commission's position that recommendation number 6 has not been implemented; however, we will not follow-up on this recommendation again next year as the Commission feels this matter can only be addressed by the Provincial legislature. Therefore, given the Commission's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 1

The Commission should develop an information system that will record and track complaints until they are resolved so that accurate statistical reports can be compiled.

**Entity's
response from
previous report**

The Commission indicated in its response to our 2008 Report that the Department of Justice recently approved the implementation of a computerized database system to log all calls from the public, track complaints filed and their status, record the final disposition of each complaint among other things, and to provide statistical information for annual reports and other reporting documents. The computerized database was expected to be operational by the Spring of 2009.

**Entity's
response to
current request**

In 2010, the Commission informed us that the recommendation had been fully implemented.

Furthermore, it indicated that “A computerized database system (TRIM) was fully operational as of May 1, 2009. All official complaints that existed pre-TRIM have been entered into the system. Since the implementation date, all new calls from the public have also been entered into the system. Trim allows staff to log all calls from the public, track complaints filed and their status, record the final disposition of each complaint among other things, and to provide statistical information for annual reports and other reporting documents. Staff training has occurred and 2 administrative staff members have received specialized TRIM training and are designated “TRIM Administrators”.”

**Our
conclusion**

Follow-up Not Required

We agree with the Commission's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Commission should develop a plan to address the increasing number of outstanding investigations.

**Entity's
response from
previous report**

The Commission indicated in its response to our 2008 Report that it had requested additional staff and an increased budget for the fiscal year 2009-10 so that complaints could be dealt with in a more thorough and expeditious manner and a comprehensive public education program could be developed.

**Entity's
response to
current request**

In 2010, the Commission informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“The Human Rights Commission’s budget was increased in fiscal year 2009-10 to \$1,165,200. We now have 11 full-time positions: 1 permanent Executive Director; 1 permanent lawyer; 2 contractual lawyers; 3 permanent Human Rights Specialists; 1 temporary Human Rights Specialist; and 3 permanent administrative positions. The Human Rights Commission has also had 3 law students on staff for successive work terms. For the fiscal year 2010-11 the Human Rights Commission has requested that staffing levels and our budget remain the same, with the exception of a request for additional funds to continue with our public education mandate. The lack of public education and awareness of the role of the Human Rights Commission and, of human rights in general, was noted throughout the public consultations on the Human Rights Code held by the Department of Justice in 2009.*

An external consultant was hired through a Request For Proposal (RFP) process to prepare an internal policy and procedural manual which will identify and propose solution to improve case management efficiencies. Staff at the Commission have worked closely with the External Consultant throughout this process. The completed manual will be delivered to the Human Rights Commission before or by March 31, 2010. Implementation will begin immediately.

Another external consultant was also retained to develop the marketing aspect of a public education campaign and to produce collateral promotional materials by March 31, 2010. Our website which is a primary point of contact for many individuals, particularly young people, will be completely re-done by March 31, 2010. The Auditor General notes that during 2008 the Human Rights Commission conducted only 10 educational seminars and that none were conducted outside the St. John’s area. Since March 31, 2009 (TRIM implementation) 29 presentations were held, including some outside the St. John’s area. It is hoped that more will be conducted as future funding becomes available.”

**Our
conclusion**

Follow-up Not Required

We agree with the Commission's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

The Commission should request adequate levels of staffing and funding so more thorough investigations can be conducted.

**Entity's
response from
previous report**

The Commission indicated in its response to our 2008 Report that for 2008-09 the budget was increased to \$796,500 and additional staff was hired. The Commission has requested additional staff and an increased operating budget for the fiscal year 2009-10 so that complaints could be dealt with in a more thorough and expeditious manner and a comprehensive public education program could be developed.

Investigation requirements were being completely overhauled as all witnesses were being interviewed, workplace sites were being visited and medical information was being gathered. In July 2008, the Commission started manually tracking the number of calls they received and further research and follow up calls can be performed.

**Entity's
response to
current request**

In 2010, the Commission informed us that the recommendation had been fully implemented.

Furthermore, as it indicated in its response to recommendation number 2, *"The Human Rights Commission's budget was increased in fiscal year 2009-10 to \$1,165,200. We now have 11 full-time positions: 1 permanent Executive Director; 1 permanent lawyer; 2 contractual lawyers; 3 permanent Human Rights Specialists; 1 temporary Human Rights Specialist; and 3 permanent administrative positions. The Human Rights Commission has also had 3 law students on staff for successive work terms. For the fiscal year 2010-11 the Human Rights Commission has requested that staffing levels and our budget remain the same, with the exception of a request for additional funds to continue with our public education mandate. The lack of public education and awareness of the role of the Human Rights Commission and, of human rights in general, was noted throughout the public consultations on the Human Rights Code held by the Department of Justice in 2009.*

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**Our
conclusion**

Follow-up Not Required

We agree with the Commission's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The Commission should improve its procedures for assessing complaints with a view to screening out those that have not established a "prima facie" case.

**Entity's
response from
previous report**

The Commission indicated in its response to our 2008 Report that it had more staff, and that further research and follow up calls could be performed. Sometimes it was determined that the Human Rights Code criteria were not met and the Specialist was required to inform the individual and identify other avenues of redress.

**Entity's
response to
current request**

In 2010, the Commission informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“Section 20 of the Human Rights Code states that “a person who has reasonable grounds for believing that a person has contravened this Act may file with the executive director a complaint in a form acceptable to the commission.” There is, therefore, no legal requirement for a complainant to establish a “prima facie” case before a complaint can be accepted by the Human Rights Commission for investigation. The purpose of Section 20 is to establish a fairly low threshold for individuals to have their allegations of discrimination investigated by an independent, unbiased and neutral government agency. This issue will be addressed in our Policy and Procedure Manual.*

Increased staffing levels and funding, however, have allowed us the opportunity to examine each potential complaint to ensure it meets the legal requirements of Section 20 and is within the jurisdiction of the Human Rights Commission. The Human Rights Commission received 734 inquiries since March 31, 2009, of which 35 became official complaints.”

**Our
conclusion**

Follow-up Required

We agree with the Commission's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Commission will need to address the issue of “prima facie” cases in its Policy and Procedure Manual.

Recommendation No. 5

The Commission should ensure proper minutes are maintained that document the resolution of every complaint received by the Commission.

**Entity's
response from
previous report**

The Commission indicated in its response to our 2008 Report that it is committed to maintaining an accurate record of all Commission decisions. Minutes would be signed so as to ensure they were accurate and properly reflected the decisions of the Commission.

Entity's
response to
current request

In 2010, the Commission informed us that the recommendation has been fully implemented.

Furthermore, it indicated that "*Minutes of all Commission meetings have been signed by the Chair or designate since January 16, 2009.*"

Our
conclusion

Follow-up Not Required

We agree with the Commission's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The Commission should seek to improve the perception of independence by submitting its annual report directly to the House of Assembly.

Entity's
response from
previous report

The Commission's response did not specifically address this recommendation.

Entity's
response to
current request

In 2010, the Commission informed us that the recommendation had not been implemented.

Furthermore, it indicated that "*This matter can only be addressed by the provincial legislature.*"

Our
conclusion

Follow-up Not Required

We agree with the Commission's position that this recommendation has not been implemented; however, we will not follow-up on this recommendation again next year as the Commission feels this matter can only be addressed by the Provincial legislature. Therefore, given the Commission's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 7

The Commission should set goals, objectives and measures for all of its lines of business and provide historical information and target references in its annual report.

**Entity's
response from
previous report**

The Commission indicated in its response to our 2008 Report that it would set goals, objectives and measures for all of its lines of business and provide historical information and target references in its annual report. Since the Fall of 2008, Commission staff had increased the number of public seminars they present to members of the public. They had also requested increased staff through this year's budget process to develop and implement a comprehensive public education program that could be delivered throughout the entire Province. The Commission's website would be completely revamped in 2009/10. However, in the interim they would undertake to update as much information as possible on-line including the addition of Board of Inquiry decisions in early 2009.

**Entity's
response to
current request**

In 2010, the Commission informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The Office of the Auditor General's Report dated January 2009 stated that the Human Rights Commission activity plan for 2007-08 did not address all of its mandated activities. Instead, we set goals, objectives and measures for only two of our lines of business. The activity plan was not intended to describe everything a government entity does but to focus on our key priorities. (See: Guidelines for Multi-Year Performance Based Planning, July 2005, pg.3. Transparency and Accountability Office, Government of Newfoundland and Labrador).*

In the Human Rights Commission's activity plan for 2008-09 it was determined that dealing with its backlog of cases and developing a comprehensive public education program were its two main priorities. These two priority issues also contribute to the achievement of the Strategic Directions of the Department of Justice entitled "Access to Justice" and "Public Trust and Confidence".

As previously indicated, our computerized database system (TRIM) became fully operational on March 31, 2009. We require one year in which to establish a baseline of information. The information gathered in TRIM will identify current milestones for complaints and will inform future targets for milestones.”

**Our
conclusion**

Follow-up Required

We agree with the Commission’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Commission will need to provide historical information and target references for all its lines of business in its annual report.

PART 2.28

DEPARTMENT OF JUSTICE

FINES RECEIVABLE

(2008 ANNUAL REPORT, PART 2.14)

Fines Receivable (2008 Annual Report, Part 2.14)

Introduction Our 2008 Annual Report included a review of Fines Receivable at the Department of Justice (the Department). We conducted our review to determine whether the Fines Administration Division:

- has made all possible efforts to collect or dispose of fines receivable within the power of the Department of Justice;
- efforts to date have improved the overall collection rate of fines; and
- has decreased the amount of fines outstanding over the past 5 years.

What we found As a result of our review, we reached the following overall conclusions:

Collection efforts at the Department relating to fines receivable require improvement, as a result of the following;

- Many accounts were not registered in the Judgment Enforcement Registry nor were collection efforts initiated for those accounts registered. We identified 74,081 accounts and 55,460 unnamed tickets totalling \$6.4 million that were not registered. Of 8,700 accounts registered, only 5,700 had collection efforts initiated against them.
- Not all accounts had been registered with CRA for collection from taxes receivable under various programs that CRA administers. 74,081 accounts and 55,460 unnamed tickets had not been registered with CRA as of our review.
- Legislative authority exists within the *Provincial Offences Act* allowing for the creation of a program to eliminate debt through service to the Province. As of our review, no such program had been enacted.
- The Government has the capacity to refuse the renewal of any instrument until all fines outstanding are paid. These instruments include hunting licenses, birth certificates, MCP cards, and registry in Companies and Deeds. However, only vehicle registration and drivers licenses are restricted in this manner, leaving all other Government provided instruments without restriction.
- Late penalties currently imposed on fines that remain unpaid within the required time frame do not appear to encourage collection. 46.7% of total fines outstanding were over 5 years old and most had late payment penalties attached.

Fines Receivable (2008 Annual Report, Part 2.14)

Our follow-up In February 2010, we contacted the Department requesting an update as to what progress had been made on the original three recommendations resulting from our review. The recommendations are as follows:

1. *The Department should consider increasing the late payment penalty.*
2. *The Department should investigate attaching fine balances to all possible Government instruments to improve collection efforts.*
3. *Government should consider enacting a Fine Option Program as outlined in the Provincial Offenses Act to allow debtors of the Province to discharge their fines by a means other than monetary compensation.*

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

The Department of Justice has made no significant progress toward implementing the recommendations contained in the 2008 Annual Report on Fines Receivable. To date, none of the three original recommendations have been implemented.

We disagree with the Department's position as to why these recommendations will not be implemented. The Department indicated that:

1. Recommendation number 1 will not be implemented as an increase to the late penalty fee would not result in an improvement in fine collection.
2. Recommendation number 2 will not be implemented as most of the programs that could be restricted are designed to help low income individuals that represent a significant portion of the outstanding fines. As well, attempting to restrict other licences would be a costly and time consuming activity with little proven benefit.

3. Recommendation number 3 will not be implemented as it may interfere with other initiatives undertaken by the Department and the potential costly requirement for additional liability insurance.

Given the Department's position on each of these three recommendations, we conclude that additional follow-up will be of no further benefit.

Recommendation No. 1

The Department should consider increasing the late payment penalty.

**Entity's
response from
previous report**

In the 2008 Annual Report, the Department indicated that it would consider the recommendation to increase the late payment penalty.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented and is not currently under consideration.

Furthermore, it indicated that the Department "...does not believe that an increase in the late payment penalty would significantly improve fine collection."

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that an increase to the late penalty fee would not result in an improvement in fine collection. However, given the position of the Department on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 2

The Department should investigate attaching fine balances to all possible Government instruments to improve collection efforts.

Fines Receivable (2008 Annual Report, Part 2.14)

Entity's response from previous report In the 2008 Annual Report, the Department indicated that it would consider denying renewals of additional licenses as a means of improving collection efforts.

Entity's response to current request In 2010, the Department informed us that the recommendation has not been implemented, but it was reviewed by the Department.

Furthermore, it indicated that *“Based on this review, many of the programs offered by government that would provide a financial rebate, funding or a privilege (such as a licence) are limited to low income and commercial initiatives.*

The Department looked at the possibility of denying hunting licence applications for nonpayment of fines. At present, a scheme is in place for the suspension or cancellation of big game licences unless support owing under the Support Orders Enforcement Act, 2006 is paid. It is a manual process where the big game licences are withheld until there is verification that support enforcement is not in arrears. To implement a similar scheme for the non-payment of fines is impractical. The number of individuals that have outstanding fines in comparison to those that owe support is much greater. This manual process for the collection of fines would place an unreasonable administrative burden on the Wildlife Division.

As a result, to implement the suspension or cancellation of big games licence due to outstanding fines would require an automated process. This would involve significant changes to the Wildlife Information Management System and amendments to the Wild Life Act and other pieces of provincial legislation. The Department believes the cost associated with the implementation of an automated process in the absence of information concerning the effectiveness of such a program on the collection of fines cannot be justified.

The Department also looked at whether to collect fines at the time of driver examinations. New drivers do a written test to obtain a learner's permit and one year later do the driver examination (road test). There are 3 problems in targeting this group. Firstly, these individuals would have to pay their fines, in any event, if they successfully pass the driver examination and apply for their driver's licence. Secondly, driver examiners in remote areas of the province often work out of post offices, etc., are not connected to the MRD system and therefore have no knowledge of outstanding fines. They therefore cannot collect such fines. This would result in unequal application of the law. Thirdly, this scheme would primarily target young drivers.”

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation has not been implemented due to the potential difficulties in implementing such a system. However, given the Department's position on this matter, additional follow-up would be of no further benefit.

Recommendation No. 3

Government should consider enacting a Fine Option Program as outlined in the Provincial Offences Act to allow debtors of the Province to discharge their fines by a means other than monetary compensation.

**Entity's
response from
previous report**

In the 2008 Annual Report, the Department indicated that the implementation of the Fine Option Program was complex and had difficulties associated with its administration that may outweigh the benefits.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented, but it has considered whether to introduce a Fines Option Program in Newfoundland and Labrador.

Furthermore, it indicated that "*The Provincial Offences Act (s.38) has provision for the Lieutenant-Governor in Council to make regulations to establish a fines option program.*

The Fine Option Program could feed into the Community Service Order Program. Community Service Orders are optional conditions of both Probation and Conditional Sentence Orders which require an offender to complete a prescribed number of volunteer work hours. The Division solicits placements and monitors offender progress. A contract is entered into between the offender, the Division and the placement agency.

The Insurance Division of Government advises that a third party liability insurance policy is already in place for Correctional Services Division's Community Service Order Work whereby the court orders volunteer service. Although a policy is already in place, the addition of a Fine Option Program may require increased coverage.

The implement this program would require additional departmental resources which the Department believes would compromise other initiatives the Department has undertaken particularly in the area of Corrections."

Fines Receivable
(2008 Annual Report, Part 2.14)

**Our
Conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation has not been implemented due to the possibility of interference with other initiatives and the potential requirement for additional liability insurance. However, given the position of the Department in this matter, additional follow-up will be of no further benefit.

PART 2.29

DEPARTMENT OF MUNICIPAL AFFAIRS

EMPLOYMENT SUPPORT PROGRAMS

(2007 ANNUAL REPORT, PART 2.16; UPDATE: 2009, PART 2.23)

Introduction Our 2007 Annual Report included a review of the Employment Support Programs found within the Department of Municipal Affairs (the Department). We conducted our review to determine: how the Community Enhancement Program (CEP) and other employment support programs were funded; whether the Department adequately and consistently evaluated project applications; and whether the Department monitored the effectiveness of the CEP and other employment support programs.

What we found As a result of our review, we reached the following overall conclusions:

Community Enhancement Program

Overall, the Department did not adequately administer the CEP. Significant concerns were noted with regard to how funding was allocated in the Province, how projects were selected and how projects were monitored. In particular:

District funding allocation

While Department officials indicated that funding allocations were made by electoral district, this allocation process was never documented. As a result, the Department could not demonstrate the basis for allocating the extent of funding by district. Furthermore, there was not always documentation in project files to demonstrate that Members of the House of Assembly (MHAs) were advised as to the level of funding approved under the CEP for their district. In addition, due to the allocation being by electoral district, the merit of a project was not evaluated on a Province-wide basis.

Project and applicant selection

Our review of the project and applicant selection criteria indicated that the Department could not demonstrate: whether the criteria of “relatively short-term” and “small scale” were met; that the funded projects were approved based on recommendations from MHAs; the basis on which additional funding was approved; whether all applications were received before the deadline date; that all approved applicants met the eligibility criteria for the CEP; justification for continuing to provide project funding to sponsor groups who showed non-compliance in prior years; and justification for not approving the funding or official notification to the sponsor group that the funding request was not approved.

Project Monitoring

We found that the Department issued contradictory guidelines for 2005- 06, did not always follow-up on non-compliance by sponsor groups, did not adequately review the final reports submitted by sponsor groups, released final funding for projects even when required information was not provided or there were documented instances of non-compliance, and released portions of the final payment either before projects were completed or before final reports were received and reviewed.

Other Employment Support Programs

We also identified similar issues with the following employment programs:

- Crab Workers' Support Program
- Fish Plant Workers' Employment Support Program
- Harbour Breton FPI Workers' Employment Support Program
- Community Enhancement Program-Fish
- Fortune Support Program

Our follow-up

In our 2009 Update Report we concluded that 1 of the original 14 recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on the recommendation. The recommendation is as follows:

1. *The Department should ensure that the basis for funding allocations to electoral districts, including budget details and correspondence with the MHAs regarding funding for their district, is documented by the Department for all programs.*
-

Employment Support Programs
(2007 Annual Report, Part 2.16; Update: 2009, Part 2.23)

Information we requested The Department was asked to advise whether the recommendation had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Municipal Affairs has made progress in addressing the recommendations from our 2007 Annual Report, 1 of the original 14 recommendations had not been implemented.

We agree with the Department's position that the recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department will need to develop an evidence-based allocation model for allocating funding under the CEP.

Recommendation No. 1

The Department should ensure that the basis for funding allocations to electoral districts, including the budget details and correspondence with MHAs regarding funding for their districts, is documented by the Department for all programs.

Entity's response from previous report

In 2009, the Department informed us that:

- work on an evidence-based allocation model was progressing and was to conclude over the next several months; and
- the Department had pilot tested a variety of different combinations of indicators in the model.

Employment Support Programs
(2007 Annual Report, Part 2.16; Update: 2009, Part 2.23)

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented.

Furthermore, it indicated that:

“Over the past several years, the Department has made significant changes to the administration of the Community Enhancement Employment Program (CEEP) in response to recommendations from your Office. However, the above noted proposal is the one item related to the program that has not yet been implemented.

In early 2009, during a meeting with staff of your Office, the Department indicated that a major problem in developing an evidence-based model is the fact that no statistical organization, provincially or federally, gathers data on the specific target group served by the CEEP, i.e., persons active in the labour market who have not managed to work sufficient hours in the current year to qualify for Employment Insurance. This difficulty was not foreseen in 2007 when the Department originally proposed the development of an evidence-based model.

In the absence of data specific to the target group, the Department pilot tested the use of various proxy indicators for the target group. However, we have been unable to identify a combination of indicators that reliably differentiates between different geographic areas and that treats areas with similar employment circumstances reasonably equitably.

The Department has not yet identified a set of indicators that we consider reliable in guiding the distribution of funding. However, the Department continues to explore this matter.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to develop an evidence-based allocation model for allocating funding under the CEP.

PART 2.30

DEPARTMENT OF MUNICIPAL AFFAIRS

FIRE COMMISSIONER'S OFFICE

**(2004 ANNUAL REPORT, PART 2.35; UPDATE: 2006,
PART 3.2.24; 2007, PART 3.2.24, 2009, PART 2.24)**

Fire Commissioner's Office

(2004 Annual Report, Part 2.35; Updates: 2006, Part 3.2.24; 2007, Part 3.2.24, 2009, Part 2.24)

Introduction Our 2004 Annual Report included a review of the Fire Commissioner's Office, now part of Fire and Emergency services – Newfoundland and Labrador (FES-NL). We conducted our review to determine whether:

- the Fire Commissioner was adequately carrying out the provisions of the *Fire Prevention Act, 1991*;
 - the Fire Commissioner had adequate systems and practices in place to deliver Provincial fire prevention and protection programs; and
 - expenditures were approved, monitored and in compliance with Government policies.
-

What we found As a result of our review, we reached the following overall conclusions:

- The Fire Commissioner's Office needed to do more in inspecting and evaluating the firefighting capabilities of the 297 fire departments throughout the Province and in providing training to the approximately 6,100 firefighters; and
 - The Office's database was not Y2K compliant and therefore, data and information could not be captured. As a result, no annual report had been prepared since 1999 and the Commissioner did not have all of the information necessary to monitor fires in the Province including the assessment of the firefighting capabilities of fire departments.
-

Our follow-up In our 2009 Update Report we concluded that two of the original seven recommendations resulting from our review had not been fully implemented. In February 2010, we contacted FES-NL requesting an update as to what progress had been made on the two recommendations. The recommendations are as follows:

1. *FES-NL should develop and implement a system for the tracking of fire reports to ensure that all reports are complete and received.*
 2. *FES-NL should ensure that the Fire Commissioner's Office prepares and submits an annual report.*
-

Information we requested FES-NL was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While Fire and Emergency Services – Newfoundland and Labrador (FES-NL) has made progress in addressing the recommendations from our 2004 Annual Report, two of the original seven recommendations had only been partially implemented.

We agree with FES-NL's position that the recommendation numbers 1 and 2 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the new *Fire Protection Services Act* will need to be proclaimed to require mandatory incident reporting by fire departments, and FES-NL will need to prepare and include annual fire loss reports in its annual report.

Recommendation No. 1

FES-NL should develop and implement a system for the tracking of fire reports to ensure that all reports are complete and received.

Entity's response from previous report

In 2009, FES-NL informed us that:

- Bill 60, *Fire Protection Services Act*, was approved in the House of Assembly in December 2008. Once proclaimed, this *Act* contained reporting requirements for fire departments. This legislative requirement would ensure that the Fire Commissioner's Office received fire reports; and
 - a new Fire Service Report Management System (FSRMS) was to be implemented in April 2009 that would enhance information management capacity and facilitate accurate tracking of fire data with the Fire Commissioner's Office.
-

Fire Commissioner's Office

(2004 Annual Report, Part 2.35; Updates: 2006, Part 3.2.24; 2007, Part 3.2.24, 2009, Part 2.24)

Entity's response to current request

In 2010, FES-NL informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The new Fire Service Report Management System (FSRMS) was implemented on schedule in April 2009. New reporting forms have been designed and distributed and are now in wide use by the municipal fire service. Proclamation of the new Fire Protection Services Act has been unavoidably delayed and as a result, mandatory reporting by fire departments is not yet in effect. FES-NL anticipates proclamation of the Act in the summer of 2010 at which time mandatory incident reporting by fire departments will be in effect. At that time, implementation of this recommendation will be complete."*

Our conclusion

Follow-up Required

We agree with FES-NL's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the new *Fire Protection Services Act* will need to be proclaimed to require mandatory incident reporting by fire departments and the information received will need to be recorded in the Fire Service Report Management System.

Recommendation No. 2

FES-NL should ensure that the Fire Commissioner's Office prepares and submits an annual report.

Entity's response from previous report

In 2009, FES-NL informed us that:

- Programming of the FSRMS was completed and FSRMS would be implemented in April 2009. Once fire data was received from fire departments and the information was inputted into the FSRMS, the system would have the capacity to generate an annual report of fire loss.
- FES-NL was a category 2 entity under the *Transparency and Accountability Act* and as such was required to submit an Annual Report. Upon proclamation of the new *Fire Protection Services Act* and implementation of the new FSRMS, FES-NL would include a fire loss report within the Agency's Annual Report.

Fire Commissioner's Office

(2004 Annual Report, Part 2.35; Updates: 2006, Part 3.2.24; 2007, Part 3.2.24, 2009, Part 2.24)

Entity's response to current request

In 2010, FES-NL informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"In 2007 the Fire Commissioner's Office became part of the newly created Fire and Emergency Services – Newfoundland and Labrador. FES-NL is a category 2 government entity within the meaning of the Transparency and Accountability Act and is in compliance with reporting requirements as set out in this Act.*

The new Fire Service Report Management System (FSRMS) was implemented on schedule in April 2009. New reporting forms have been designed and distributed and are now in wide use by the municipal fire service. Proclamation of the new Fire Protection Services Act has been unavoidably delayed and as a result, mandatory reporting by fire departments is not yet in effect. FES-NL anticipates proclamation of the Act in the summer of 2010. Once the mandatory reporting requirements are in effect, FES-NL will incorporate annual fire loss reporting in its annual reports."

Our conclusion

Follow-up Required

We agree with FES-NL's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, FES-NL will need to prepare an annual fire loss report and include it in its annual report.

PART 2.31

DEPARTMENT OF NATURAL RESOURCES

OIL ROYALTIES

(2008 ANNUAL REPORT, PART 2.15)

Introduction Our 2008 Annual Report included a review of Oil Royalties at the Department of Natural Resources (the Department). We conducted our review to determine whether the Department had systems and practices for monitoring the completeness and accuracy of oil royalties received from the project owners.

What we found As a result of our review, we reached the following overall conclusions:

- Contrary to section 26.6 of the Hibernia Agreement, the Hibernia project operator had refused to provide the Department's audit team with access to any Internal Audit Reports and Plans, and the minutes of Hibernia Executive Committee meetings as requested.

We were further informed that access to these documents was no longer requested because the Department concluded the limitation did not preclude the Department from providing sufficient audit assurance that the project owners were complying with the Agreement.

- The Department concluded that transportation costs reported by the Hibernia project owners for 1997 to 2000 were not in accordance with the Hibernia Agreement and requested the project owners to re-file their royalty calculations. Although the issue was first raised in December 2004 and the project owners objected to the Department's position, the matter remained unresolved.
- Contrary to the requirements of the *Royalty Regulations 2003*: the transportation cost estimates for the Terra Nova Project and White Rose Project were not approved by the Minister; and the Department had not, in consultation with the project owners, developed any eligibility rules that would provide criteria to be used in determining what constitutes an eligible transportation cost.
- Contrary to the requirements of the *Regulations*, the Minister did not assess the annual reconciliations within the required 60 days of receiving the annual reconciliation (i.e. 30 June).
- Contrary to the direction of Cabinet, the Department, commencing in October 2007, paid hourly rates in excess of the hourly rates stipulated in a consultant contract.

- At October 2008, there were 87 annual royalty and eligible project cost submissions made by project owners for which the Department had not started any audit work, 19 for which audit work was in progress and 28 for which the audit was completed. No royalty or eligible project cost audits had been conducted on the Terra Nova or White Rose projects since production started in 2002 and 2005 respectively.
- The magnitude of the oil royalties and adjustments that have occurred as a result of the audit process highlights the importance of completing audits on a timely basis. Although audits were completed within the audit period established in the Hibernia Agreement and the *Royalty Regulations, 2003*, we did have some concerns with the amount of time elapsed before audit work was preformed.
- In an attempt to ensure that all audits would be completed when required, and to reduce the audit period on a go-forward basis, the Department in 2007 established a 3 year audit work plan for 2008 to 2010. The Department recognized that more timely audits would provide more useful information and allow the Department to better manage any identified issues relating to oil royalties. The Department's goal was to have years up to 2007 audited by 2010; however, the plan was off schedule in relation to what was planned for 2008 and, as a result, the Department would have to take measures to ensure that its plan would be met.
- The Department's Audit Manual relating to the auditing of oil royalties had not been updated since 2000 and required updating. In addition, the Department's procedures for completing desk reviews of monthly and annual reports were not documented.

Our follow-up In February 2010, we contacted the Department requesting an update as to what progress had been made on the eight recommendations resulting from our review. The recommendations are as follows:

1. *The Department should ensure audits are conducted within a relevant time period.*
2. *The Department should ensure the project operator provides access to all information requested during audits.*
3. *The Department should resolve outstanding Hibernia transportation issues.*

4. *The Department should ensure estimated, eligible and actual transportation costs for Terra Nova and White Rose are determined and reported in accordance with the Royalty Regulations, 2003.*
5. *The Department should comply with the Royalty Regulations, 2003.*
6. *The Department should ensure consultant payments are in accordance with Cabinet directives and established contracts.*
7. *The Department should update its audit manual.*
8. *The Department should document its procedures for conducting desk reviews.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Natural Resources has made progress in addressing the recommendations from our 2008 Annual Report, five of the original eight recommendations had only been partially implemented.

We agree with the Department's position that the recommendation numbers 1, 4, 7 and 8 have been partially implemented and, therefore, we will follow-up on these recommendations again next year. To fully implement the recommendations, the Department will need to:

- reduce the number of audits not started and not completed, and reduce the time between the year being audited and the year the audit report is issued;
- finalize the assessment of Terra Nova's transportation rules;
- complete the assessment and update of the Audit Manual; and
- fully document desk review procedures.

We agree with the Department's position that recommendation number 2 has been partially implemented. However, we will not follow-up on this recommendation as the Department considers that it obtains the necessary information to gain audit assurance and no longer requests that the Hibernia project operator provide access to any Internal Audit Reports and Plans, and the minutes of Hibernia Executive Committee meetings. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

We agree with the Department's position that the recommendation numbers 3, 5 and 6 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department should ensure audits are conducted within a relevant time period.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that reducing the inventory of audits and completing audits on a timely basis was a priority for the Department. In 2008/09, Government provided an additional \$500,000 for three fiscal years to contract audit services to facilitate the objective of addressing the inventory of outstanding audits. In the recent restructuring of the Department, Government approved two senior audit positions, as well as a Director of Royalties position and an Assistant Deputy Minister of Royalties and Benefits position. The Department has developed a three year audit plan to facilitate the progression on audits with the goal of having years up to 2007 audited by 2010 and to continue contracting audit services to supplement the work of the Department.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"DNR developed a 3 year audit plan in 2007 for the years of 2008, 2009, and 2010 with the goal to have years up to 2007 audited by 2010. In 2008, the plan was off schedule and DNR identified to the Auditor General that it would take measures to maintain progress. Since 2008 there has been additional turnover, assignment of resources to negotiations and dispute resolution which has affected audit progress. All approved positions related to audit are currently staffed and have been since July 2009.*

In summary:

- *18 audits were added for the 2008 year.*
- *Progress reduced “audits not started” from 87 to 73.*
- *The Terra Nova Pre-Development and Capital Cost Audit which covered 1995-2005 years was completed.*
- *The Hibernia South Extension Pre-Development Audit was completed.*
- *Dispute resolution support was provided for the findings of the Terra Nova pre-Development and Capital Cost Audit as well as transportation support for Hibernia South Extension.*
- *At December 31, 2009 the field work for audits were complete for Hibernia to 2005 and for Terra Nova to 2003.*
- *An additional 18 audits will be added to the requirements with the end of 2009.*
- *Audit backlog continues to be a priority and is monitored closely.*
- *No audit deadlines have been missed.*

The original recommended structure within the Royalties Division was based on an estimate of 90 days to complete an audit (per year, per company, per audit). The 3 year audit plan was based on 90 day assignments for each audit assuming the full complement of auditors were assigned 100% to audit work.

Experience has demonstrated that 90 days is not sufficient for most audits. This requirement will likely continue to escalate in the future especially as audit work becomes increasingly complex with inter relationships and satellite projects, and linkages to dispute resolution processes. Further, auditors do not work 100% on audit work as they are also integral to negotiation and dispute support.

Though the professional services budget was increased in 2008-09 by \$500,000 for the years ending 09, 10, and 11, the 09 funds were not fully expended on audit work due to staff vacancies and senior resources being deployed to Hebron. It is anticipated that the full amount allocated to audit for the 2009-10 will be disbursed.

DNR had also commenced re-assessment of the approved organizational structure based on recent experiences, accounting for the additional project requirements and dispute support.”

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to reduce the number of audits not started and not completed, and reduce the time between the year being audited and the year the audit report is issued.

Recommendation No. 2

The Department should ensure the project operator provides access to all information requested during audits.

**Entity’s
response from
previous report**

The Department indicated in its response to our 2008 Report that it has continued to conduct audits without access to internal reports and meeting minutes, and if in the future it determines this type of information was necessary it could pursue all available resources to access this information.

**Entity’s
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The Department always ensures it has the necessary information to gain audit assurance. Where information is not satisfactorily provided or obtained to determine cost eligibility and authenticity then costs are disallowed. The Department will continue to pursue all avenues to ensure that audits are conducted efficiently and appropriately.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been partially implemented. However, we will not follow-up on this recommendation as the Department considers that it obtains the necessary information to gain audit assurance and no longer requests the Hibernia project operator provide access to any Internal Audit Reports and Plans, and the minutes of Hibernia Executive Committee meetings. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 3

The Department should resolve outstanding Hibernia transportation issues.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that the Province and Hibernia Owners have been working through the legal process and were in active discussions with the objective of resolving the transportation issues within the legal processes, timeframes and processes established under the Hibernia Royalty Agreement.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"With the completion of the Hibernia Southern Extension Agreement announced February 16, 2010, the Province also reached an agreement for retroactive and future application to resolve the Hibernia transportation issues."*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The Department should ensure estimated, eligible and actual transportation costs for Terra Nova and White Rose are determined and reported in accordance with the Royalty Regulations, 2003.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that a “placeholder” for transportation rules was inserted in the *Royalty Regulations 2003* with the intent that the Province would implement a transportation solution and retroactively apply it to the Terra Nova and White Rose Projects when there was a solution in the dispute between the Province and Hibernia over transportation cost eligibility. The Province continued to monitor the issues and could impose a transportation solution at any time requiring them to re-file transportation costs previously claimed and pay royalties on the basis of the revised costs.

The Department acknowledges that the cost estimates provided by the White Rose Owners at the beginning of each year were not approved by the Minister and the Department would ensure that all estimates are approved in the future.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The Terra Nova project is regulated under the Royalty Regulations, 2003 and the Province has the authority to regulate transportation rules at any time. Since the transportation assets are shared between Hibernia and Terra Nova projects, treatment of costs in one project can have implications for the other project. With the resolution of Hibernia transportation in the recent conclusion of negotiations for the Hibernia South Extension, the assessment of Terra Nova transportation rules can now take place. Meanwhile, the \$2 placeholder [per barrel] protects the Provinces interests for the calculation and remission of royalty.”*

White Rose is also a regulated project under the Royalty Regulations, 2003. However, it does not share the same transportation infrastructure as Hibernia and Terra Nova and will require separate consideration. With respect to the provision for the cost estimates used for White Rose owners transportation costs to be approved by the Minister, the 2010 approval was completed and communicated to White Rose owners. It is the intent of the Department to review annually as required.”

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to finalize the assessment of Terra Nova's transportation rules.

Recommendation No. 5

The Department should comply with the Royalty Regulations, 2003.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that under the recent departmental restructuring, Government provided an additional position to facilitate compliance with legislation requiring the assessment of annual reconciliations with 60 days.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"We are pleased to confirm that as of January 2010, the Notice of Assessments have all been issued and are current to the 2008 year. The 2009 annual filings will be received in April and it is our intent to have them issued within the required timeframe in the future.*

The position description for the additional approved position has been submitted for classification and the process is nearing completion. The Department has an approved salary budget allocation and the intent is to proceed with recruitment as soon as classification is finalized."

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The Department should ensure consultant payments are in accordance with Cabinet directives and established contracts.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that this issue was unique to a particular contract and it had informed a consultant of an overpayment for audit services and has arranged for recovery of this full amount.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *"The overpayment was reversed through a credit on a future billing in December 31, 2008."*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The Department should update its audit manual.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it was in the process of reviewing its audit manual and audit programs to ensure both were still reflective of current policy and standards.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The Department is continuously revising its audit plans and testing procedures to reflect past findings and evolving audit practices in particular reference to the petroleum industry. The Department is currently in the process of assessing future needs based on past audit experiences, emerging issues and recently signed agreements to ensure the Division is well positioned to meet its audit mandate. The results of this assessment will be integrated into a revised Audit Manual and development of testing procedures for each project."*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to complete the assessment and update of the Audit Manual.

Recommendation No. 8

The Department should document its procedures for conducting desk reviews.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it would continue to review its desk review processes and procedures.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *"The Department is always revisiting processes and procedures to address considerations that arise related to the desk audits. For example, issues related to new projects or entry into new royalty tiers necessitates the development of additional processes by the Division. The Division is committed to developing and maintaining desk audit procedures that provide for the early detection of issues and trends in royalty calculation and payment."*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to fully document desk review procedures.

Oil Royalties
(2008 Annual Report, Part 2.15)

PART 2.32

DEPARTMENT OF NATURAL RESOURCES

SEIZED PROPERTY

(2008 ANNUAL REPORT, PART 2.16)

Seized Property (2008 Annual Report, Part 2.16)

Introduction Our 2008 Annual Report included a review of Seized Property at the Department of Natural Resources (the Department). We conducted our review to determine whether the Department has systems and procedures in place to record, store, monitor and dispose of seized property.

What we found As a result of our review, we reached the following overall conclusions:

- The Department could not provide information on the total number of pieces of seized property in its possession because it did not maintain either a centralized manual or computerized system to record seized property.
- Required documentation related to seizure of property was not always on file. The Department had not established a system that would provide a history of all seized property in inventory.
- There were no periodic audits, inspections or managerial review of seized property. As a result, there was no check as to whether seized property was being adequately protected, and policies and procedures were being followed.
- There was no segregation of duties over seized property in that the Conservation Officer who seized the property was also responsible for its safekeeping. As a result, missing or inappropriate use of property could go undetected.
- Seized property was not always adequately stored and protected from deterioration. As a result, property to be used as evidence could be compromised and the Department could be subject to liability if property deteriorates and had to be returned to owners.
- Individuals were not always advised at the time they were charged that a bond could be posted for the return of their seized property.
- The Department did not adequately document and promptly dispose of all forfeited property.
- There were inconsistencies in how the Department tracked wild game meat provided to charities to serve at fundraising events. In particular, the Department did not always track where all of the meat from a particular animal was sent. As a result, the Department would not be able to alert the appropriate charitable organization should information come to their attention that would bring into question the suitability of the meat for human consumption.

- Our follow-up** In February 2010, we contacted the Department requesting an update as to what progress had been made on the original seven recommendations resulting from our review. The recommendations are as follows:
- 1. The Department should establish standard procedures for recording and documenting the control of all seized property.*
 - 2. The Department should ensure documentation is completed as required.*
 - 3. The Department should ensure seized property is preserved and protected.*
 - 4. The Department should require Conservation Officers to advise individuals that bonds may be posted instead of retaining seized property that is not required for evidence in court action.*
 - 5. The Department should establish procedures for conducting periodic unannounced inspections of seized property by someone who is not routinely or directly connected with the control of the property.*
 - 6. The Department should require that someone other than the Conservation Officer making the seizure be responsible for storing the seized property.*
 - 7. The Department should ensure the disposal of seized property is documented.*
-

- Information we requested** The Department was asked to advise whether all recommendations had been:
1. fully implemented;
 2. not implemented; or
 3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Natural Resources has made progress in addressing the recommendations from our 2008 Annual Report, two of the original seven recommendations had only been partially implemented and two had not been implemented.

We agree with the Department's position that the recommendation numbers 2 and 7 have been partially implemented and recommendation numbers 1 and 5 have not been implemented, therefore, we will follow-up on these recommendations again next year.

To fully implement the recommendations, the Department will need to implement:

- a computerized occurrence system; and
- an audit system in each region.

We disagree with the Department's position that the recommendation numbers 3 and 6 should not be implemented because the Department maintains it is too costly to implement the recommendations. However, our opinion is that property should be protected if it is to be used as evidence and/or to be returned to owners. Therefore, given the Department's position on these recommendations, further follow-up will be of no further benefit.

We agree with the Department's position that the recommendation number 4 has been fully implemented and, therefore, no further follow-up is required on this recommendation.

Recommendation No. 1

The Department should establish standard procedures for recording and documenting the control of all seized property.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it was in the process of acquiring and implementing a computerized occurrence system (NEMESIS) and was planning implementation for later in 2009. This system would provide enhanced capability to record occurrences and violations, keep a detailed digital inventory and history of seizures, and an integrated audit process.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that *“NR was anticipating getting approval from Environment Canada, Enforcement Division, to implement NEMESIS, however, we were informed on September 10, 2009 that we would not be provided access to this occurrence system. NR is currently researching Nova Scotia's occurrence system and they are willing to provide this system to NL. Formal discussions are scheduled in March.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to implement a computerized occurrence system.

Recommendation No. 2

The Department should ensure documentation is completed as required.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it was in the process of acquiring and implementing a computerized occurrence system (NEMESIS) that would provide enhanced capability to record occurrences and violations, keep a detailed digital inventory and history of seizures, and an integrated audit process.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“NR was anticipating getting approval from Environment Canada, Enforcement Division, to implement NEMESIS, however, we were informed on September 10, 2009 that we would not be provided access to this occurrence system. NR is currently researching Nova Scotia's occurrence system and they are willing to provide this system to NL. Formal discussions are scheduled in March. Conservation Officers have been reminded to document seized property.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to implement a computerized occurrence system.

Recommendation No. 3

The Department should ensure seized property is preserved and protected.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it would take the recommendations regarding the storage of seized property into consideration in the future.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation has not been implemented.

Furthermore, it indicated that *"The decentralized structure of NR would make this cost prohibitive. There are 39 regional, district and satellite offices throughout the province and NR maintains a system of compounds at each of the District and Regional offices. Building and staffing additional structures at each of these locations would be very expensive. Seized items such as rifles, meat and knives are stored in lockers and freezers."*

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation should not be implemented because the Department maintains it is too costly to implement the recommendation. However, our opinion is that property needs to be protected if it is to be used as evidence and/or to be returned to owners. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 4

The Department should require Conservation Officers to advise individuals that bonds may be posted instead of retaining seized property that is not required for evidence in court action.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it would reinforce to Conservation Officers that they were required to advise individuals at the time they were charged that a bond may be posted for the return of their seized property.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“Any property that is not required as evidence in court will not be seized. Property that is required as evidence for court purposes will be seized and entered in court as evidence.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 5

The Department should establish procedures for conducting periodic unannounced inspections of seized property by someone who is not routinely or directly connected with the control of the property.

**Entity's
response from
previous report**

The Department's response did not specifically address this recommendation.

**Seized Property
(2008 Annual Report, Part 2.16)**

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that *"The department agrees with this recommendation and will implement an audit system that will be coordinated in each of the three regions, by the respective Regional Compliance Managers."*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has not been implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to implement an audit system in each region.

Recommendation No. 6

The Department should require that someone other than the Conservation Officer making the seizure be responsible for storing the seized property.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that it believes that the officer who seizes the property is the appropriate individual to retain control of that property until the matter goes to court to allow testimony that the evidence has not been tampered with. However, it would take note of the concerns and give this approach further consideration.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had not been implemented.

Furthermore, it indicated that *"The department gave full consideration to the recommendation and decided that it would not be feasible given our decentralized structure. This is a police model and not well suited to this structure. There are 39 regional, district and satellite offices throughout the province and NR maintains a system of compounds at each of the District and Regional offices. Building and staffing additional structures at each of these locations would be very expensive. Seized items such as rifles, meat and knives are stored in lockers and freezers."*

**Our
conclusion**

Follow-up Not Required

We disagree with the Department's position that this recommendation should not be implemented because the Department maintains it is too costly to implement the recommendation. However, our opinion is that property needs to be protected if it is to be used as evidence and/or to be returned to owners. Therefore, given the Department's position on this recommendation, further follow-up will be of no further benefit.

Recommendation No. 7

The Department should ensure the disposal of seized property is documented.

**Entity's
response from
previous report**

The Department indicated in its response to our 2008 Report that the issues regarding the return and disposal of seized property by the Conservation Officers were being addressed. The implementation of the NEMESIS system would also track the disposal of seized property. Conservation Officers were engaged in training that included these issues and the Department would ensure that specific attention is focused on proper procedures for seizure, disposal and return of exhibits that were not required for court purposes.

The Department's practice of distributing wild game meat to charitable organizations and fund raising events was under review given increased concerns over food quality and safety and the Department would incorporate the recommendations in the decision making.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that "NR was anticipating getting approval from Environment Canada, Enforcement Division, to implement NEMESIS, however, we were informed on September 10, 2009 that we would not be provided access to this occurrence system. NR is currently researching Nova Scotia's occurrence system and they are willing to provide this system to NL. Formal discussions are scheduled in March. Conservation Officers have been reminded to properly document seized property.

The practice of distributing wild game to charitable organizations and fund raising events has been discontinued. The Department of Environment and Conservation, Wildlife Division, has started the practice of issuing additional moose licenses to address this situation."

**Seized Property
(2008 Annual Report, Part 2.16)**

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to implement a computerized occurrence system.

Seized Property
(2008 Annual Report, Part 2.16)

PART 2.33

**DEPARTMENT OF NATURAL RESOURCES
INSPECTION AND LICENSING OF SLAUGHTER FACILITIES
(2008 ANNUAL REPORT, PART 2.17)**

Introduction Our 2008 Annual Report included a review of Inspection and Licensing of Slaughter Facilities at the Department of Natural Resources (the Department). We conducted our review to determine whether the Department and the Government Services Centre (GSC) are complying with slaughter facility inspection and licensing requirements of the *Meat Inspection Act*, the *Meat Inspection Regulations* and Departmental policy.

What we found As a result of our review, we reached the following overall conclusions:

During the year ended 31 December 2007, there were 23 licensed slaughter facilities in the Province. The Department of Natural Resources (Department), through the Animal Health Division, is responsible for the meat inspection program. This program involves mandatory licensing of slaughter facilities and the non-mandatory inspection of an animal prior to slaughter, and the slaughter process of that animal. The legislative requirements of the program are outlined in the *Meat Inspection Act* and the *Meat Inspection Regulations*.

Our review indicated that the Department is not in full compliance with the *Act* and *Regulations*. In particular, slaughter facilities were operating without a valid licence, and licences were being issued to slaughter facilities even though the facilities had deficiencies. We also identified issues with follow-up inspections and inspection documentation. Our conclusions are based on the following:

- There were 19 slaughter facilities that operated for a period of time in 2007 without a valid licence. Of these 19, 12 facilities had six month temporary licences as a result of deficiencies identified in the previous inspection. Of these 12, 9 operated for a period of six months or more following the expiry of the previous licence.
- In 2007, the Department issued licences to 6 slaughter facilities even though deficiencies were noted during the inspection process. Deficiencies would include, for example, hand washing not available on the kill floor, immediate cooling of meat not available and facility cleaning not being performed with the appropriate chemicals. These deficiencies were deemed to be non-critical to immediate food safety; however, they are important and are expected to be corrected. One facility with six deficiencies identified in 2006, received a licence in 2007 even though three of the six deficiencies remained. Another facility with six deficiencies identified in 2006, received a licence in 2007 even though two of the six deficiencies remained.

Inspection and Licensing of Slaughter Facilities (2008 Annual Report, Part 2.17)

- The required annual slaughter facility inspections were not always completed on a timely basis. At October 2008, 9 of the 20 licensed slaughter facilities had not been inspected in over a year.
- Follow-up inspections at slaughter facilities where deficiencies were identified were not documented. As a result, the Department could not demonstrate that the required corrective action was undertaken either within a reasonable period of time or within the time frame specified by the Department.
- The Department has not entered into a Memorandum of Understanding with the Department of Government Services to clearly define the roles and responsibilities of both Departments relating to slaughter facility inspection services.
- Inspection forms did not address all areas required under the *Regulations* and forms were not consistently completed by inspectors. In addition, the Department's policy manual did not adequately address all of the requirements of the *Act* and *Regulations*.

Our follow-up

In February 2010, we contacted the Department of Natural Resources requesting an update as to what progress had been made on the original nine recommendations resulting from our review. The recommendations are as follows:

1. *The Department should work together with the GSC to create an MOU to clarify their roles and responsibilities under the meat inspection program.*
2. *The Department should ensure that risk assessment analysis documents are always updated to reflect the current assessment of a facility.*
3. *The Department should create a follow-up visit policy to ensure corrective action on deficiencies noted during inspections. These follow-up visits and discussions with facility operators should be documented.*
4. *The Department should ensure that the annual inspection process continues as intended even though licences no longer expire.*
5. *The Department should ensure that inspections are completed on a timely basis.*

Inspection and Licensing of Slaughter Facilities (2008 Annual Report, Part 2.17)

6. *The Department should ensure that inspection forms are completed clearly and consistently.*
7. *The Department should ensure that the new inspection form is designed to ensure that items are not missed during the inspection process.*
8. *The Department should ensure that inspection forms and the inspector policy manual are updated to ensure that all appropriate items within the Act and Regulations are adequately addressed.*
9. *The Department should ensure that inspectors who perform slaughter facility inspections are issued a certificate of appointment by the Minister as required by the Act before conducting inspections.*

Information we requested

The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Natural Resources has made progress in addressing the recommendations from our 2008 Annual Report, one of the original nine recommendations had only been partially implemented.

We agree with the Department's position that recommendation number 8 has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to finalize the inspection forms and the inspector policy manual to ensure that all appropriate items within the *Act* and *Regulations* are adequately addressed.

We agree with the Department's position that the recommendation numbers 1, 2, 3, 4, 5, 6, 7, and 9 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department should work together with the GSC to create an MOU to clarify their roles and responsibilities under the meat inspection program.

**Entity's
response from
previous report**

The Department indicated in response to the report that:

- The MOU is currently in final draft form and being reviewed by the departments. It is expected to be signed before the end of the fiscal year (March 2009).
 - The absence of an MOU does not mean that people are not clear on their primary responsibilities, nor did it preclude the implementation of a proposed meat surveillance program. This surveillance program requires further analysis, including the capacity and workload issues with respect to the resources available within the Department of Government Services. Even with the signing of the MOU, this analysis will have to be done and resource issues resolved.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"An MOU between NR, GS and E&C is completed".

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Department should ensure that risk analysis documents are always updated to reflect the current assessment of a facility.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

Deficiencies fall into critical and non-critical categories. If, in the opinion of those employees trained and legally responsible for making these decisions (Inspectors, Food Safety Specialist, Chief Veterinary Officer), there is a food safety risk that is not being managed appropriately and which poses a risk to public safety (i.e. a critical risk) then the license will either be suspended or revoked until such time as that risk is removed. If a risk is deemed to be non-critical, staff will work with the operator on removing the risk as appropriate but the license will not necessarily be removed or suspended.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"All risk analyses are up to date".

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

The Department should create a follow-up visit policy to ensure corrective action on deficiencies noted during inspections. These follow-up visits and discussions with facility operators should be documented.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

We agree to having fixed dates for compliance with critical deficiencies but will not revoke licenses for facilities that have non-critical deficiencies.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“A follow-up section has been added to the policies for this program. This policy was explained to staff at an inspectors' meeting. It will also be discussed as appropriate at quarterly management meetings”.

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 4

The Department should ensure that the annual inspection process continues as intended even though licenses no longer expire.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

We understand the value of having fixed dates by which time a facility must be inspected however we do not agree with the recommendation to having licenses expire on these fixed dates. Target dates for inspections are part of the program and all approaching inspection dates are monitored on a monthly basis. If an annual inspection is not completed by a fixed date, which might be due to any number of reasons (e.g. adverse weather, staffing issues, inability to contact an operator because they are out of province or only operate the facility seasonally), this does not mean that there is an issue with the facility. Compliance is primarily related to any identified food safety risks in the facility and the ability of the operator to manage those risks on an on-going basis.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“All inspections are currently up to date. Though we do not require a fixed date by which time inspections must be done we do monitor to assure that they are close to being annual”.

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 5

The Department should ensure that inspections are completed on a timely basis.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

It is also acknowledged that there had been insufficient documentation on follow up visits for facilities which had been issued either full or temporary licenses in 2006. We feel comfortable at this point, however, that inspections are generally up to date and that any food safety risks existent at the time have been resolved.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“This is part of the monitoring process to assure that facilities in need of re-inspection are highlighted in advance. All inspections are currently up to date. Monthly reports are provided to GS managers to ensure that inspection requirements are kept current”.

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 6

The Department should ensure that inspection forms are completed clearly and consistently.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

It is acknowledged that documentation and the format of inspection forms has been evolving due to the need to balance having a tool that is practical for field purposes and at the same time ensuring regulatory compliance. In general, the system was established for the needs of the program but not necessarily those of an auditor. In practice, if there is ever a question on the completion of an inspection form, the inspector is contacted for a discussion to make sure that there is no ambiguity. We accept, however, that this may not create a well documented, auditable trail.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The form was completely redone and includes instructions on completion. Any that are submitted incomplete will result in calls to the inspectors to ensure that missing information is added".

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 7

The Department should ensure that the new inspection form is designed to ensure that items are not missed during the inspection process.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

It is acknowledged that documentation and the format of inspection forms has been evolving due to the need to balance having a tool that is practical for field purposes and at the same time ensuring regulatory compliance. In general, the system was established for the needs of the program but not necessarily those of an auditor. In practice, if there is ever a question on the completion of an inspection form, the inspector is contacted for a discussion to make sure that there is no ambiguity. We accept, however, that this may not create a well documented, auditable trail.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

"The form was completely redone and includes instructions on completion. Any that are submitted incomplete will result in calls to the inspectors to ensure that missing information is added".

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 8

The Department should ensure that inspection forms and the inspector policy manual are updated to ensure that all appropriate items within the Act and Regulations are adequately addressed.

**Entity's
response to
previous report**

The Department indicated in response to the report that:

- Every single regulation is not noted on the inspection form since sometimes one section of the Regulations covers the same issue as another but in a different manner.
- The forms and documentation requirements will be reviewed in consultation with the Department of Government Services to ensure the proper documentation of inspections. Revisions can be implemented early in the 2009-10 fiscal year. The policy manual will also be amended to address all sections of the Regulations.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that:

“Inspection forms and the inspector policy manual are updated and have been sent to GSC for comment. This includes summaries and explanations with each. It is expected that comments will be discussed and documents finalized at the next quarterly meeting in May, 2010”.

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to finalize the inspection forms and the inspector policy manual to ensure that all appropriate items within the *Act* and *Regulations* are adequately addressed.

Recommendation No. 9

The Department should ensure that inspectors who perform slaughter facility inspections are issued a certificate appointment by the Minister as required by the Act before conducting inspections.

**Inspection and Licensing of Slaughter Facilities
(2008 Annual Report, Part 2.17)**

**Entity's
response to
previous report**

The Department indicated in response to the report that:

We acknowledge that one new inspector had not been properly appointed by ministerial letter. This was an administrative oversight and that letter of appointment was issued on December 3, 2008. It is important to note that, notwithstanding the letter of appointment; the inspector was a fully certified health inspector and properly trained and qualified to carry out these inspections. The process for identifying and appointing new inspectors will be addressed through discussion with Government Services.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that:

“Inspectors are now appointed as a class (i.e. job title such as Environmental Health Officer, Environmental Health Technician, Agricultural Inspector) rather than as individuals so there is no lapse upon the hiring of a new employee.”

**Our
conclusion**

Follow-Up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

**Inspection and Licensing of Slaughter Facilities
(2008 Annual Report, Part 2.17)**

PART 2.34

DEPARTMENT OF TOURISM, CULTURE AND RECREATION

RECREATION GRANTS

(2006 ANNUAL REPORT, PART 2.15; UPDATE: 2009, PART 2.28)

Recreation Grants (2006 Annual Report, Part 2.15; Update: 2009, Part 2.28)

Introduction Our 2006 Annual Report included a review of Recreation Grants at the Department of Tourism, Culture and Recreation (the Department). We conducted our review to determine: whether the Department adequately and consistently evaluates grant applications; awards grants in accordance with program guidelines; and monitors the effectiveness of the programs.

What we found As a result of our review, we reached the following overall conclusions:

We had concerns with the consistent evaluation of applications for recreation grants. Specifically, quantifiable evaluation criteria for the assessment of all grant applications did not exist, there were no formal applications or assessment criteria for certain program grants and grants were not always awarded in accordance with program guidelines.

In addition, the Department was not monitoring the effectiveness of the program in that it had not established specific targets for program objectives and it did not prepare an annual performance report on the activities and outcomes of the programs.

Our follow-up In our 2009 Update Report we concluded that one of the original four recommendations resulting from our review had not been fully implemented. In February 2010, we contacted the Department requesting an update as to what progress had been made on this recommendation. The recommendation is as follows:

1. *The Department should establish measurable targets for the recreation grant programs and report on activities in relation to these targets.*
-

Information we requested The Department was asked to advise whether this recommendation had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

**Overall
conclusion**

While the Department of Tourism, Culture and Recreation has made progress in addressing the recommendations from our 2006 Annual Report, one of the original four recommendations had only been partially implemented.

We agree with the Department's position that the recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department will need to:

- implement the draft process for monitoring achievement of intended outcomes; and
- report on the results of this monitoring.

Recommendation No. 1

The Department should establish measurable targets for the recreation grant programs and report on activities in relation to these targets.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- An evaluation framework exists and work was ongoing to evaluate various programs and work of the Recreation and Sport Division. Currently, a review of the operations and organization of the Recreation and Sport Division was underway and a review of the NL Winter/Summer Games was also underway.
- The Recreation and Sport Division would continue to undertake evaluations of the various elements of the strategy throughout 2009/10.
- The Department was continuing to develop appropriate evaluation mechanisms. It was in the process of determining what was to be evaluated: Client targets? Process targets? Financial?
- With the new application and guidelines being used for 2009/10, specific funding had been allocated to determine the best path forward for evaluation and to conduct evaluation of the program once criteria were set.
- The Evaluation Framework for the Recreation and Sport Strategy would also aid in establishing this specific piece of evaluation.

Recreation Grants (2006 Annual Report, Part 2.15; Update: 2009, Part 2.28)

- Targets would be developed and evaluation be conducted as part of the new application process and program.
- Priorities were established through the Department's Strategic Plan, and reports on their implementation through the Department's annual report with targets and activities that are measurable.
- The Recreation and Sport Division was developing measures and targets at the program level for the revised program and application. Consultation with the municipalities that receive this funding and Recreation NL was an integral part of this process.

Entity's response to current request

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“Targets/outcomes and a process to monitor achievement of intended outcomes process has been drafted. TCR will implement once confirmation is obtained by Department executive. Program outcomes and the process for monitoring these outcomes will be incorporated into the 2010/11 grant program and application.”*

The recreation grants are provided to communities/municipalities that have fewer than 6,000 people. It is application based and all eligible communities/municipalities receive a grant. A point system is used to determine the amount of funding available to a community and funding ranges from a low of \$1,000 to a high of \$4,800. Criteria is applied to all applicants.

The proposed monitoring mechanism is to have communities/municipalities complete an evaluation form that results in communities/municipalities reporting back on the level of implementation of activities, the initiatives undertaken, and the programs and supports that are identified in the application. Communities will not be eligible for the following year's funding unless the monitoring/evaluation form for the current year is received by TCR officials.

TCR is sensitive to the fact that many of these communities/municipalities have small populations, provide recreation through the hard work of volunteers and that grants are very small to many of the communities/municipalities. The monitoring process should provide the information required to inform program design and the level of success.

The proposed evaluation criteria will include:

- *A list of activities that were undertaken this year to support recreation in the community;*
- *The number of people engaged in each activity/initiative;*
- *Monies used to support each activity;*
- *Specific initiatives that targeted seniors;*
- *Specific measures undertaken to support persons with disabilities;*
- *Specific measures undertaken to support women and girls; and*
- *Specific measures undertaken to support children and youth.”*

**Our
conclusion**

Follow-up Required

We agree with the Department’s position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to implement the draft process for monitoring achievement of intended outcomes and report on the results of this monitoring.

PART 2.35

DEPARTMENT OF TRANSPORTATION AND WORKS

EQUIPMENT MAINTENANCE

(2007 ANNUAL REPORT, PART 2.18; UPDATE: 2009, PART 2.29)

Introduction Our 2007 Annual Report included a review of Equipment Maintenance at the Department of Transportation and Works (the Department). We conducted our review to:

- determine the age and composition of the heavy equipment fleet;
- determine whether the Department had an overall strategy for replacement of heavy equipment;
- assess compliance with the *Public Tender Act*; and
- assess the adequacy of management information systems in relation to monitoring and controlling the equipment maintenance program throughout the Province.

What we found As a result of our review, we reached the following overall conclusions:

Our review indicated that there were significant weaknesses in the Department's equipment maintenance program for heavy equipment.

- Despite recent increased investment in heavy equipment, primarily snowclearing equipment, much of the Department's heavy equipment fleet remained past the point where they could continue to operate economically. Although the Department had determined that repair costs become quite significant for heavy trucks 10 years old and greater and heavy equipment 20 years old and greater, our review indicated that:
 - Of the 322 heavy trucks, 109 or 34% were 10 years old and greater.
 - Of the 284 pieces of other heavy equipment 90 or 32% were 20 years old and greater.
- There was no overall replacement strategy in place for heavy equipment which would assist in optimizing acquisition decisions and in determining the appropriate level of required funding for the future operation of the heavy equipment fleet. Current replacement decisions were made largely on an annual budgetary basis by region without the benefit of an overall analysis and a comprehensive replacement strategy.

While the Department was expected to be allocated funding to 2010-11 to address most of the current replacement requirements, additional funds would be required to replace vehicles which were not currently past the age identified for replacement.

- The Department did not comply with the spirit of the *Public Tender Act* when it purchased 15 used loaders in June 2006. The terms and conditions of the tender were so specific that only the eventual supplier would have been in a position to be awarded the tender. In particular, the Department set a maximum required bid of \$2.5 million and reduced the quantity from 16 to 15 loaders to match the number of loaders available from the eventual supplier.
- Due to deficiencies in the Department's Equipment Management System (EMS), it was not possible to assess the costs associated directly with the heavy equipment fleet and whether recent investments in equipment had led to reductions in repair costs or down-time.

As a result of the issues of completeness and accuracy identified with the Department's EMS, the reliability and usefulness of information contained within the system was limited. The system was not operating as intended and as a result, management lacked the information required to effectively manage the Province's heavy equipment fleet.

Our follow-up

In our 2009 Update Report we concluded that three of the original four recommendations resulting from our review had been partially implemented and that one of the recommendations had not been implemented. Given the Department's position on the recommendation that had not been implemented, we concluded that further follow-up by our Office on that recommendation would be of no benefit.

In February 2010, we contacted the Department requesting an update as to what progress had been made on the three recommendations that had been partially implemented. The recommendations are as follows:

1. *The Department should continue to reduce the age of its heavy equipment fleet.*
 2. *The Department should develop a formal replacement strategy for its heavy equipment fleet.*
 3. *The Department should perform a review of the EMS and/or consider alternate systems with a view to addressing current system deficiencies.*
-

Information we requested The Department was asked to advise whether all recommendations had been:

1. fully implemented;
2. not implemented; or
3. partially implemented.

We requested details including an explanation outlining the current status, future action plan(s) and other relevant comments to demonstrate the level of implementation indicated.

Overall conclusion

While the Department of Transportation and Works has made progress in addressing the recommendations from our 2007 Annual Report, one of the original four recommendations had only been partially implemented.

We agree with the Department's position that recommendation number 3 has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement the recommendation, the Department will need to:

- address the remaining deficiencies identified in the EMS.
- ensure the required information is available for the proper management of the heavy equipment fleet.

We agree with the Department's position that recommendation numbers 1 and 2 have been fully implemented and, therefore, no further follow-up is required on these recommendations.

Recommendation No. 1

The Department should continue to reduce the age of its heavy equipment fleet.

Entity's response from previous report In 2009, the Department informed us that:

- The Department was continuing to work within its 5 year strategy by investing \$10 million per year in the acquisition of new units.
- In anticipation of the 2010-11 reassessment of the heavy equipment fleet, work was ongoing regarding establishing benchmarks such as average age of various classifications of heavy equipment.

Entity's response to current request In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“The Department is continuing to work within its 5 year strategy by investing \$10 million per year in the acquisition of new units. As well, benchmarks such as the average age of various classifications of heavy equipment have been established as part of a comprehensive replacement strategy.”*

Our conclusion

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 2

The Department should develop a formal replacement strategy for its heavy equipment fleet.

Entity's response from previous report In 2009, the Department informed us that:

- Work has started on creating a more comprehensive replacement strategy for the heavy equipment fleet.
- While not totally inclusive, this plan will factor in variables such as age, condition and need.

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been fully implemented.

Furthermore, it indicated that *“The replacement strategy has been completed for the heavy equipment fleet. A proposal for funding for this new strategy of 12 years for trucks and 20 years for heavy equipment has been developed.”*

**Our
conclusion**

Follow-up Not Required

We agree with the Department's position that this recommendation has been fully implemented and, therefore, no further follow-up is required.

Recommendation No. 3

The Department should perform a review of the EMS and/or consider alternate systems with a view to addressing current system deficiencies.

**Entity's
response from
previous report**

In 2009, the Department informed us that:

- It was working on the existing EMS system to ensure it will provide the required information for the proper management of the light and heavy equipment fleets.
 - The changes being worked on included those related to the reporting capacity of the system.
-

**Entity's
response to
current request**

In 2010, the Department informed us that the recommendation had been partially implemented.

Furthermore, it indicated that *“The Department is currently working on the existing EMS system to ensure that the correct information is captured, recorded and is available to staff. This will allow correct decisions to be made regarding replacement of equipment. Currently, the majority of the reporting functions have been restored and the majority of information related to the equipment usage is being recorded.”*

**Our
conclusion**

Follow-up Required

We agree with the Department's position that this recommendation has been partially implemented and, therefore, we will follow-up on this recommendation again next year. To fully implement this recommendation, the Department will need to:

- address the remaining deficiencies identified in the EMS; and
- ensure the required information is available for the proper management of the heavy equipment fleet.