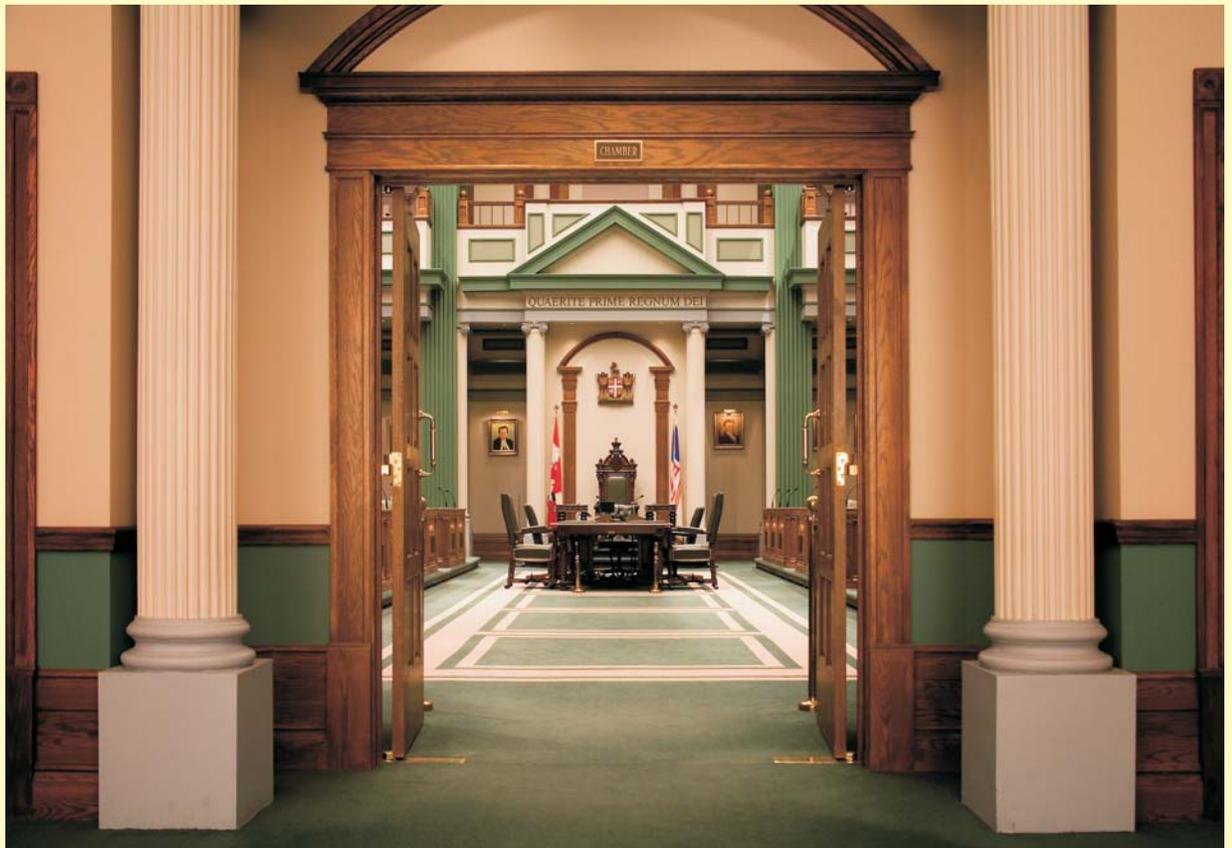




REPORT OF THE AUDITOR GENERAL

To the House of Assembly



On Reviews of Departments and Crown Agencies

For the Year Ended
31 March 2011

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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25 January 2012

The Honourable Ross Wiseman, 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 Reviews of Departments and Crown Agencies for the year ended 31 March 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'W. Loveys', written over a light blue horizontal line.

WAYNE R. LOVEYS, CMA
Auditor General (A)

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**CHAPTER
1
REFLECTIONS OF 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 the 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.

This Report provides findings and recommendations resulting from our reviews for the year ended 31 March 2011. The Report covers a variety of matters and is provided to the Members of the House of Assembly for their consideration.

Under the *Auditor General Act*, the Auditor General is required to report at least annually to the House of Assembly on the results of work performed during the year. This work includes reviews of Government departments and Crown agencies, and the audit of the Province's financial statements.

Chapter 2 of this Report first provides commentary relating to two instances where we were refused access to information required to conduct our work. These two instances related to the Office's attempt to review information maintained at the departments of Health and Community Services, and Justice in relation to the Province's infrastructure strategy and our attempt to review the Canada-Newfoundland and Labrador Offshore Petroleum Board. Chapter 2 then provides findings and recommendations resulting from our reviews of Government departments and Crown agencies for the year ended 31 March 2011. There are twelve items covering a variety of matters, with each item starting with an Executive Summary. The Executive Summary is intended to make it easier for readers to quickly identify what was reviewed, the work performed, and what was found. As in prior reports, in order to provide a balance to our findings and conclusions, the verbatim response from the auditee is included at the end of each item. The following is a listing of the twelve items. Readers are encouraged to go to each section of the Report to obtain further details.

Temporary Employees (section 2.3)

Western School District (section 2.4)

Industrial Compliance (section 2.5)

Royal Newfoundland Constabulary - Firearms (section 2.6)

Growing Forward Program (section 2.7)

Mineral Incentive Program (section 2.8)

Provincial Commodity Boards (section 2.9)

Provincial Lottery Licensing (section 2.10)

Workplace Health and Safety Inspections (section 2.11)

Marble Mountain Development Corporation (section 2.12)

Building Maintenance (section 2.13)

Trans Labrador Highway (section 2.14)

Chapter 3 of this Report provides comments relating to the audit of the Province's financial statements (commonly referred to as the Public Accounts) for the year ended 31 March 2011. The Chapter provides additional information on the financial condition of Government measured by using indicators issued by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants. The Public Accounts provide an important link in an essential chain of public accountability. They are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

Each year the 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). Monitoring commences approximately two years after a Report is published and continues until we are reasonably satisfied that recommendations have been adequately addressed or are no longer applicable. As was the case last year, details on progress by various Government departments and Crown agencies relating to past recommendations will be made available on the Office's website at www.ag.gov.nl.ca/ag/priorupdates.htm. Information resulting from our most recent review will be available by 29 February 2012.

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



WAYNE R. LOVEYS, CMA
Auditor General (A)

CHAPTER
2
COMMENTS ON AUDITS AND
ADDITIONAL EXAMINATIONS

PART 2.1

REFUSAL OF ACCESS TO REQUIRED INFORMATION

INFRASTRUCTURE STRATEGY

Commentary

In the 2004 Speech from the Throne, Government announced that it “...will develop a comprehensive infrastructure strategy to guide investments in public infrastructure in a manner that promotes growth.” The 2006 Speech from the Throne further elaborated that “Existing infrastructure, including roads and public buildings, has been eroding throughout Newfoundland and Labrador for decades. Addressing the wide assortment of costly needs responsibly over time requires expert information and careful fiscal balancing. For this reason, My Government initiated a comprehensive infrastructure strategy to evaluate the needs and identify ways and means of meeting them.”

Since 2004, Government has continued to reference its Infrastructure Strategy in Budget documents. In its Budget for the year ended 31 March 2007 Government indicated that its Infrastructure Strategy was valued at \$2 billion; while in its Budget for the year ended 31 March 2011 Government indicated that its Infrastructure Strategy was valued at \$5 billion.

The \$5 billion infrastructure investment includes spending directly undertaken by Government departments, as well as funding provided to Crown corporations and agencies, and municipalities, to undertake capital projects.

The Province’s infrastructure consists of physical capital assets instrumental in the provision of public services. It consists of such things as roads, bridges, ferries, aircraft, buildings, vehicles, major software programs and various other categories of tangible capital assets. Such assets are used to provide services to residents and visitors to the Province.

No Formal Infrastructure Strategy

When we commenced our review, we requested a copy of the “Infrastructure Strategy” that was being referred to in the Speech from the Throne and various Government media releases. We were told by the former Deputy Minister of Transportation and Works that there was no formal, documented infrastructure strategy. The former Deputy Minister was Chair of an Infrastructure Committee established by Government.

We did find that an Infrastructure Strategy working group had been struck to undertake a review the Province's infrastructure, and that one of the working group's primary objectives was to prepare a strategy to prioritize future infrastructure investments. While no formal, documented strategy was developed, the working group did prepare a draft report, dated November 2004, which indicated in part that:

- the Province's current approach to infrastructure asset management does not provide decision makers with an appreciation of the significance of the approval of a particular level of funding;
- responsibility for the planning, acquisition, and maintenance of infrastructure is not centralized but is spread out among numerous Government departments and Crown agencies;
- the planning processes used amongst the various departments and Crown agencies were not consistent;
- a planned and dedicated approach over the long term, with an increased, and multi-year funding commitment was necessary; and
- an appropriate asset management system should involve consideration of the asset value, life cycle costs, long term affordability, risk management and assessment, performance management, operational plans, and integration of technical and financial plans.

While the draft report would not constitute an infrastructure strategy, work undertaken for the report may have been useful in developing such a strategy. The draft report was never finalized; however, the working group did highlight the benefit of developing an overall integrated long term strategy for capital investment.

Refusal by Departments to Provide Access to Required Information

When we determined that there was no formal, documented Infrastructure Strategy, it was decided to determine what processes existed at the departmental level to identify, evaluate and rank potential infrastructure projects. To make this determination we contacted the five departments which had the largest budgeted expenditures related to infrastructure for the 2010-11 fiscal year, as outlined in information provided to us by officials of the Department of Transportation and Works. These five departments were: Transportation and Works; Health and Community Services; Education; Municipal Affairs; and Justice.

Officials from our Office met with officials from each of the five departments to obtain a preliminary understanding of the process each department used to identify, analyze and manage infrastructure needs. We also discussed the nature and scope of our review and the type of information that we would require from them.

While we did receive some preliminary information, it soon became apparent that we would not be receiving all the information required to complete our review. In particular, the Department of Health and Community Services, and the Department of Justice expressed significant concern with providing the requested information. We were informed by officials at the departments that the Department of Justice would be assessing our request on behalf of all departments we had contacted, to determine whether we should be provided with the information requested.

On 5 July 2011, the Deputy Minister of Health and Community Services informed us that: *“With respect to your inquiry regarding what documentation is available for repairs and renovations, capital equipment and major infrastructure projects, there would be various documentation available for each category as prepared during the annual budget process and which can vary from year to year depending on the Budget Guidelines provided by the Department of Finance, any direction from Cabinet and/or Treasury Board, and any other documentation that is necessary to support budget requests. As to your questions related to what was specifically provided to members of TB [Treasury Board] and/or Cabinet, it is the Department’s position that this entire body of information ultimately informs Cabinet deliberations and decision making as part of the budget process and, as I previously indicated to you, the disclosure of this information would reveal Cabinet confidences which is protected from disclosure under section 18 of the Access to Information and Protection of Privacy Act.”*

On 30 September 2011, the Deputy Minister of Justice informed us that *“...it is the Department’s position that all documentation either obtained or generated by Departmental officials, supporting assessments and rankings of proposed infrastructure projects whether forwarded to Budget Division/Cabinet Secretariat or not, ultimately informs Cabinet deliberations and decision making as part of the budget process. As a result, this information cannot be released under section 18 of the Access to Information Act and Protection of Privacy Act as it would reveal the substance of deliberations of Cabinet.”*

At this point it became clear that it was not worthwhile proceeding with any further requests to the departments.

My view is that I am entitled to unrestricted access to the information required to conduct my work. The requirement to provide my Office with unrestricted access comes from section 17 of the *Auditor General Act* which states that, “*Except as provided by another Act that expressly refers to this section, every department of government, every agency of the Crown and every Crown controlled corporation shall furnish the auditor general with information regarding its power, duties, activities, organization, financial transactions and methods of business as the auditor general requires, and the auditor general shall be given access to all books, accounts, financial records, reports, electronic data processing records, explanations, files and all other papers, things or property belonging to or in use by the department, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the auditor general under this Act.*”

Under section 19 of the *Auditor General Act*, there are only two types of information in the *Access to Information and Protection of Privacy Act* which a public body shall not provide access to the Auditor General – matters where the disclosure would reveal the substance of deliberations of Cabinet (defined as including a committee of Cabinet), or matters where disclosure could reasonably be expected to be harmful to law enforcement. In this case, the departments claimed that all of the information available related to our request was being restricted as it would reveal the substance of deliberations of Cabinet.

Section 18 of the *Access to Information and Protection of Privacy Act* states that: “*The head of a public body shall refuse to disclose to an applicant information that would reveal the substance of deliberations of Cabinet, including advice, recommendations, policy considerations or draft legislation or regulations submitted or prepared for submission to the Cabinet.*”

I interpret the “substance of deliberations of Cabinet” as referring to such things as: individual documents, or parts thereof, if the disclosure of information contained in the documents would likely permit my Office to draw accurate inferences about the substance of Cabinet deliberations; audio and / or video recordings of Cabinet meetings; notes made during the course of Cabinet meetings; and interviews with persons present at Cabinet meetings regarding the exact details of events and discussions that occurred during the meetings.

In my opinion, the departments’ interpretation of section 18 of the *Access to Information and Protection of Privacy Act* is a much broader interpretation of the *Act* than has been seen in recent memory. It is highly doubtful whether “... *all documentation either obtained or generated by Departmental officials, supporting assessments and rankings of proposed infrastructure projects*

whether forwarded to Budget Division/Cabinet Secretariat or not ...” would reveal the substance of deliberations of Cabinet.

The position taken by the departments is of significant concern, not only for this particular review, but for the precedent setting nature of the refusal. Furthermore, in my opinion the position is not in keeping with the purposes of the *Access to Information and Protection of Privacy Act*, as outlined in section 3(1), which states that: “...the purposes of this Act are to make public bodies more accountable to the public and to protect personal privacy....”.

Given that access to the information required to conduct my work was not provided, my recourse under section 12 of the *Auditor General Act* is to report the denial of access to the House of Assembly. Section 12 provides that “*The auditor general shall as he or she considers necessary but at least annually report to the House of Assembly on...(b) whether, in carrying out the work of the office, the auditor general received all the information including reports and explanations the auditor general required.*”

I further note that:

- The position taken on this request is inconsistent with previous decisions that Government has made. Since we have been provided with similar information for audits conducted in past years, it is surprising that we are now being advised that all of the information being requested is subject to restriction under section 18 of *Access to Information and Protection of Privacy Act*.
- The Province’s Information and Privacy Commissioner has issued reports related to other situations brought to that Office’s attention where section 18 of the *Access to Information and Protection of Privacy Act* was used as the basis for Government’s refusal to provide requested information. The Information and Privacy Commissioner has found that the exemption claimed by Government may not apply or may be too broad.

To determine whether information can be exempted under section 18 of the *Access to Information and Protection of Privacy Act*, the Province’s Information and Privacy Commissioner applies the following test, adopted from one set out by the Nova Scotia Court of Appeal in *O’Connor v. Nova Scotia*, 2001 NSCA 132:

“...Is it likely that the disclosure of the information would permit the reader to draw accurate inferences about Cabinet deliberations? If the question is answered in the affirmative, then the information is protected by the Cabinet confidentiality exemption ...”.

PART 2.2

REFUSAL OF ACCESS TO REQUIRED INFORMATION

**CANADA-NEWFOUNDLAND AND LABRADOR
OFFSHORE PETROLEUM BOARD**

Commentary

The Canada-Newfoundland and Labrador Offshore Petroleum Board (C-NLOPB) was created in 1985 to administer the relevant provisions of the Canada-Newfoundland Atlantic Accord Implementation Acts as enacted by the Parliament of Canada and the Legislature of Newfoundland and Labrador. The C-NLOPB is comprised of 7 members, 3 of whom are appointed by the Federal Government and 3 of whom are appointed by the Provincial Government. The Chairman is jointly appointed by both the Federal and Provincial Governments. The C-NLOPB is funded equally by both Governments. The Provincial contribution for the year ended 31 March 2011 was approximately \$7.7 million, and contributions since 1985 totalled approximately \$78.9 million.

On 21 January 2008, the former Auditor General notified the Chairman and Chief Executive Officer of the C-NLOPB that he was planning a review of the operations of the C-NLOPB. The review was to include all of the following four functional areas of the C-NLOPB - safety, environmental, resource management and industrial benefits.

In the four years since January 2008, several attempts were made by the former Auditor General (to 31 July 2011) and me (since 1 August 2011) to conduct the planned review. This has been a lengthy and often frustrating process, with varying responses by C-NLOPB officials to our attempts. The following are highlights of the actions taken and correspondence exchanged since 21 January 2008, relating to our attempts to conduct the intended review:

- On 30 January 2008, the former Auditor General was advised by the Chairman and Chief Executive Officer of the C-NLOPB that the intended review could not be conducted as the C-NLOPB was not a Crown agency for purposes of the *Auditor General Act*.
- On 8 February 2008, the former Auditor General replied to the Chairman and Chief Executive Officer that he rejected the position held by the C-NLOPB, indicating that in his view the C-NLOPB was within the jurisdiction of the *Auditor General Act*, and requested that the C-NLOPB reconsider its position and allow the review to proceed as intended.

- On 14 February 2008, the former Auditor General was advised by the Chairman and Chief Executive Officer that any audit should be conducted jointly by the Auditors General of the Province and the Government of Canada.
- On 26 February 2008, the former Auditor General issued a special report to the House of Assembly indicating that, as a result of the restricted access, he could not complete the planned review, and that regardless of whether a joint review could be arranged with the Auditor General of Canada, it still remained that the C-NLOPB had not provided the access required under the *Act*.
- At a meeting held on 10 June 2008, the Chairman and Chief Executive Officer indicated that we would be “invited” to conduct a review.
- On 19 January 2009, the Office commenced its review of the C-NLOPB; however, it soon became apparent that C-NLOPB officials would not be willing to provide access to the information required to complete the review.
- In March 2009, we requested assistance from the Department of Natural Resources in obtaining the required information; however, Department officials informed us that, on the advice of legal counsel, they would not be able to provide such assistance, and suggested we again attempt to obtain the information from the C-NLOPB.
- On 6 October 2009, we provided a list of required information to the C-NLOPB. C-NLOPB officials indicated that given the privileged nature of much of the information required, they would have to request and obtain consent from the offshore operators.
- On 15 December 2009, we were provided with copies of operator responses, wherein five of the six operators indicated they would not consent to providing access to the Auditor General.
- On 11 December 2009, we contacted officials at the Department of Natural Resources to advise of the operator responses and to ascertain whether the Department would provide any assistance regarding our request for information. However, the Department again confirmed that, based on legal advice, they would not provide the requested assistance.

- On 3 December 2010, the then Auditor General of Canada wrote the Chairman and Chief Executive Officer to advise that a joint audit with our Office was being planned, to be led by the Commissioner of the Environment and Sustainable Development. It was anticipated that the Commissioner would focus on environmental and emergency preparedness activities as well as governance, and that our Office would primarily focus on the other functional areas of the C-NLOPB.
- On 6 July 2011, the Chairman and Chief Executive Officer wrote the former Auditor General requesting confirmation that any privileged information provided would not be disclosed in any way in reports by the Auditor General.
- On 18 August 2011, I met with the Chairman and Chief Executive Officer to discuss our Office's past attempts to audit the C-NLOPB. At the meeting, I indicated that while I would be very cognizant of the confidential and privileged nature of the information, I could not provide absolute assurance that the information would not, under any circumstances, be used in a report.
- In September 2011, the Chairman and Chief Executive Officer wrote the operators indicating that the C-NLOPB was of the view that the audits proposed by the Auditors General of Canada and Newfoundland and Labrador were for the administration of the Atlantic Accord Implementation Acts and were in the public interest, and that access to the required information would be provided. However, it was also indicated that the C-NLOPB had interpreted undertakings from the Auditors General of Canada and Newfoundland and Labrador to mean that privileged information would not be disclosed in their respective reports.
- On 13 September 2011, I wrote the Chairman and Chief Executive Officer, again indicating that while I would be very cognizant of the confidential and privileged nature of the information, I could not provide absolute assurance that the information would not, under any circumstances, be used in a report.
- On 28 September 2011, I wrote the Chairman and Chief Executive Officer to confirm my intention to conduct a concurrent audit of the C-NLOPB with the Office of the Auditor General of Canada, to request confirmation of free and full access to the information contained in a list attached to the letter by 7 October 2011, and to request that the information listed be provided as soon as possible, but no later than 21 October 2011.

- On 30 September 2011, the Chairman and Chief Executive Officer responded to my 28 September 2011 letter and indicated that the C-NLOPB may not be able to provide full access to privileged information. However, the Board indicated: *“We will request Operator’s consent to provide you with their privileged information, but we cannot ensure, in the absence of your assurance not to release this information, that they will agree to do so.”*
- On 24 October 2011, I wrote the Chairman and Chief Executive Officer indicating that *“As neither the requested confirmation of free and full access, nor the information contained in the listing, have been provided as of 21 October 2011, I consider this to be denial of access to the information required to conduct my audit work, and will prepare a report on this matter for submission to the House of Assembly.”*

As indicated above, and as reflected by these highlights of actions taken and correspondence exchanged since 21 January 2008, this has been a lengthy and often frustrating process.

I cannot accept the C-NLOPB’s condition that they will provide unrestricted access to what they deem to be privileged information, only if I agree not to report any findings related to that information. My concern with accepting such a condition is heightened, given the extent of information identified by the C-NLOPB in the past as being privileged, and the significance of that information to any potential findings identified in a review of the four main functional areas – safety, environmental, resource management and industrial benefits.

I have therefore decided not to proceed with the planned review. In my opinion, had I proceeded under the C-NLOPB’s condition, any attempt to report on findings in the safety or other functional areas would have been challenged by the C-NLOPB on the grounds that the findings were somehow supported by privileged information.

The inability to complete the planned review is regrettable, as the C-NLOPB will not be held accountable in the same manner as other entities within the jurisdiction of the *Auditor General Act* operating in the Province, i.e. through an audit by the Provincial Auditor General.

With respect to the issue of access to privileged information, the C-NLOPB advised that it had obtained legal opinions indicating that access to privileged information could not be provided to my Office. I do note however, that when the C-NLOPB was under the assumption that I would not report anything considered to be privileged, the Chairman and Chief Executive

Officer had indicated, in a letter to the operators in September 2011, that the audits proposed by the Auditors General of Canada and Newfoundland and Labrador were for the administration of the Accord Acts and were in the public interest, and that access to the required information would be provided. The reference to the administration of the Accord Acts relates to the sections contained in both the Federal and Provincial Atlantic Accord legislation which provide that privileged information shall not be disclosed without the written consent of the person who provided it “except for” the purposes of the administration or enforcement of that *Act*. After I clarified the Office’s position on reporting, the C-NLOPB again denied access to the required information.

My view is that I am entitled to unrestricted access to the information required to conduct a review of the C-NLOPB. The requirement to provide my Office with unrestricted access comes from section 17 of the *Auditor General Act* which states that, “*Except as provided by another Act that expressly refers to this section, every department of government, every agency of the Crown and every Crown controlled corporation shall furnish the auditor general with information regarding its power, duties, activities, organization, financial transactions and methods of business as the auditor general requires, and the auditor general shall be given access to all books, accounts, financial records, reports, electronic data processing records, explanations, files and all other papers, things or property belonging to or in use by the department, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the auditor general under this Act.*”

I note that there are many types of information under the Province’s *Access to Information and Protection of Privacy Act* which public bodies may not or shall not disclose to various applicants, one of which is information the disclosure of which would be harmful to the interests of third parties, including information that is supplied, implicitly or explicitly, in confidence. However, under Section 19 of the *Auditor General Act*, there are only two types of information in the *Access to Information and Protection of Privacy Act* which a public body shall not provide access to the Auditor General - matters where disclosure would reveal the substance of deliberations of Cabinet, or matters where disclosure could reasonably be expected to be harmful to law enforcement.

Given that access to the information required to conduct the review of the C-NLOPB was not provided, my recourse under section 12 of the *Auditor General Act* is to report the denial of access to the House of Assembly. Section 12 provides that “*The auditor general shall as he or she considers necessary but at least annually report to the House of Assembly on...(b) whether, in carrying out the work of the office, the auditor general received all the information including reports and explanations the auditor general required;...*”

At the time this report item was prepared, the Commissioner of the Environment and Sustainable Development of the Office of the Auditor General of Canada was proceeding with an audit of the C-NLOPB.

PART 2.3

DEPARTMENT OF ADVANCED EDUCATION AND SKILLS

TEMPORARY EMPLOYEES

Executive Summary

The mission of the former Department of Human Resources, Labour and Employment (the Department) was to “...*enhance supports and services to individuals to increase their participation in the labour market and to employers to ensure they have the human resources required to compete and contribute to a prosperous future for the province.*” Prior to the restructuring of Government in late October 2011, the former Department had 796 employees. Of these, 602 were permanent employees and 194 were temporary. The total gross expenditure of the Department for the year ended 31 March 2011 was \$482.2 million, of which \$46.0 million was allocated to salaries.

Section 13 of the *Public Service Commission Act* (the *Act*) provides that “*Recommendations for appointments to and promotions within the public service shall be based on merit principles and made by the commission through competitive written examination or by other processes of personnel selection designated to establish the merit of candidates that the commission considers are in the best interests of the public service.*” Merit principles require that candidates be assessed with fairness and equity so that the job will be awarded to the candidate most suitable for the position. These principles are the primary means to avoid any form of bias or influence over such appointments and promotions.

The Public Service Commission (PSC) is responsible for the recruitment and selection process of positions that fall under their jurisdiction as per the *Act*. The departments are responsible for the initiation of temporary hires and assignments, which can be done without the application of a competitive process, as per the Personnel Administration Procedures Manual.

Under the General Service Collective Agreement between the Province and the Newfoundland and Labrador Association of Public and Private Employees, a permanent employee is defined as “...*a person who has completed his or her probationary period and is employed on a full-time basis to hold office without reference to any specified date of termination of service.*”, while a temporary employee is defined as “...*a person who is employed for a specific period for the purpose of performing certain specified work and who may be laid off at the end of such period or on completion of such work.*” A similar definition of temporary employee is outlined in the *Act*.

Temporary Employees

While the *Act* does not apply to temporary employment situations, the PSC does have a policy on the length of time a temporary employee that was hired without a competition can be employed before a competition must be held, and the length of time an existing employee can be temporarily assigned to another position, through temporary placement or promotion, before a competition must be held.

If departments do not assign an existing public service employee to a position, the permanent head of the department has the authority to hire an employee external to Government to fill a position on a temporary basis. In such cases, the employee can only be employed in a bargaining unit position for periods up to 13 weeks before a competition must be held, and for management and non-bargaining positions for periods not to exceed six months before a competition must be held. In cases where departments do assign an existing public service employee to a position, PSC policy provides the same periods as outlined for temporary employment, i.e. the employee can only be assigned to a bargaining unit position for periods up to 13 weeks before a competition must be held, and for management and non-bargaining positions for periods not to exceed six months before a competition must be held. In the case of management or non-bargaining positions, an extension can be authorized by the PSC.

Our review of temporary employees at the former Department of Human Resources, Labour and Employment during the period 31 March 2010 to 26 October 2011 indicated that the Department was not complying with PSC policy in that temporary hires and temporary assignments exceeded the maximum period without a competition being held.

Of the 62 temporary employee files reviewed, we found that:

- 42 were hired as a temporary employee (temporary hires), including 3 summer student positions and 3 contractual employees, i.e. without a job competition; and
- 20 were hired through a temporary appointment, i.e. with a job competition.

In 41 of the 42 files reviewed, where no job competition was held upon initial employment, the Department could not demonstrate on what basis individuals were initially selected for temporary employment or assignment, or whether the merit principles were followed. This brings into question whether the merit principles were being considered by the Department when temporarily employing or assigning individuals to positions within the Department, including whether the most suitable candidates were selected for the positions and whether there was any form of bias or influence over such employment or assignments.

Temporary Employees

Of the 42 temporary employee files reviewed, where no job competition was held upon initial employment, we found the following:

- For 32 (76.2%) of the 42 temporary employment files where the individual was initially hired in a bargaining unit position, the Department did not conduct a competition before the maximum 13 week period ended. All 32 received an extension by the Department, without a job competition, ranging from seven weeks to 11 years beyond the maximum 13 weeks. For example, an individual was hired by the Department in November 2000, was granted extensions to that position as well as to other temporary assignments, and had breaks in service totalling approximately three years over the course of their 11 years of employment. At the time of our review, this individual was still employed with the Department and had not yet participated in a job competition.

Of these 32, there were 17 instances where the same employee was temporarily assigned to another position within the Department (15 bargaining unit and 2 management or non-bargaining unit), and all these temporary assignments were extended by the Department beyond the 13 week or six month period, without a competition being held. The length of extensions ranged from approximately four months to five years for the 15 bargaining unit positions, and ranged from approximately six months to two years for the two management or non-bargaining unit positions. For example, one employee was hired with the Department in January 2009, and was temporarily assigned five times to bargaining unit positions before being successful in a job competition in January 2011.

- For 3 (7.1%) of the 42 temporary employment files, the individual was initially employed as a contractual employee. For two of the three individuals, they were later assigned to a temporary position, and the Department did not conduct a competition before the maximum 13 week or six month period ended. Both were extended by the Department, without competition, for an additional 12 month period beyond the initial assignment.
- For 7 (16.7%) of the 42 temporary employment files, there were no issues with the temporary hire or assignment terms.

Temporary Employees

As indicated by PSC officials, the PSC monitors bi-weekly payroll reports to assess compliance with its staffing policies. In cases where prescribed deadlines for temporary hires or temporary assignments are approaching, the PSC notifies departments of the approaching deadlines (either 13 weeks or six months, depending on the nature of the position) through the Strategic Human Resource Management Division, indicating that the positions should be addressed in a timely manner, i.e. to advertise the position.

While our current review was limited to the former Department of Human Resources, Labour and Employment, officials at the PSC indicated that, based on the results of their monitoring activities, and on complaints received, this issue is prevalent in other departments as well, i.e. situations where individuals are temporarily employed or assigned within the public service without a job competition being held within the specified time periods. For example, one temporary employee file that was reviewed showed that an employee was working with Government for 21 years before they were appointed to a position through a job competition. Only a portion of the 21 years was spent working with the Department, the majority of it, approximately 20 years, occurred when the employee was employed with another department.

Background

Introduction

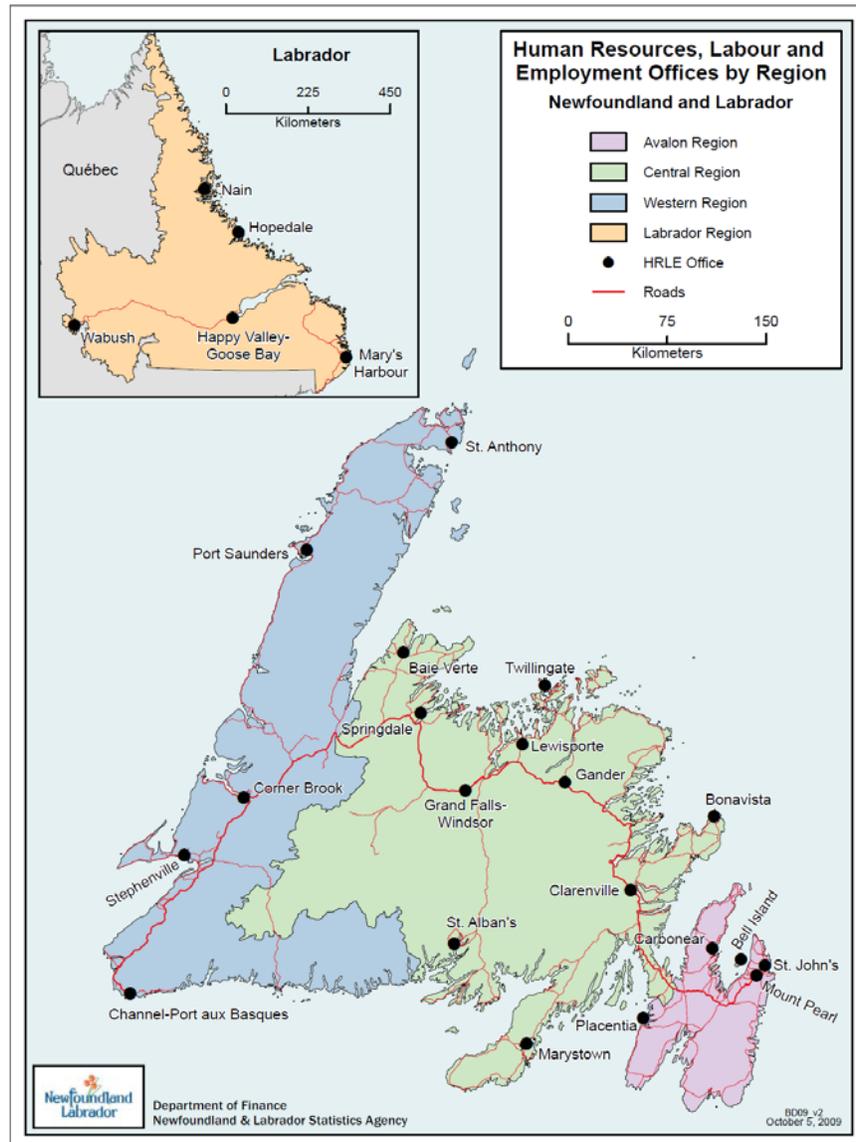
The Department of Advanced Education and Skills was created on 28 October 2011. Its purpose is to “... *focus on supplying highly educated graduates and skilled workers for a fast-growing economy. This department incorporates most of the old Department of Human Resources, Labour and Employment, and the Advanced Studies component of the Department of Education. The new department also houses the new Workforce Development Secretariat.*”

Prior to the restructuring of Government in late October 2011, the former Department of Human Resources, Labour and Employment (the Department) had 796 employees. Of these, 602 were permanent employees and 194 were temporary (including 47 contractual employees, 19 committee members, and 8 students). Approximately 51% of these employees are located in regional offices throughout the Province, while the remaining 49% are in the St. John’s area. The Department stated in its Annual Report for the year ended 31 March 2011 that its mission was to “... *enhance supports and services to individuals to increase their participation in the labour market and to employers to ensure they have the human resources required to compete and contribute to a prosperous future for the province.*” The total gross expenditure of the Department for the year ended 31 March 2011 was \$482.2 million, of which \$46.0 million was allocated to salaries.

Figure 1 illustrates the Department's organizational structure with four regions and 25 offices throughout the Province.

Figure 1

**Former Human Resources, Labour and Employment
Offices by Region
As at 31 March 2011**



Source: Department of Advanced Education and Skills

Temporary Employees

Public Service Commission

Section 5 of the *Public Service Commission Act* (the *Act*) provides for the establishment of the Newfoundland and Labrador Public Service Commission (the PSC); a three member commission appointed by the Lieutenant-Governor in Council. The vision of the PSC is “*Public Service Excellence through merit, fairness and respect.*”

The *Act* requires that the PSC set the standards and procedures for the recruitment and selection of candidates for appointment and promotion within the public service. Section 13 of the *Act* also provides that “*Recommendations for appointments to and promotions within the public service shall be based on merit principles and made by the commission through competitive written examination or by other processes of personnel selection designated to establish the merit of candidates that the commission considers are in the best interests of the public service.*” Merit principles require that candidates be assessed with fairness and equity so that the job will be awarded to the candidate most suitable for the position. Merit principles are the primary means to avoid any form of bias or influence over such appointments and promotions.

The PSC is responsible for the recruitment and selection process of positions that fall under their jurisdiction as per the *Act*. The departments are responsible for the initiation of temporary hires and assignments, which can be done without the application of a competitive process, as per the Personnel Administration Procedures Manual.

PSC staffing policies

The Staffing Policy Manual established by the PSC outlines the policies and procedures which departments, Crown corporations and agencies that fall under the jurisdiction of the *Act* should follow throughout the staffing process. These policies help the PSC ensure adherence to the merit principles in the appointment and promotion of employees throughout the public service. Adherence to merit principles would normally be achieved through a job competition. A job competition includes a selection board which accepts applications, screens candidates, conducts interviews, assesses and ranks candidates, checks references, and prepares a recommendation report for the deputy minister, or chief executive officer.

Temporary Employees

The Staffing Policy Manual states that, “... *all vacancies will be advertised, unless other PSC policies apply*”. Furthermore, vacancies are defined as “... *an opening that:*

- *the Employer wishes to fill; and*
- *is in excess of 13 weeks duration; and*
- *for which there is no employee eligible for recall.”*

As a result of this definition, positions less than 13 weeks are not required to be advertised.

This policy aligns with the definition of vacancies provided in Article 5 of the General Service Collective Agreement, “... *an opening in a permanent, seasonal, or temporary position which is in excess of thirteen (13) weeks duration, and in respect of which there is no employee eligible for recall.*” This Agreement governs the majority of bargaining unit positions in the public service. Positions with the public service are classified as either:

- bargaining unit positions - meaning they are covered by a collective agreement; or
- management or non-bargaining unit positions – meaning they are not covered by a collective agreement.

Positions with the public service that fall under the jurisdiction of the PSC, are advertised as either internal or external. Any member of the public can apply for an external position; however, to be eligible to apply for an internal position, a person must currently work for a department, Crown corporation or agency, or be on lay off status from one of these organizations. In addition, the PSC accepts unsolicited resumes on a daily basis. They are kept on file for up to six months and can be used to fill any position, on a temporary basis, for up to 13 weeks for bargaining unit positions and up to six months for management or non-bargaining unit positions. Eligibility lists may also be used for temporary employment opportunities.

Under the General Service Collective Agreement between the Province and the Newfoundland and Labrador Association of Public and Private Employees, a permanent employee is defined as “...*a person who has completed his or her probationary period and is employed on a full-time basis to hold office without reference to any specified date of termination of service*”, while a temporary employee is defined as “...*a person who is employed for a specific period for the purpose of performing certain specified work and who may be laid off at the end of such period or on completion of such work.*” A similar definition of temporary employee is outlined in the Act.

Temporary Employees

There are three types of temporary employment. They are as follows.

Temporary hires

While the *Act* does not apply to temporary employment situations, the PSC does have a policy on the length of time a temporary employee that was hired without a competition can be employed before a competition must be held, and the length of time an existing employee can be temporarily assigned to another position, through temporary placement or promotion, before a competition must be held.

If departments do not assign an existing public service employee to a position, the permanent head of the department has the authority to hire an employee external to Government to fill a position on a temporary basis. In such cases, the employee can only be employed in a bargaining unit position for periods up to 13 weeks before a competition must be held, and for management and non-bargaining positions for periods not to exceed six months before a competition must be held. PSC officials indicated that this type of position is commonly referred to as a temporary hire.

Temporary assignments

A temporary assignment is defined in the Staffing Policy Manual as a temporary placement or promotion of an employee in the absence of a job competition. In cases where departments do assign an existing public service employee to a position, PSC policy provides the same periods as outlined for temporary employment, i.e. the employee can only be assigned to a bargaining unit position for periods up to 13 weeks before a competition must be held, and for management and non-bargaining positions for periods not to exceed six months before a competition must be held. In the case of management or non-bargaining positions, an extension can be authorized by the PSC.

Officials at the PSC indicated that the PSC is not in a position to extend bargaining unit positions beyond the 13 week period as it is in contravention of the PSC policy and the respective collective agreement.

Temporary appointments

A temporary appointment is defined in the Staffing Policy Manual as a temporary promotion of a permanent employee or hiring of a temporary employee through a job competition. The reason for the difference is related to the duration of the period of promotion which is expected to be in excess of 13 weeks for bargaining unit positions, or six months for management or non-bargaining unit positions. These appointments apply to internal or external applicants for positions that have been advertised.

Temporary Employees

PSC monitoring of temporary hires and assignments

As indicated by PSC officials, the PSC, through its Strategic Staffing Division, monitors bi-weekly payroll reports, specifically looking for any new hires, or changes in employment which may signify a temporary hire or assignment. The goal is to assess compliance with its staffing policies for these temporary employment situations. While temporary employment is not defined within the Staffing Policy Manual or in the *Act*, the PSC monitors these employment arrangements to promote its vision.

In cases where prescribed deadlines for temporary hires or temporary assignments are approaching, the PSC notifies departments of the approaching deadlines (either 13 weeks or six months, depending on the nature of the position) through the Strategic Human Resource Management Division, indicating that the positions should be addressed in a timely manner, i.e. to advertise the position.

In addition, a letter may be written to the deputy minister (or equivalent) to inform them of evidence of non-compliance with the *Act* or with PSC policies as it relates to outstanding staffing actions and to request a plan of action for these items.

Audit Objectives and Scope

Audit objectives

The objectives of our review were to determine whether:

- policies were followed by the Department with respect to temporary employment and temporary assignment; and
 - merit principles were followed in temporary employment and temporary assignment situations within the Department.
-

Audit scope

We performed a review of temporary employees who were employed at the Department during the period of 31 March 2010 to 26 October 2011. We selected a sample of 62 temporary employee files to determine whether PSC policy was followed. We also reviewed the subsequent job competition files related to the hiring of temporary employees to determine whether the merit principles were applied in the assessment of these employees before they were hired. We held discussions with staff at the Department, the PSC and the Strategic Human Resources Management Division for the social sector located in Service NL. Our review was completed in December 2011.

Detailed Observations

This report provides detailed audit findings and recommendations with regard to the hiring of temporary employees and the temporary assignment of employees.

Overview

Situations arise in the public service where positions need to be filled on a temporary basis. To initiate this action, a department will fill out a request for staffing action form (RSA). This outlines the details of the position, such as title, duration, classification, reason for vacancy, etc. An RSA is signed off by the divisional director, recommended by the assistant deputy minister and approved by the deputy minister. In many cases, the department has identified a potential candidate for the position on a temporary basis.

With regards to the Department, the RSA is then forwarded to the Strategic Human Resources Management Division for the social sector located in Service NL (the HR Division) for review and approval. The HR Division prepares a letter to the new employee to inform them of the details of their temporary employment, or assignments, including the position title, start and end dates, salary and related pay scale, and their supervisor. If the Department indicates on the RSA that it is expecting to fill the temporary position through a job competition, the HR Division will forward the RSA to the PSC for further recruitment action. The PSC is required by policy to advertise all positions with the public service that fall under their jurisdiction.

We selected 62 temporary employee files within the Department to review to determine whether they were in compliance with PSC hiring and promotion policies. We identified the following issues:

- A. Temporary Hires and Assignments
- B. Assessment of Temporary Employees

Details are as follows:

A. Temporary Hires and Assignments

Overview	Temporary employment in any form is intended to be a short term measure to give the department, Crown corporation or agency time to advertise the position. In the case of temporary assignment (of a current employee) or temporary hire to a bargaining unit position, the position should not be for more than 13 weeks, as per PSC policy. In the case of management or non-bargaining unit positions, the assignment or employment should not be for more than six months.
Manner of initial employment	<p>Of the 62 temporary employee files reviewed, we found that:</p> <ul style="list-style-type: none">• 42 were hired as a temporary employee (temporary hires), including 3 summer student positions and 3 contractual employees, i.e. without a job competition; and• 20 were hired through a temporary appointment, i.e. with a job competition.
Non compliance with PSC policy for temporary hires and assignments	<p>Of the 42 temporary employee files reviewed, where no job competition was held upon initial employment, we found that:</p> <ul style="list-style-type: none">• For 32 (76.2%) of the 42 temporary employment files where the individual was initially hired in a bargaining unit position, the Department did not conduct a competition before the maximum 13 week period ended. All 32 received an extension by the Department, without a job competition, ranging from seven weeks to 11 years beyond the maximum 13 weeks. Details on the 32 files at the time of our review are as follows:<ul style="list-style-type: none">• 13 (40.6%) of the 32 individuals had not yet participated in a competition. The hire dates for these 13 individuals ranged from June 2011 back to November 2000. For example, an individual was hired by the Department in November 2000, was granted extensions to that position as well as to other temporary assignments, and had breaks in service totalling approximately three years over the course of their 11 years of employment. At the time of our review, this individual was still employed with the Department and had not yet participated in a job competition.

Temporary Employees

- 19 (59.4%) of the 32 individuals have been successful in a competition since the initial employment; however, the length of time between their initial employment to their appointment to a position via a job competition ranged from 20 weeks to two years and four months. For example, an individual was hired with the Department in August 2008, and was not appointed to a position through a job competition until January 2011.

Of these 32, there were 17 instances where the same employee was temporarily assigned to another position within the Department (15 bargaining unit and 2 management or non-bargaining unit), and all these temporary assignments were extended by the Department beyond the 13 week or six month period, without a competition being held. The length of extensions ranged from approximately four months to five years for the 15 bargaining unit positions, and ranged from approximately six months to two years for the two management or non-bargaining unit positions. For example, one employee was hired with the Department in January 2009, and was temporarily assigned five times to bargaining unit positions before being successful in a job competition in January 2011.

- For 3 (7.1%) of the 42 temporary employment files, the individual was initially employed as a contractual employee. For two of these three individuals, we found that:
 - One of these individuals was later temporarily assigned to a management position, and received an extension by the Department, but the Department did not conduct a competition before the maximum six month period ended. This individual had been a contractual employee for a period of 21 months prior to the temporary assignment, was assigned for a period of seven months and extended for an additional 12 months, without a competition.
 - One of these individuals was later temporarily assigned to a bargaining unit position, and received an extension by the Department, but the Department did not conduct a competition before the maximum 13 week period ended. This individual had been a contractual employee for a period of 11 months prior to the temporary assignment, was assigned the position for over five months, and extended for an additional 12 months, without a competition.

Temporary Employees

- For 7 (16.7%) of the 42 temporary employment files, there were no issues with the temporary hire or assignment terms.

Temporary assignments extended without PSC approval

Of the 20 employees who were hired through a temporary appointment, through a job competition, we found issues with three files as follows:

- Three employees were subsequently assigned to a temporary bargaining unit position and the Department did not conduct a competition before the maximum 13 week period ended. All three employees received an extension to the temporary assignment, ranging from 11 to 23 months. For example, an employee was temporarily assigned to another bargaining unit position for two months, and received two extensions to the same position for 12 months each, each without a competition being held.

The Department was not in compliance with the PSC hiring and promotion policies in that temporary employment and temporary assignments exceeded the maximum period without a competition being held.

Temporary employments without a competition process allow for operational flexibility in the case of urgent needs and were designed to allow the department to fill a position on a temporary basis while giving them time to post the position and fill it through a job competition. Temporary employments are also used for true temporary, short-term employment opportunities.

As a result, if temporary employments in bargaining unit positions are extended beyond 13 weeks, or six months in the case of management or non-bargaining unit positions, it is unfair to the public and to other employees in the public service. When these positions are advertised internally, the public does not have an opportunity to apply for the position, and the person temporarily employed has the advantage of being able to apply for this position. Also, other internal employees would be at a disadvantage as an employee temporarily in the position has acquired on-the-job experience which could provide an advantage in the job competition. Furthermore, the employee in a temporary position can apply for other internal positions while they are employed, and continue to be eligible for internal positions for a period of up to two years after they are terminated.

Temporary Employees

Findings not unique to the Department

While our current review was limited to the former Department of Human Resources, Labour and Employment, officials at the PSC indicated that, based on the results of their monitoring activities, and on complaints received, this issue is prevalent in other departments as well, i.e. situations where individuals are temporarily employed or assigned within the public service without a job competition being held within the specified time periods. There were some situations where an employee remained in a temporary employment position for years without a job competition being held. For example, one temporary employee file that was reviewed showed that an employee was working with Government for 21 years before they were appointed to a position through a job competition. Only a portion of the 21 years was spent working with the Department, the majority of it, approximately 20 years, occurred when the employee was employed with another department.

B. Assessment of Temporary Employees

Overview

In order to ensure merit principles are applied, we would expect that any person hired to work with the public service would enter the work force through a competitive process. Nevertheless, temporary employment in any form is intended to be a short term measure to give the department, Crown corporation or agency time to advertise the position. A competitive process would ensure the merit principles are followed, and the minimum requirements for the position in terms of education and experience have been met.

Documentation

For any temporary employment or temporary assignment situation, we would expect to find documentation in the file to support the decision and to demonstrate that the merit principles were followed. This documentation should include a copy of the resume, a candidate evaluation sheet, reference check, and recommendation from the chair of the selection board to the deputy minister or equivalent at the department, Crown corporation or agency. Where an employee is not successful, we would expect to see a letter to the candidate to this effect. In the absence of a competition, we would still expect to find documentation in the file to support the hiring decision.

As part of our review of the 42 temporary employment files where no job competition was held upon initial employment, we looked for some evidence that each employee was assessed to ensure they met the qualifications for the position for which they were hired, or to which they were assigned.

Temporary Employees

Lack of assessment of new hires

In 41 of the 42 files reviewed, the Department could not demonstrate on what basis individuals were initially selected for temporary employment or assignment, or whether the merit principles were followed. This brings into question whether the merit principles were being considered by the Department when temporarily employing or assigning individuals to positions within the Department, including whether the most suitable candidates were selected for the positions and whether there was any form of bias or influence over such employment or assignments. As a result, the underlying foundation for hiring to and promotion within the public service was not fulfilled.

Recommendations

The Department should:

- follow Public Service Commission policy with respect to temporary employment and temporary assignment; and
- document the process used in temporary employment and temporary assignment to demonstrate whether the merit principles were followed.

Department's Response

The Department of Advanced Education and Skills (AES) has reviewed the findings of the 2011 Auditor General's report on temporary employees within the former Department of Human Resources, Labour and Employment (HRLE). While the Department generally agrees with the recommendations outlined, the report serves to illustrate the very challenging environment various departments are facing in relation to the recruitment and retention of staff. Spurred by an aging demographic, HRLE experienced very high turnover of staff in recent years. For example, with a full staff complement of 796 employees, HRLE in 2008/09 submitted to the Public Service Commission (PSC) 198 requests to initiate competitions, representing some 25% of the full staff complement of the department. Similarly, in 2009/10 there were 193 requests (24%); in 2010/11 there were 166 requests (21%); and to date in 2011 there have been 95 requests (12%). In total over the past four years, the department has submitted requests for competitions for in excess of 80% of its total staff complement, and since April, 2008 more than 500 competitions have been completed.

Temporary Employees

While departments have been faced with these challenges, it appears the PSC has been similarly impacted by the increased demands for competitions. As part of its efforts to address demands to enable departments to more readily address the need to additional competitions, approximately six years ago the PSC started providing departments with the ability to train and utilize their own Selection Committee Chairs. Under this arrangement, departments can utilize in-house staff to take on the roles of both the Selection Committee Chair and the Technical Expert for each competition. However, while this can allow departments to more quickly proceed with staffing actions, it requires twice the time commitment of existing departmental resources to complete these competitions.

Given the level of recruitment activity, it appears the PSC has also been challenged to monitor departmental activity and to provide notice to departments when positions have been filled without competition for longer periods than their policy allows. HRLE has received such notices on an irregular basis.

Despite the high demand on existing resources to undertake competitions for the large number of vacant positions or temporarily filled positions, HRLE has made progress over the past few years. For example, the number of requested competitions has dropped since 2008/09, indicating a somewhat lower staff turnover rate. In addition, the time to fill positions which have been posted for competitions has declined from an average of approximately 15 weeks in 2010/11 to less than 11 weeks to date in 2011/12.

Of particular concern to HRLE has been the high turnover in recent years of Client Service Officers (CSOs). These positions, which number over 300, are responsible for the delivery of the Income Support Program, the Career Employment and Youth Services Program, and NL Support Benefits and Measures to more than 40,000 clients. Of the 62 temporary positions reviewed by the Auditor General, nearly half (28) relate to CSO positions. The department has acknowledged that there are major issues with the recruitment and retention of CSOs in particular, and is developing in cooperation with the PSC and NAPE, an innovative approach to undertaking large scale recruitment activity on a regular (once or twice per year) basis. The intention is to develop a pool of qualified candidates that can be accessed as vacancies become available. In addition, the department has developed and implemented a comprehensive six week training program for new CSOs, to ensure they have all the tools required to successfully undertake their new positions. This will enhance their job performance and satisfaction, which will improve staff retention rates while providing service benefits for clients.

Temporary Employees

In terms of some of the Auditor General's specific findings in relation to the application of the merit principle and the time lag between initial employment and the successful completion of a competition, the department offers the following illustrations:

- *Application of the merit principle to certain employment situations (temporary hires and temporary assignments). Despite the Auditor General's inability to verify the application of the merit principle in these instances, the department confirms that it fully endorses the merit principle and seeks its application to the extent possible given that temporary hires and temporary assignments do not require competition. For temporary hires, the department will as a rule examine the resume of the potential incumbent to ensure an appropriate match of skills to job requirements and may also contact references for validation. In the case of temporary assignments, these are frequently based on the direct observation of employees on the job and are generally also supported by the input and advice of the person's superiors. Often, a temporary assignment involves the temporary promotion of a person who is well established and experienced in a position to a vacant, more senior, position within the same general scope of work activities.*
- *Of the 13 positions noted by the Auditor General as not yet filled through competition, the department has completed competitions for four of these positions since the Auditor General's cut off of October 26, 2011.*
- *Person employed for 21 years before participating in a competition. This person was employed as a casual part time employee in another department for some 20 years. The person did not begin employment with HRLE as a temporary hire until 2009, and within a period of less than 10 months had successfully competed for a position and through competition attained a temporary appointment within the department.*
- *Person employed over the course of 11 years, with various breaks in employment, and not yet participated in a competition. This person is employed on a half-time basis as an aide to an employee who requires supports due to a physical disability. There is no specific classification for the role of aide, so a variety of temporary Clerk I positions have been utilized over the years. It was HRLE's position over the years that the special arrangement between these two employees would not be well served by submitting the aide position for competition.*

Temporary Employees

In summary, the department has faced inordinate challenges in recruitment and retention over the past several years. While substantial progress has been made in dealing with these issues, the department acknowledges that there have been instances where it has been difficult to achieve full compliance with PSC policies. The department will strive to address these challenges to achieve compliance on a go forward basis. The department will also endeavour to maintain improved records to demonstrate its application of merit principles for temporary hires and assignments.

PART 2.4

DEPARTMENT OF EDUCATION

WESTERN SCHOOL DISTRICT

Executive Summary

The Western School District (the District) is responsible for the delivery of primary, elementary, intermediate and secondary educational services to approximately 12,500 students in 71 schools. For the 2009-10 school year the District had 1,458 teachers, and 770 administrative and support staff, with annual salary and employee benefits costs of approximately \$132.1 million. For the fiscal year ended 30 June 2010, the District had total expenditures of \$156.8 million.

Our review identified significant issues relating to the District's human resource practices, including in relation to recruitment, compensation, and monitoring and control of leave and overtime. There were also instances of non-compliance with the *Public Tender Act*. Furthermore, we found weaknesses in the management and control of expenditures relating to employee travel, cell phones and the District's vehicle fleet. Issues were also identified with the monitoring and control of capital assets. In particular:

Human Resources

We identified the following issues with regard to recruitment, compensation and monitoring and control of leave and overtime:

Recruitment

- None of the 11 competition files reviewed had complete documentation on the competition process, including 2 files which did not contain adequate documentation to support why the District had rehired retired teachers instead of other candidates.
- In 7 of 24 personnel files reviewed, there was no documentation present to indicate that a competition had been held when the individual had been appointed to the non-teaching position.
- 3 teaching positions were filled for the 2009-10 school year without a job competition although the District was aware of the vacancies prior to 1 August of the particular year.
- 2 teaching positions were filled without any documentation in the competition file to indicate that a competition had been conducted for the 2010-11 school year. Although District staff indicated the vacancies occurred after 1 August, there was no documentation in the file to support this.

- In 7 instances, the District created and filled positions without the required Treasury Board classification approval being requested. In 4 other instances, the District filled positions that had not been classified until after employees had been appointed to the positions. Time periods ranged from 1.5 to 51 months after the position was created and filled.

Compensation

- In 2 instances, there was no documentation that the required approval of the Director of Education or the Board of Directors of the Western School District (the Board) was obtained for upscale hiring.
- The District did not follow the direction of the Department of Education in compensating a former Assistant Director of Finance when the school districts were reduced from 11 to 5 districts. As a result, the employee was overpaid \$97,308 for the period September 2004 to December 2010.
- In 2 instances, employee salaries were adjusted retroactively after the positions were classified by Treasury Board but the change was incorrectly applied before the effective date resulting in an overpayment of \$10,590.
- In 6 instances, employees were not provided salary increases or step progressions for periods from 11 to 23 months after the employees were entitled to the increase.
- In 1 instance, a salary differential was not correctly applied resulting in an underpayment of \$3,740 up to 31 March 2011.
- In 2 instances, pay increases for apprentice electricians were not correctly calculated resulting in an overpayment of \$6,094.

Leave and Overtime

- Employee leave was not always recorded accurately. The leave database was not accurate and, as a result, leave balances had to be determined manually when required. Furthermore, leave carry forward balances were not always calculated in accordance with Government policies and collective agreements.
- Overtime was not always adequately controlled. Overtime reports were not always completed and approved as required and some staff were permitted to track the accumulation and use of their own overtime.

Expenditures

We identified the following issues with regard to District expenditures:

Public Tender Act

Our review of 34 purchases greater than \$10,000 and 21 purchases under \$10,000 identified the following:

- The District did not comply with the *Public Tender Act* in that required public tenders were not called for 5 purchases totalling \$444,658 including 3 regular bus contracts, 1 special needs bus contract and a recycling contract.
- The District did not comply with the *Public Tender Act* in 2 instances where the required Form B was not completed for expenditures the District determined were sole source purchases. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed. These instances included garbage collection totalling approximately \$50,000 per year and the purchase of an annual software license with support totalling approximately \$14,700 per year.
- There was insufficient information on file for 7 of 13 contractors who were required to provide the information as part of their contracts. Examples included letters of good standing from the Workplace Health, Safety and Compensation Commission and proof of insurance.

Travel

- One senior executive did not submit travel claims but had all travel expenses directly billed to the District and paid by purchase orders. Our review indicated that this employee routinely charged meals to the hotel invoice and as a result, District staff could not readily determine whether expenses were within the proper per diem rates. In certain instances, the hotel invoices indicated that meals were provided to two or more people; however, there was no evidence that meals were provided for a legitimate business purpose.

Cell Phones

Our review of cell phones indicated that the District was not adequately monitoring the cost and usage of cell phones. We identified the following issues:

- The District maintained a list of individuals who were assigned cell phones; however, the listing was not up-to-date and did not include all information such as cell phone plan information, serial number of phone and issue date.
- 4 cell phones were either not used or not used enough to warrant the purchased plans which cost \$1,256 for a total of 62 minutes.
- A senior executive was provided with two cell phones. One of these cell phones (a Blackberry) was provided in January 2010 in order for the executive to access business e-mail and calls while on vacation. The cost during the vacation period was \$518; however, since that time the phone had not been used. Until the plan was cancelled in May 2011, the cost to the District was \$798 for 14 months for which there was no usage.
- Employees were not always requested, as required by the District's cell phone policy, to reimburse the District for personal cell phone usage included on bills. One maintenance employee incurred costs totalling \$178 above the monthly plan during a vacation to the United States in November 2010, without any documentation of a review or reimbursement for personal costs. Another maintenance employee incurred costs totalling \$256 for the period from 15 August to 14 September 2010 with 1,522 minutes above the monthly plan of 600 minutes, without any documentation of a review or reimbursement for personal costs. A manager incurred costs totalling approximately \$350 for the period from August to October 2010 with 1,922 minutes above the monthly plan of 1,200 minutes, without any documentation of a review or reimbursement for personal costs.

Other

Our review also identified the following:

- The District paid a municipal tax bill two weeks after the discount date resulting in an additional \$750 expense.
- In November 2010, the District was billed and paid \$500 plus HST for a rented telephone company router that was left at the school by the company when the school, where it was located, was closed. As a result of our inquiries in February 2011, the router was located at the District office in Corner Brook. District staff indicated they were not aware that the District had been charged for the missing router. In May 2011, the District received a refund for returning the router in March 2011.

- One snow clearing contractor was overpaid by \$2,674 due to HST being paid in addition to the HST already included in the contract price.
- A review of one school's expenditures by an external consultant identified the following issues and inappropriate expenditures over six fiscal years:
 - 11 instances of liquor purchases totalling approximately \$700 for school functions;
 - 9 instances totalling \$4,200 for purchases without any invoices;
 - \$760 for gift certificates, donations and memberships for staff;
 - \$400 for payments to the Principal's son to perform routine tasks at the school;
 - Personal cell phone costs paid from September 2005 to June 2009 for the Principal; and
 - 1 TV, 3 VCRs, 3 DVD players, 1 digital camera, 1 desk, 1 laptop computer, 1 artificial Ficus tree, 1 storage cube, 2 LCD HDTVs and a wicker chair set were purchased but could not be located at the school. The cost of these items totalled approximately \$3,500.

Capital Assets

Our review indicated that the District was not adequately monitoring and safeguarding its capital assets. We identified the following issues:

- The District had not documented the procedures for the control of capital assets including proper recognition for financial statement purposes, safeguarding, and write-downs.
- Except for computers and smart boards, physical identification methods, such as tagging, were not used to identify furniture and equipment as District property.
- There was no capital asset ledger maintained for furniture and equipment.
- There was no physical examination of capital assets to verify the existence of all furniture and equipment.

- The District could not readily identify what land was included in the land cost of \$2.0 million reported on its 2010 financial statements. As a result, the District could not readily identify what land it specifically owned, what land was in excess of the District's needs, and whether any excess land should be disposed of.
- A review of the District's January 2011 listing of insured buildings identified 9 buildings which had been sold and one leased building (Board office) at a total replacement cost of \$74.1 million that were still included on the listing. As the buildings were still included on the insurance listing it would be assumed that a portion of the insurance premiums paid by Government on behalf of the District related to these buildings.
- A leased building owned by the District was not included on the District's building asset listing and financial statements. The listing also included buildings the District did not own.

Furthermore, in regards to the leased building, the lease agreement with the current tenant had expired in August 2004 and no new agreement had been in place since that time. The District received rent revenue of \$5,000 per month for the leased space which was identified at a Property and Finance Committee meeting as being below market value. In addition, the District was not collecting HST on the annual lease rent of \$60,000. Since September 2004, the District had not invoiced, collected and remitted approximately \$52,500 in HST.

Vehicle Expenses

Our review identified issues with how the District monitors and controls vehicle usage and expenses. We identified the following:

District-owned Vehicles

- The District did not formally monitor each vehicle's operating cost and kilometres driven to determine if utilization issues were present that required follow-up.
- Mileage log books were not always completed as required. For example, one of the 3 log books reviewed was not completed for the period July 2009 to December 2010 and another log book was not completed for the period September 2010 to December 2010. None of the log books were signed as reviewed by the employees' supervisor.

- Operating costs for each vehicle were not accurately recorded in the financial records. For example, expenditures were attributed to two vehicles in the 2010 fiscal year even though the vehicles had been sold in 2006 and 2008 respectively. In addition, for the period 1 July 2009 to 31 December 2010 expenditures for two service vehicles were charged to one vehicle account in error. Without the accurate recording of vehicle expenses, the District cannot adequately monitor its vehicles costs and usage.
- Two service vehicles and one bus were sold in previous years but the vehicles were not removed from the District's financial records.

Personal Vehicles

- Cost and usage of personal vehicles was not evaluated. For example, for the 2009 and 2010 calendar years, two maintenance employees used their personal vehicles for work purposes for 69,858 kilometres and 75,728 kilometres respectively. The District reimbursed these 2 employees approximately \$20,000 each for the fiscal year 2010; however, it did not perform an assessment to determine whether it would be more feasible to purchase or lease maintenance vehicles.

Fuel Credit Cards

- The District did not always adequately review fuel credit cards and transactions to ensure the reasonableness and legitimacy of fuel purchases. For example, one fuel credit card slip for \$100 in July 2010 identified the transaction as "cash back"; however, there was no notation on the slip or statement to indicate any follow-up as to its appropriateness. In July 2010, the District removed two buses from the vehicle fleet; however, as of January 2011 the associated fuel credit cards had not been cancelled.
- Vehicle number or license plate number and employee signature were not always recorded on fuel card receipts as required by District policy.

Background

Overview

The Western School District (the District) was established in September 2004 after school districts in the Province were reorganized from 11 to 5 school districts. The District is responsible for the delivery of primary, elementary, intermediate and secondary educational services as prescribed by the Department of Education, primarily through the *Schools Act, 1997*.

Figure 1

Western School District Headquarters Corner Brook

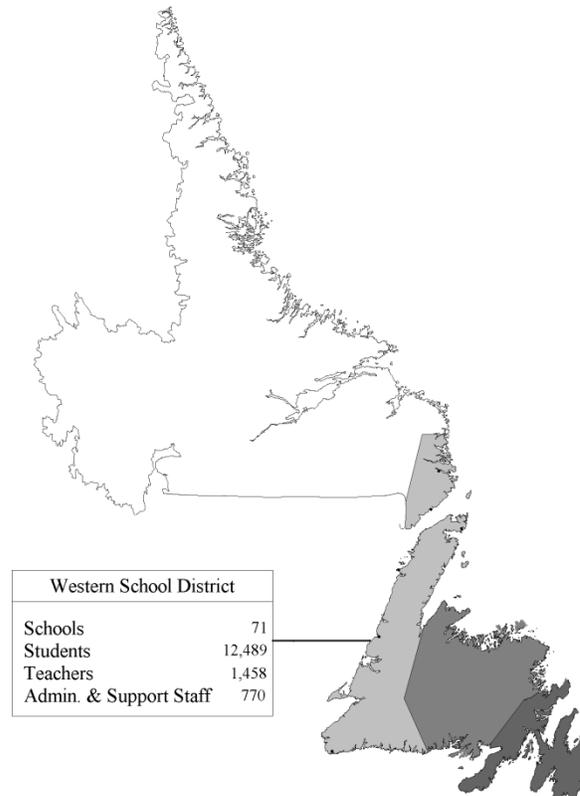


Source: Western School District

The District's geographical boundary ranges from Harbour Deep in the East to Francois in the south to Norman Bay in southern Labrador. Figure 2 provides a map of the District.

Figure 2

**Western School District
Geographical Boundary**



The District's head office is located in Corner Brook with the District operating 71 schools with a student population of 12,489 for the 2009-10 school year. The District had 1,458 teachers and 770 administrative and support staff with annual salary and employee benefits costs of approximately \$132.1 million. For the fiscal year ended 30 June 2010, the District had total expenditures of \$156.8 million.

**Financial
position**

Figure 3 summarizes the financial position of the District for the fiscal years 2009 through 2011. As at 30 June 2011, the District reported an accumulated operating deficit (net of reserve funds) of \$24 million (which includes \$23.8 million provision for severance pay) and \$97.5 million in investment in capital assets.

Figure 3

**Western School District
Financial Position
Fiscal Years 2009 through 2011
(\$000's)**

Financial Information	2009	2010	2011
Operations			
Current Assets	\$17,680	\$17,968	\$17,831
Current Liabilities	(17,436)	(18,311)	(17,951)
Severance Pay	(21,376)	(22,642)	(23,835)
Other	(53)	(53)	(53)
Accumulated Operating Deficit (net of Reserve Account)	(\$21,185)	(\$23,038)	(\$24,008)
Capital			
Capital Assets	\$52,805	\$82,543	\$99,150
Long-term Debt	(1,680)	(1,327)	(1,381)
Long-term Debt (Current)	(361)	(353)	(360)
Other	53	53	53
Investment in Capital Assets	\$50,817	\$80,916	\$97,462

Source: Audited Financial Statements

Operating results

Figure 4 provides details of the District's revenues and expenditures for fiscal years 2009 through to 2011. As Figure 4 shows, the Provincial government provided operating grants of \$147.2 million, \$150.0 million and \$154.8 million for 2009, 2010 and 2011 respectively.

Figure 4

**Western School District
Revenue and Expenditures
Fiscal Years 2009 through 2011
(\$000's)**

	2009	2010	2011
Revenue			
Provincial Grants	\$147,204	\$149,982	\$154,785
Ancillary Services	106	111	102
Miscellaneous	153	103	176
Total Revenue	147,463	150,196	155,063
Expenditures			
Instructional	121,552	124,654	127,671
Operations and Maintenance	14,694	14,583	15,487
Administration	7,025	9,044	9,172
Pupil Transportation	8,130	8,400	8,710
Miscellaneous	74	58	112
Ancillary Services	41	46	35
Total Expenditures	151,516	156,785	161,187
Excess of Expenditures over Revenues	(4,053)	(6,589)	(6,124)
Transfer from capital account	3,405	4,736	5,153
Net decrease in equity	\$ (648)	\$ (1,853)	\$ (971)

Source: Audited Financial Statements

Audit Objectives and Scope

Audit objectives

The objectives of our review were to determine whether:

- compensation and recruitment practices were in accordance with Government and District policy;
- purchases of goods and services were properly approved and monitored and complied with the *Public Tender Act and Regulations*; and
- capital assets were properly monitored and controlled.

Audit scope Our review was completed in March 2011 and covered the period 1 July 2009 to 31 December 2010. Our review included an examination of the District's financial information and file documentation, and interviews with staff.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Compensation and Recruitment Practices
 2. Monitoring of Expenditures
 3. Tendering of Goods and Services
 4. Buildings, Furniture and Equipment
 5. Vehicles
-

1. Compensation and Recruitment Practices

Overview During the 2010 fiscal year, the District employed 2,228 staff (1,458 teaching staff and 770 administrative and support staff) on a full or part-time basis. For the fiscal year 2010, the District spent \$132.1 million on salary and employee benefits.

In reviewing the District's compensation and recruitment practices we identified issues in the following areas:

- A. Job Competitions/Classifications
- B. Employee Compensation
- C. Employee Leave
- D. Employee Overtime

Details are as follows:

1A. Job Competitions/Classifications

Introduction

The District carries out job competitions for bargaining unit positions, non-bargaining positions and senior executive positions. Job competitions range from temporary part-time to permanent full-time positions.

Competition documentation not adequate

Our review of 35 files (11 job competitions and 24 personnel files) and client competition summaries identified issues with incomplete or no documentation to support the competition process and instances where job competitions were not held. Specifically:

- None of the 11 competition files had complete documentation on the process as follows:
 - 5 of 6 files did not have documentation of a rating system/matrix for the candidates interviewed. As a result, the District could not demonstrate that the most suitable applicant was selected;
 - 10 of 11 files did not have documentation of communication to unsuccessful applicants on file; and
 - 4 of 11 files did not have copies of resumes on file.

The Public Service Commission recommends a competition file contain such documentation as job advertisement, applications/resumes, screening worksheet, interview questions, applicant assessment matrix, letters to successful and unsuccessful candidates, references, and selection referral.

- In 2 of 11 competition files, documentation was not adequate to support why the District had rehired retired teachers instead of other candidates. In one instance District staff informed us that the other qualified candidate had withdrawn; however, this was not documented in the file. In the second instance, although District staff indicated that the non-retired candidate did not meet the required qualifications, there was insufficient documentation on file to explain this decision.
- In 7 of 24 personnel files reviewed, there was no documentation present to indicate that a competition had been held for non-teaching positions when the individual had been appointed to the position. Government policy requires competitions for positions filled longer than 13 weeks for bargaining unit positions and for longer than six months for management and non-bargaining unit positions.

- 3 teaching positions, identified through review of competition summaries, in one junior high school were first temporarily filled in November 2008 without a job competition as permitted under the collective agreement as the positions became vacant after 1 August. However, the positions continued to be filled for the 2009-10 school year without a job competition although the District was aware of the vacancies prior to 1 August of the particular year.
 - 2 teaching positions, identified through review of competition summaries were filled without any documentation in the competition file to indicate that a competition had been conducted for the 2010-11 school year. Although District staff indicated the vacancies occurred after 1 August, there was no documentation in the file to support this.
-

Positions not classified

It is the responsibility of a permanent head to establish and maintain an effective organizational structure consistent with approved classified positions, and to maintain copies of related organizational charts and position descriptions. Our review identified that not all positions were classified as follows.

- The District created and filled seven positions without the required Treasury Board classification and approval being requested. These positions were Bus Transportation Foreman, Manager of Custodian Services, Accountant, Accountant Assistant, Project Coordinator, Internal Auditor, and International Education Coordinator.
 - The District filled four positions that were not classified until 1.5 to 51 months after the position was created. These were Manager of Facilities and Maintenance (1.5 months), Manager of School District Transportation (29 months), Comptroller (51 months), and Purchasing Manager (33 months).
-

1B. Employee Compensation

Introduction

Depending upon an employees' classification, compensation is governed by the collective agreement for unionized employees (NAPE and CUPE) and/or Government's personnel policies and procedures. Our review of compensation identified errors in the application of Government policies and the requirements of collective agreements as follows.

Upscale hiring not approved

Two employees were hired and placed on a step higher than step 1 of the particular pay scale without the required documented approval of the Director of Education or the Board. In one instance an employee was placed on Step 25 when hired on 2 February 2006 as IT Manager and in the second instance an employee was placed on Step 12 when hired on 19 February 2007 as International Education Coordinator. In neither instance was the required documented approval of the Director of Education nor the Board provided. For Government departments, Government policy permits upscale hiring where a job competition has yielded only one qualified candidate or no other candidate is willing to accept the position at a lower rate.

Red circling of employee incorrectly applied

In August 2004, the Minister of Education provided direction to the District regarding options to deal with red circling for Assistant Directors of Finance when the number of school districts was reduced from 11 to 5 districts. The Minister directed the District to apply one of the following options as applicable:

- if the individual was within 4 years of normal retirement, the salary would be red-circled at the level currently approved by the Department of Education, until the person reached normal retirement at which time the person would retire or accept the salary applicable to the new position; or
- if the individual was not within 4 years of normal retirement, the salary currently approved by the Department of Education would be adjusted downward to the scale of the new position over a 5 year period.

However, the District red-circled the Assistant Director of Finance incorrectly on step 33 of their scale when the employee was not within 4 years of normal retirement (age 65). This resulted in salary overpayments of \$97,308 for the period September 2004 to December 2010 for the employee. This also resulted in pension overpayment for this employee commencing January 2011.

Incorrect pay increases

Employee salary increases were not always calculated correctly as follows:

- Two employees were paid retroactively to the date of hire rather than the date directed by Treasury Board in the position classification. As a result, the District overpaid these employees approximately \$10,590 (Comptroller - 27 months and \$900 Purchasing Manager - 8 months).

- Six employees were not given salary increases or step progressions until 11 to 23 months after the employees were entitled to the increase. One of these employee's step progression entitlement was not identified by District staff until we informed them at the time of our review in January 2011. This employee was underpaid \$1,763 at that time.
- One employee occupied the position of Bus Depot Supervisor since 7 December 2009 but was not paid 5% more than subordinate staff as a salary differential as required by Government policy. As a result, the employee was underpaid approximately \$3,740 up to 31 March 2011.
- In two instances, pay increases for apprentice electricians were not correctly calculated. In each case the increase was based on the employees' anniversary with the District rather than completion of the regular apprenticeship examination as per the NAPE collective agreement and Government policy. Furthermore, in one of these instances increases were given based on the NAPE collective agreement although the employee was not part of this agreement and therefore Government policy should have been applied. One NAPE employee was underpaid \$1,670 and the CUPE employee was overpaid \$7,764. As well, there was no documentation on file from the Department of Education for either employee on completing the first year of apprenticeship and for one employee on completing the third year of apprenticeship.

1C. Employee Leave

Introduction

As at 30 June 2010, the District reported \$795,076 in accrued annual and paid leave for its employees, excluding teachers and executive. Management are required to comply with Government's paid leave policy while bargaining unit employees are required to comply with leave articles in the collective agreements.

Leave was not always recorded accurately

Employee leave was recorded in a database which was required to be updated regularly from monthly attendance reports and leave requests received from various divisions. However, our review of the database identified a number of issues as follows:

- The leave database was inaccurate; therefore, the District had to determine leave balances manually when employees resigned or retired to ensure they received the leave to which they were entitled.

- The attendance reports were not always submitted monthly as required. For example, the Bus Depot and Maintenance divisions were 4 months behind in submitting their support to the Human Resources Division.
- Employee leave was not always recorded accurately and in compliance with Government policy. For example:
 - One employee was charged for two sick days in error when one day was for work injury and the other was for being on workers' compensation.
 - One new employee with the District had 18 years with Government but only received 25 paid leave days instead of the required 30 days.
 - One employee's leave balance was understated by eight days in October 2010.
 - One employee was not eligible for sick leave days but in October 2009 was paid for two sick days.
 - One employee informed Human Resources staff in April 2009 that their sick leave balance was overstated by 180 days but it was not corrected until July 2010.
 - Two employees hired in 2007 were accruing 24 sick days for 3 years even though they were only eligible for 12 days. This was not corrected by Human Resources staff until June 2010.
 - One employee's leave balance was understated by three days in 2010 due to an employee having to work on days for which leave had been previously requested.
- The District was not enforcing or monitoring non-teachers' leave carry forward balance restrictions as per collective agreements or Government's paid leave policy for non-teaching staff. For example:
 - One union employee retired in April 2010 and was paid for 137 leave days. However, if the carry forward limits of 30 days had been applied in accordance with the collective agreement, this employee would be eligible for a maximum of 55 days because they retired before year end. There was no approval on file for any exemptions.

- There were approximately 34 union employees as of 30 June 2010 who had a carry forward balance higher than their eligible annual leave days ranging from 1.5 to 57 days without approval.
- The Human Resources Information System database did not flag which non-union staff did not take the required 10 days each fiscal year.

The collective agreements only permit the carry forward of an employee's eligible annual leave days up to maximum of 25 days unless an employee is grandfathered into the agreement. In these cases 30 days may be carried over to the subsequent year. Exceptions to the carry forward limit may be granted in circumstances such as extended sick leave or work commitments. Government's paid leave policy requires non-union staff use a minimum of 10 days each fiscal year or they will lose the difference unless there is approval due to extenuating circumstances.

1D. Employee Overtime

The District paid \$172,320 (170 employees) and \$168,414 (154 employees) in overtime for the 2010 fiscal year and six months ending 31 December 2010 respectively. The highest four employees were paid for over 200 hours in overtime each for a total of \$41,623 (1,290 hours) for the 2010 fiscal year. One of these employees was paid \$15,864 (538.5 hours) for the six-month period ending 31 December 2010. To monitor overtime the District requires each employee to complete overtime reports providing details of what the overtime relates to and to have their supervisor approve and submit the report to payroll with their bi-weekly time sheet. We found the following issues with overtime.

Documentation deficient

The District did not document the approval of overtime prior to overtime being worked and did not have a policy on banking overtime. Time sheets for the central office staff and two of the three zones were not signed by the supervisor for the pay period ending 22 January 2011. In addition, the bi-weekly time sheet summaries submitted by the three zones and central office were not standardized: none of the summaries recorded the employee's current pay scale and only two of the summaries recorded the employee's job position.

Required overtime reports not completed

Overtime reports providing details on overtime were not always completed and approved as required. For example, one employee was paid for 347.5 hours and 538.5 hours for the fiscal year 2010 and the six-month period ending 31 December 2010 respectively without any overtime reports being completed. Another employee was paid for 440 hours and 130 hours for the fiscal year 2010 and the six-month period ending 31 December 2010 respectively without any overtime reports being completed. All this overtime was reported on the time sheets and submitted to payroll for payment.

Overtime documentation and review

Our review identified issues with the documentation of overtime resulting in errors in the amounts paid to employees. For example, one employee was hired temporarily for a maternity leave replacement and was allowed to bank overtime and track it; however, there were 10 hours not paid for or taken during the term of employment as a result of poor record keeping and monitoring of overtime. Another employee was hired as a part-time school secretary but sometimes worked more hours than a full-time position. As per the collective agreement, this employee should have been paid for overtime for hours beyond 35 hours per week. We determined that for the fiscal year 2009, this employee had 5 hours in overtime that were recorded and paid as regular time resulting in an underpayment of \$46.

In addition, another employee recorded and tracked their own overtime and was paid for the 96.5 hours in banked overtime on 1 October 2010 when they resigned. However, our review identified that one of the 20 bi-weekly time sheets was missing for the period 14 September 2009 to 1 October 2010 and, as a result, 31.5 hours of the 96.5 hours paid had no documentation that the overtime was actually incurred. In addition, the employee used 7 hours of the 96.5 hours in January 2010; however, this was not deducted from the accumulated overtime and as a result, the employee was overpaid 7 hours on resignation.

Recommendations

The District should:

- conduct and document job competitions for all job postings;
- have all job positions classified by Treasury Board Secretariat;
- calculate employee compensation accurately; and
- monitor and record employee leave and overtime in accordance with Government policy and collective agreements.

2. Monitoring of Expenditures

Overview The District spent approximately \$19.8 million on goods and services during the 2010 fiscal year and \$8.5 million for the period 1 July 2010 through to 31 December 2010.

From our review of expenditures we identified issues in the following areas:

- A. Travel
- B. Cell Phones
- C. Other

Details are as follows:

2A. Travel

Introduction The District spent approximately \$1.3 million in travel expenses during the 2010 fiscal year and \$782,000 from July 2010 to December 2010. The District is required to follow Government's travel rules and employees were required to complete a District travel claim to support the travel expenses.

Our review of the District's travel policies and 425 travel claims for 31 employees and six Board members identified the following issues.

Travel claims not used by senior employee From July 2009 to December 2010, a senior executive's travel expenses totalled \$31,035; however, no travel claims were submitted and approved to support this expense. The employee's travel expenses such as accommodations, rental cars and airfare were directly billed to the District and paid by purchase orders. Furthermore, meals were charged directly to the hotel bills and as a result, District staff could not readily determine whether proper per diem rates were claimed.

In addition, there was not always adequate documentation to support charges for meeting expenses or business calls charged to the hotel bills. For example, where meals were charged for more than one person, there was no evidence that meals were provided for a legitimate business purpose. In instances where long-distance telephone calls were charged to the hotel bill, there was not always documentation to support whether the telephone calls were business-related or personal and within Government's travel rules limits for personal long-distance calls.

Inappropriate claims

Our review identified various errors in travel claims and inappropriate claims for meals. For example:

- one employee claimed \$18 for dinner, even though the meal was paid for by another employee and claimed;
 - one employee claimed \$10 for a meal while on a statutory holiday and therefore, not working; and
 - three employees claimed six meals totalling \$91; however, the time of departure or return noted on the travel claim indicated that the meals should not have been claimed.
-

Trip advances not followed-up

As at 31 December 2010, the District was owed approximately \$29,000 related to travel advances paid to employees and for hotel, airfare and car rental expenses paid directly by the District on behalf of employees while travelling on Department of Education or District business. The Department of Education was to reimburse the employee, who in turn was to reimburse the District. Our review of these advance payments to employees identified the following:

- At 31 December 2010, the District had an outstanding balance beginning in December 2009 of \$3,532 for trips for one employee while on Department of Education business; however, the funds had already been paid to the employee by the Department and approximately half was confirmed reimbursed to the District. Posting errors resulted in the reimbursement of \$1,525 being expensed rather than being applied to the advance. At the time of our review, District staff indicated that they did not know which trips if any were outstanding for the remaining \$2,007 for this employee. However, we were informed subsequent to our field work that a review of this employee's account had been performed and the employee did not have any outstanding trip advances.

- Eight employees with nine trip advances were reimbursed \$6,127 directly from the Department of Education as early as three weeks after travel for some claims but the employees did not reimburse the District for up to nine months and only after a request from staff. Specifically, the District was reimbursed within two months for six advances, within five months for one advance and between eight and nine months for two advances.
- Although Government policy requires employees to submit a travel claim and reimburse for trip advances within 30 days, the District's accounting department had extended this requirement to 120 days. However, the District policy had not been updated and we identified 11 employees that were provided trip advances totalling \$10,325 from 2006 to November 2010 and did not reimburse the District or submit a travel claim within 30 days. Specifically, 3 of the 11 were reimbursed within the 120 days and 8 were after this time period.

No policy to support payments

In January 2010, the District paid three janitorial staff \$250 each for use of their vehicles during the fiscal year 2009. Although this has been a practice in the Northern Zone for certain positions, there was no Board policy to cover such payments.

2B. Cell Phones

Introduction

From July 2009 to December 2010, the District spent approximately \$72,600 on cell phone communications. The District had 53 cell phones for its executive, administrative and support, program, maintenance and transportation staff. The District has a cell phone policy in place; however, our review identified the following issues with the use of cell phones.

Cell phone listing not up-to-date and complete

The District maintains a listing of individuals with cell phones; however, the inventory of cell phones was not up to date and did not include information such as cell phone plan information, serial number of phone and issue date. For example, a spare phone and the transfer of one cell phone to another employee when one employee was on sick leave since July 2009 were not recorded. In addition, we identified three instances where the District could not provide documentation that phones were returned immediately as required by District policy when employees resigned or were on extended leave.

**Inadequate
plan review
follow-up**

Although the District analyzed its cell phone services in March 2010 (49 phones at that time) to determine if cell phone plans purchased were being utilized, exceeded or whether shared service plans were more optimal, identified changes were not all implemented. For example, our review of a sample of 15 cell phones identified four cell phones that were either not used or not used enough to warrant the purchased plan costing approximately \$1,256 for a total usage of 62 minutes. One phone was used 29 minutes in one month during an 18 month period, another phone was used 22 minutes over 11 months, another phone was used 6 minutes over 6 months and a fourth phone was only used 5 minutes over 8 months.

**Review of cell
phone bills not
documented**

The District did not always document the review of bills for personal calls or request that employees reimburse the District for personal cell phone usage as required by the District's cell phone policy as follows:

- One maintenance employee incurred costs totalling \$178 above the monthly plan during a vacation to the United States in November 2010 without any documentation of a review or reimbursement for personal costs.
 - One maintenance employee incurred costs totalling \$256 for the period from 15 August to 14 September 2010 with 1,522 minutes above the monthly plan of 600 minutes without any documentation of a review or reimbursement for personal costs.
 - One manager incurred costs totalling approximately \$350 for the period from August to October 2010 with 1,922 minutes above the monthly plan of 1,200 minutes without any documentation of a review or reimbursement for personal costs.
-

**Cell phone
costs for one
executive**

The District provided a senior executive with two cell phones costing approximately \$1,095 per year in plan costs. Our review of the first cell phone usage identified approximately \$2,591 in usage charges above the plan charges for the fiscal year 2010. The reason for most of the additional usage charges costs was costs totalling \$1,094 for roamer charges and usage while the employee was on vacation in the United States in August 2009. In October 2009, a roamer package totalling \$565 (\$113 per month) covering 5 months was purchased; however, there were no roamer charges for this period.

The second cell phone (a Blackberry) was provided in January 2010 in order for the senior executive to access business e-mail and calls while on vacation. The cost during the vacation period was \$518; however, up to the time the phone was cancelled in May 2011, the District paid \$798 for 14 months with no usage.

2C. Other

Our review identified instances where expenditures were not appropriately incurred or adequately monitored as follows.

Discount not taken

In March 2010, the District paid a municipal tax bill two weeks after the discount date resulting in an additional \$750 expense. District staff indicated that the bill, received in January 2010, was been questioned due to a significant increase and, therefore, was not paid by the discount date.

Unnecessary payment

In November 2010, the District was billed and paid \$500 plus HST for a rented telephone company router that was left at the school by the company when the school, where the router was located, was closed. As a result of our inquiries in February 2011, the router was located at the District office in Corner Brook but District IT staff indicated they were not aware that the District was being charged for the unreturned router. In March 2011, the router was returned and the District received the refund in May 2011.

Contract overpayment

One snow clearing contractor was overpaid \$2,674 for the fiscal year ended 30 June 2010 because HST was included in the hourly rate in the tender bid but two invoices also included HST as an extra charge.

Internal auditor

The District did not have an adequate reporting relationship for the internal auditor. For an internal auditor position to be effective the incumbent should report to someone other than those directly responsible for internal controls. However, the District's internal auditor reports to the Assistant Director of Finance. Furthermore, the audit reports are reviewed by the Comptroller.

Membership fees not approved

The District reimbursed 13 professional staff for membership fees ranging from \$80 to \$400 without documentation indicating approval and how the membership contributed to the mandate of the District. Furthermore, reimbursement of these fees and the reimbursement of fees approved for 12 Executive were not included on the employees' T-4s as a taxable benefit.

Government policy permits the head of a Department or Agency to approve the payment of membership fees for those employees whose membership in an association or organization contributes to the mandate of the Department or Agency.

Homestay Program

On 16 September 2008, the Minister of Education issued a directive to phase out the District's involvement with the Homestay Program and the recruitment of international students by June 2009. However, the District continued to pay an employee who was directly involved with the Homestay Program until February 2010. The District paid the employee regular salary as international education coordinator to 12 February 2010.

Inappropriate expenditures of school based funds

In November 2009, based on issues identified by a new principal, the District hired an external consultant to audit expenditures of school based funds at one of its schools for the fiscal years 2007, 2008 and 2009. As a result of the consultant's report, in January 2010, the consultant was engaged a second time to audit the financial records of the school for 3 more fiscal years 2004, 2005 and 2006.

The consultant reports identified a number of issues and inappropriate expenditures over six fiscal years such as:

- 11 instances totalling approximately \$700 in liquor purchases for school functions;
- 9 instances totalling \$4,200 for purchases not supported by invoices;
- \$760 for gift certificates, donations and memberships for staff;
- \$400 in payments for the principal's son to perform routine tasks at school;
- personal cell phone cost paid from September 2005 to June 2009 for the Principal; and

- 1 TV, 3 VCRs, 3 DVD players, 1 digital camera, 1 desk, 1 laptop computer, 1 artificial Ficus tree, 1 storage cube, 2 LCD HDTVs and a wicker chair set totalling approximately \$3,500 were not on site at the time of the audit.

District staff indicated that the questionable expenditures were investigated by the RCMP; however, no legal action was recommended. In addition, as a result of the audits, the District implemented a standard school accounting system throughout the District including having financial staff at the District office access school records online. They also developed a school accounting policy, held seminars to inform school staff of their accountability regarding school revenue and expenses, and continued internal audits on each school.

However, not all recommendations of the external consultant were implemented. For example, capital assets, other than computers and smart boards, in schools were still not adequately recorded and controlled, and there was no policy on liquor and gift certificate purchases. Furthermore, there was no documentation in the minutes of Board meetings to indicate that the significant issues identified by the external consultant were discussed at the Board level.

Recommendations

The District should:

- comply with Government's travel rules by ensuring travel claims are complete and properly approved;
- monitor cost and usage of its cell phones;
- comply with Ministerial directives;
- monitor expenditures to identify inappropriate and unnecessary expenditures; and
- address all the recommendations of the external consultant.

3. Tendering of Goods and Services

Overview

Whenever the District acquires goods and services, it must comply with the requirements of the *Public Tender Act* (the *Act*) and the *Public Tender Regulations, 1998* (the *Regulations*). Figure 5 summarizes the requirements of the *Act*.

Figure 5

**Western School District
Public Tender Act Requirements**

When goods and services cost ...	Or a public work costs ...	Then the District must ...
More than \$10,000	More than \$20,000	Invite tenders
\$10,000 and less	\$20,000 and less	<ul style="list-style-type: none"> • Obtain quotations from at least three legitimate suppliers, or • Establish for the circumstances a fair and reasonable price.

The *Act* provides exceptions where tenders may not be required. In such cases, the District must inform the Chief Executive Officer of the Government Purchasing Agency who must submit a report to the House of Assembly.

In our sample of 34 purchases over \$10,000 and sample of 21 purchases under \$10,000 we identified issues in the following areas:

- A. Goods and Services Greater Than \$10,000
- B. Goods and Services \$10,000 and Less

3A. Goods and Services Greater Than \$10,000

Non-compliance with the *Public Tender Act*

Our review included a sample of 34 purchases greater than \$10,000 totalling \$2.1 million for the period 1 July 2009 to 31 December 2010 to assess the District’s compliance with the *Act* and *Regulations*. Our review identified the following:

- five purchases totalling \$444,658 were not tendered as required by the *Act*;
- two sole source purchases, one for garbage collection totalling approximately \$50,000 per year and one for an annual software license with support totalling \$14,715 did not have the required Form B completed. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed of these instances; and
- 27 purchases totalling \$1.6 million were tendered in accordance with the *Act*.

Figure 6 provides details of the five purchases not tendered.

Figure 6

**Western School District
Items not Tendered**

Date	Amount (net of HST)	Description
2009-2010	\$ 8,778	Regular bus transportation 1-year contract estimated to be \$10,680
2010-2011	51,397	Recycling contract (15 buildings)
2010-2011	26,390	Regular bus transportation 1-year contract
2010-2012	77,968	Special needs bus transportation 2-year contract
2010-2015	280,125	Regular bus transportation 5-year contract
Total	\$444,658	

Issues with contracts tendered

13 contractors were required to provide additional information and documents as part of the requirements of the contracts. Our review of these contracts showed that the District did not obtain all the required documents for 7 of the 13 contractors as follows:

- Proof of vehicle registration, a vehicle inspection certificate, and proof of vehicle insurance was not obtained for a busing contractor.
- A letter of good standing with the Workplace Health, Safety and Compensation Commission and a vehicle inspection certificate was not obtained for a busing contractor. Furthermore, the proof of insurance that was obtained had expired.
- A letter of good standing with the Workplace Health, Safety and Compensation Commission was not obtained for a busing contractor.
- A letter of good standing under the Certificate of Recognition Program administered by Newfoundland and Labrador Construction Safety Association was not obtained for a contractor that installed external doors at a school.
- A certificate of insurance was not obtained for a contractor that installed windows.
- A letter of good standing with the Workplace Health, Safety and Compensation Commission and the vehicle registration was not obtained for a snow clearing contractor.
- A security clearance certificate was not obtained for a snow clearing contractor.

Failure to obtain documentation from successful bidders may result in tenders being awarded to ineligible bidders and may increase the risk of losses for the District due to the actions of the contractors.

3B. Goods and Services \$10,000 and Less

Policy not consistent with Government

Our review identified that the District’s purchasing policy stated that for items that were less than \$1,000 then no quotes were necessary. This policy was not consistent with Government’s policy which states that “*effective 1 April 2009 ... to obtain one price quote for acquisitions with an estimated value not exceeding \$500 (excluding HST).*”

Recommendations

The District should:

- comply with the *Public Tender Act and Regulations*; and
- obtain all required documentation from successful bidders.

4. Buildings, Furniture and Equipment

Overview

As at 30 June 2010, the District reported capital assets at a cost of \$206.3 million. For the District to control and monitor its capital assets, it must ensure that policies and procedures are documented and communicated to staff, and assets are identified and recorded when purchased, periodically inventoried and reconciled to financial records. Figure 7 provides a summary of the District's capital assets.

Figure 7

**Western School District
Tangible Capital Assets
Fiscal Years 2009 through to 2010
(\$000's)**

	2009	2010
Land	\$ 1,978	\$ 1,978
Buildings	155,415	186,437
Furniture and Equipment	12,593	12,620
Service Vehicles	379	417
Pupil Transportation	4,834	4,834
Total Capital Assets	\$175,199	\$206,286

Source: Audited Financial Statements

We identified issues in the following areas:

- A. Safeguarding of Furniture and Equipment
- B. Land and Buildings

4A. Safeguarding of Furniture and Equipment

Introduction

The District invested over \$12.6 million in furniture and equipment (including computers). As furniture and equipment are moveable assets and more susceptible to loss, it is important that the District have controls in place to safeguard these assets. Our review identified that furniture and equipment were not adequately safeguarded as follows.

Procedures not documented to safeguard furniture and equipment

The District had not documented all of its procedures for the control of capital assets including proper recognition for financial statement purposes, safeguarding, and write-downs. Although the District had been provided with the Province’s Tangible Capital Assets Policies and Guidelines, the District had not developed specific procedures to ensure that the guidelines were followed or adapted, where necessary, to meet the needs of the District. For example, we identified assets recorded as buildings and equipment that were below the thresholds provided in the Guidelines (i.e. furniture and equipment is \$15,000; buildings is \$50,000).

Since January 2009, the District’s Capital Asset Disposal Policy required that a disposal form be completed for all disposals of capital assets. However, the disposal form was not always used to record disposals and update the District’s database.

Assets not always tagged

Except for computers and smart boards, physical identification methods, such as tagging, were not used to identify furniture and equipment as District property. Without unique identification, the District cannot determine if all assets were recorded and accounted for.

Capital asset ledger not maintained

The District did not maintain a capital asset ledger for all furniture and equipment. The District provided a listing of photocopiers (lease/owned), computers and smart boards; however, furniture was not inventoried. In addition, the listing of computers and smart boards was incomplete.

Prior to July 2009, the District had recorded computers and smart boards in an electronic spreadsheet and used hand written identification tags. Since July 2009, the District maintained a database of computers and smart boards and the use of bar code tags, but not all items from the spreadsheet were included in the database. In addition, we found that the database was not capturing the required information as per Government policy such as date of acquisition, specific location, and disposal date if applicable.

In addition, computer equipment donated through the Computers for Schools Program was not recorded or inventoried by the District.

Periodic inventory counts not performed

There was no physical examination of capital assets to verify the existence of all furniture and equipment.

4B. Land and Buildings

Overview

Our review identified that the District's land and buildings were not adequately controlled and recorded correctly in their financial records as follows.

Land not identified

The District could not readily identify what land was included in the land cost of \$2.0 million reported in its 2010 financial statements. As a result, the District could not readily identify what land it specifically owned, what land was in excess of the District's needs and whether any excess land should be disposed of. For example, we identified two vacant parcels of land where the District was paying \$391 and \$120 per year in property taxes.

School buildings owned by churches recorded as District assets

The District had not reviewed its building listing to determine if any of its 80 schools (as of June 2010) were owned by denominational authorities and therefore should be removed from the District's financial records. We identified at least two schools in the Corner Brook area that were reported as District property in their financial records but were owned by the denominational authorities.

Building lease not formalized

Since 2004, the District was leasing a former school in Corner Brook to a non-government entity for a monthly rental of \$5,000. Our review of this school and the leasing agreement identified the following issues:

- The District did not include the building on its building asset listing and its financial statements.
- The 5-year lease agreement, which was entered into by a former District, ended in August 2004 after which the lease was continued on a month to month basis as no extension conditions were provided for in the agreement. As at January 2011, there was still no formal agreement in place, approximately 6 years after the expiry of the original lease.
- Although the former school is real property used in commercial activities, the lease agreement did not provide any stipulation for the inclusion of HST in the lease payment. As such, the District was not collecting and remitting HST on the annual \$60,000 lease. Since September 2004 up to the time of our review in December 2010, the District had not collected and remitted approximately \$52,500 in HST.
- According to the Board's Property and Finance Committee meeting minutes in July 2009, the rent charge of \$5,000 per month was considered to be below market value. The tenant was leasing the building for approximately \$1.52 per square foot and had to pay maintenance and operational costs related to the building. The \$5,000 monthly lease amount was established in 1999 and had not been increased as of January 2011.

Sold building still recorded

We identified one building that had been sold; however, the value of the asset was not removed from the District's financial records.

Disposed buildings included on insurance listing

A review of the District's January 2011 listing of insured buildings identified 9 buildings which had been sold and one leased building (Board office) at a replacement cost of \$74.1 million that were still included on the listing. As the buildings were still included on the insurance listing it would be assumed that a portion of the insurance premiums paid by Government on behalf of the District related to these buildings.

Recommendations

The District should:

- develop and implement policies and procedures for the identification, recording, controlling and monitoring of capital assets;
- identify and assess the ownership of the land and buildings it has recorded; and
- remove all assets which have been disposed of from the District's financial records and insurance listings.

5. Vehicles

Introduction

As of December 2010, the District maintained 65 buses and 14 service vehicles. During the fiscal year 2010, the District spent approximately \$662,000 in vehicle operating expenses for busing and \$104,000 for service vehicles. Of these amounts, the District spent approximately \$398,500 in fuel for its buses and service vehicles. For fueling purposes, the District used fuel credit cards and maintained a fuel credit card listing which recorded 82 fuel credit cards from 4 vendors. As well, the District maintained a fuel storage tank at the Corner Brook bus depot and had charge accounts at 3 local service stations for regular refueling purposes.

Our review identified issues in the following areas:

- A. Vehicle Usage and Expenses
- B. Vehicle Fuel Purchases

5A. Vehicle Usage and Expenses

Controls over vehicle usage

Our review identified the following issues with how the District controls and monitors vehicle usage and expenses.

- Although the District established a budget for vehicle operating costs by functional group (i.e. pupil transportation and maintenance) and established schedule accounts for its service vehicles to report costs by vehicle, the District did not formally monitor the operating cost of each

vehicle by kilometre driven. In addition, separate expenditure accounts for each bus were not maintained to monitor expenses. Without monitoring all costs by vehicle and/or kilometre it is not possible to determine if utilization issues were present that required follow-up.

- Employees assigned service vehicles were required to complete mileage log books. As part of our review, we requested three of 14 log books for review. One of the three log books requested was not completed for the period July 2009 to December 2010 and another log book was not completed for the period September 2010 to December 2010. None of the log books were signed as reviewed by the employees' supervisor.
- Operating costs for each vehicle were not accurately recorded in the financial records. For example, expenditures were attributed to two vehicles in the 2010 fiscal year even though the vehicles had been sold in 2006 and 2008 respectively. The District had charged the replacement vehicle expenses to the sold vehicles accounts instead of the new vehicle accounts. In addition, from 1 July 2009 to 31 December 2010 expenditures for two service vehicles were charged to one vehicle account in error. Without the accurate recording of vehicle expenses, the District cannot adequately monitor its vehicles cost and usage.
- Controls over disposed vehicles were inadequate. Two service vehicles and one bus were sold in previous years but the vehicles were not removed from the District's financial records.

Personal vehicle costs

Our review identified that the use of personal vehicles by two employees was costing the District a total of \$40,000 annually. Two maintenance staff in the District's north zone were required to use a vehicle for work because no District vehicle was available. In accordance with the respective collective agreement; the employees were paid an additional \$0.10 per kilometre above Government's kilometre rate for the use of their personal vehicles.

Our review of mileage reports for the 2009 and 2010 calendar years, identified that the two employees had travelled extensively at 69,858 kilometres and 75,728 kilometres respectively. Based on the applicable kilometre rates, the District reimbursed these two employees approximately \$20,000 each for the fiscal year 2010 for the use of their personal vehicles. Given this high cost, we would have expected that the District would have evaluated whether purchasing or leasing maintenance vehicles would have been a more cost beneficial option; however, the District had not performed a cost-benefit analysis.

5B. Vehicle Fuel Purchases

Vehicle fuel cards

Our review of fuel credit cards and fuel credit card transactions identified that the District did not always adequately review fuel credit cards and transactions to ensure the reasonableness and legitimacy of fuel purchases. For example:

- One fuel credit card slip for \$100 in July 2010 identified the transaction as a “cash back”; however, there was no notation on the slip or statement to indicate any follow-up as to its appropriateness. The District did not follow up on this transaction until our enquiry.
- In July 2010, the District removed two buses from the vehicle fleet; however, as of January 2011 the associated fuel credit cards had not been cancelled. Although there were no fuel purchases during this time, fuel credit cards should be cancelled within a reasonable time period to avoid unauthorized fuel purchases.
- Fuel credit card slips did not always include the vehicle number or license plate number, and employee signature as required by District policy.

Recommendations

The District should:

- record and monitor individual vehicle expenditures;
- determine the most efficient and economical use of service vehicles; and
- control and monitor vehicle fuel credit cards and transactions.

District’s Response

The Western School District was formed in 2004 through the consolidation of three school districts. The strategic plan of the Western School District expresses the District’s commitment to student learning, organizational learning and effectiveness, and school organization and infrastructure. The Western School District welcomes the Auditor General’s observations as they relate to improving organizational effectiveness.

The consolidation of three school districts in 2004 involved bringing three financial, administrative, and human resources systems under the same policies and procedures. As the District progressed, the Province of Newfoundland and Labrador recognized the need for staffing adjustments in some areas, allowing the District to improve in its operations. This is the first assessment by the Auditor General since the District was formed, and the District appreciates the observations, as well as the dialogue that has occurred throughout this process. This response is sequenced according to the Auditor General's Detailed Observations.

Item 1 – Compensation & Recruitment Practices

Item 1A: Job Competitions/Classifications

Competition Documentation

For the most part, the Auditor General is referring to the degree and precision of documentation in competition files, rather than any irregularities in the competitions themselves. The District acknowledges the need for improved documentation and will ensure that such improvements occur. The District also respectfully disagrees with many aspects of the Auditor General's assessment.

The report notes that some files “did not have documentation of a rating system/matrix for the candidates interviewed.” The Auditor General concludes that “as a result, the District could not demonstrate that the most suitable applicant was selected.” This conclusion is incorrect from a number of perspectives. The rating system/matrix is used flexibly by various interview teams, in keeping with the District's human resources procedures. Precise ratings are often used, especially in instances where competitions may be very close. It is also quite permissible within our organization to use the “comments” section (recording the answers to each question) on the interview form without doing the rating section. More importantly, though, documentation of an interview rating scale is by no means the prime determinant of suitability of the applicant. The recruitment process is much broader than this, involving qualifications, experience, references, and qualitative notes on interviews. The District has no difficulty in demonstrating that the most suitable applicants are selected.

The Auditor General comments that files did not have “documentation of communication to unsuccessful applicants.” Presumably, this means the notation of “candidate notified” in the file. The District's practice is to notify unsuccessful applicants who have been interviewed either by email or telephone, and this has occurred in all instances. Documentation of same does exist, but in the email records or the notes of individuals assigned to do

this task. The District will ensure that such information is also documented in competition files. As to those not selected for an interview, our advertisements are explicit in indicating that only those selected for an interview will be contacted, and there is no requirement to contact these applicants.

The Auditor General indicates that “4 of 11 [competition] files did not have copies of resumes on file.” These resumes are available in teachers’ personnel files; the resumes are drawn from teacher personnel files, and then returned to those files. Furthermore, the Collective Agreement requires that documentation relating to a teacher be placed in the personnel file. Resumes are readily accessible from these files. It should also be noted that applications are now made electronically and applicants enter their resume information in electronic format. The files in question are available electronically.

The District respects the experience and the process of the Public Service Commission in hiring, and, like the Public Service Commission, employs procedures reflective of sound recruitment practices. Nevertheless, recruitment within School Boards is, in some cases, contextually different than employment through the Public Service Commission. As well, the move to electronic storage of applicant information provides a different context for documentation.

With regard to the hiring of retired teachers, this process receives considerable scrutiny both at the District level and by the Department of Education. Retired teachers are hired only when there are no other suitable applicants. In the instance referenced, the resume of the candidate determined as not meeting the required qualifications was on file, and was shared with the Auditor General. The expectation under the regulations is that the District must determine that a non-retired applicant is unqualified to assume a position before recommending a retired candidate. The District exercised its responsibility in making this decision in this case.

The Auditor General writes as follows: “3 teaching positions, identified through review of competition summaries, in one junior high school were first temporarily filled in November 2008 without a job competition as permitted under the collective agreement as the positions became vacant after 1 August. However, the positions continued to be filled for the 2009-10 school year without a job competition although the District was aware of the vacancies prior to 1 August of the particular year.” As indicated, positions that become vacant after August 1 may be filled without job competitions, according to the Collective Agreement. However, the Auditor General is incorrect in stating that for the 2009-10 school year “the District was aware of the vacancies prior to August 1 of the particular year.” The three positions in question were “fall-out” vacancies created when an employee of that school was hired

in August 2008 in a non-union position at the District. The employee's position, as indicated, was correctly filled by appointment, as were the other two fall-out positions. The non-union employee was on one year's probation. This means that the District has a year to determine whether it wishes to retain the employee in the position. It also means that the employee has one year to decide whether he or she wishes to continue in the position or return to his or her previous position. Given that the employee did not begin the new position until October 27, 2008, the decision as to the employee's continuance in the position was not made until after August 1, 2009. As indicated, this was not only a decision of the District but was also dependent on the employee's decision as to future preferences. The employee could have decided to return to his or her previous position in September, to return on October 27, or to express interest in continuing in his or her new position, and did not make this decision until after August 1. The District did not, and could not have known of the vacancies in question before August 1 since the District's decision and the employee's decision as to continuance in the position was not made until after that date. The District operated within the Collective Agreement in appointing these three positions for the 2009-10 school year.

The two teaching positions referenced for the 2010-11 school year were vacancies that occurred after August 1 and appointments were necessary to ensure that the school was staffed properly prior to the September opening. In one case, the vacancy occurred when a Special Education teacher accepted a position as a Guidance Counsellor in August. The second occurred when a Special Education teacher was required to replace the Vice-Principal position that was filled in August. As referenced earlier, this would be the normal and accepted staffing process, and consistent with the Collective Agreement. Documentation in other files verifies that these positions only became vacant in August. In future, the District will ensure that documentation is available in all appropriate files.

Classifications of Positions

The Auditor General's comments reference organizational charts and position descriptions. These do not appear to have been referenced in the supporting documentation, so we assume that these comments are contextual rather than indicating a deficiency. In any event, organizational charts and position descriptions are available.

The challenge of classification of positions was a provincial as well as a district challenge in which the District was guided by provincial initiatives and procedures. New positions were created by Government during the 2004 consolidation, and Government has since added other positions to support District operations. In some instances, Government assigned a minimal

classification, and then set processes in place for possible reclassification. These procedures involved training of staff by Government on job classification processes. This also involved the setting up of a committee by Government to approve the classified positions. Delays in classifications provincially, as well as in the school district, were a part of the collective attempt to address these issues.

These challenges at both the Provincial and District levels were understandable given the extent of the 2004 consolidation, the number of new positions created or redefined within that reorganization, and the general complexities relating to job descriptions and job classifications. It is the District's position that the new entity would have experienced significant additional challenges in meeting its mandate had it not put necessary positions in place to ensure that legislative and organizational obligations were met. Given the volume of work and the need for these positions to be filled, the District moved forward with the appointments pending classification as provincial processes were clarified. Furthermore, some positions were classified provincially for other Boards of the same size and, as such, in our view, did not require a separate process for the Western School District.

The District acknowledges the recommendation of the Auditor General, and is now in an environment where classification of positions can be accomplished more effectively.

Item 1B: Employee Compensation

Approval of Hiring

The Auditor General is incorrect in stating that the up-scale hirings were "not approved". As the Auditor General states, the Director of Education has the authority to approve up-scale hirings. In the cases referenced in the report, discussions were held between the Assistant Director of Human Resources and the Director, and approval was given. We accept that this approval should have been documented in the employee's file and will ensure such documentation is in appropriate files in future.

With regard to the International Education Coordinator, it should also be noted that the salary for this position was paid entirely from tuition revenues received from international students, and funding did not come from Government or District sources.

Red-Circling of Employees

In 2004, three school districts were combined to create the Western School District. This initiative was announced in March 2004, with consolidation and staffing to be completed by September 2004. This was an initiative of the Provincial Government, which guided the setting up of the new District. An Interim Board was appointed by Government, and Government officials were involved in the selection of a Director and Assistant Directors. With former senior executives leaving to find new positions in other provinces, employees with much needed skills and organizational memory were required. In this context, a normal decision-making process occurred but with limited personnel and limited time, and considerable urgency. This hiring could have been treated as an upscale hiring, with the same financial result. The decision to red-circle the employee in question was made in consultation with the Department of Education based on a mutually agreed interpretation of red-circling policy.

The red-circling policy was communicated to employees on September 1, 2004, by the Department of Education in a letter to the Newfoundland and Labrador Association of Directors of Education. The policy stated the following: "...if the individual is within 4 years of normal retirement the salaries will be red-circled at the level currently approved by the Department of Education, until the person reaches normal retirement at which time the person will retire or accept the salary applicable to the new position."

For the employee in question, the interpretation placed on this clause by the Department of Education and the Western School District was that the employee was within four years of normal retirement for positions of this nature, and as such, met the criteria for red-circling.

Pay Increases

With respect to retroactive pay referenced in the report, the volume of work and the shortage of personnel in the beginning required that the District respond quickly to place employees in positions created by Government. These employees ensured that the District was able to fulfill its work commitments. Employees were paid retroactively to the date of hire in recognition of the work that they were doing and in consideration of the Provincial and District challenges with timely classification. We acknowledge the concerns expressed by the Auditor General. The current practice is to pay employees from the date that the classification is approved by Treasury Board.

The report references salary arrangements for apprentice electricians. The NAPE Collective Agreement addresses these salary issues and the CUPE agreement does not. The District is of the view that employees should be compensated equally for the same work, and therefore applied the NAPE agreement to all employees.

The instances of underpayment identified are being addressed. As well, the Western School District is investigating the availability of a computerized Alert Tracking System, which can assist with notifying Human Resources staff of upcoming step progression. It is also reviewing procedures relating to salary differential.

Item 1C: Employee Leave

The District moved from a manual to an electronic database system to manage employee leave. As with many technological changes, there have been some growing pains and occasionally staff have had to revert to the manual system.

Some of the items referenced under Employee Leave have very reasonable explanations. For example, the Auditor General writes that “exceptions to the carry forward limit may be granted in circumstances such as extended sick leave or work commitments.” The non-union employee who was paid for 137 leave days upon retirement accumulated this leave because of work requirements related to various capital projects and serious maintenance issues, and falls within this allowable exception. Similarly, the employee who informed the Human Resources staff of an over-statement of 180 days was experiencing very serious health issues for a number of months, and the District did not at that time engage in the further conversations necessary to finalize the adjustment.

As the Auditor General indicates, some of the inaccuracies noted had already been addressed by District staff. Other adjustments will be made as necessary. Also, a new on-line tracking system is being implemented to address inaccuracies of manual systems. The new system ensures that attendance reports are submitted on time and will enable the District to more accurately track the leave balances to be carried forward.

Item 1D: Employee Overtime

The District operates with a formal and reasonable overtime system. All overtime is pre-approved by a supervisor prior to any overtime being worked by an employee. In many instances pre-approval of overtime for maintenance or other staff is provided verbally, outside normal working hours, due to unforeseen or emergency events that can occur and that require immediate

attention. In addition, all overtime requested for payment is reviewed and authorized by the appropriate supervisor prior to payment. While the payroll summary template is not exactly the same for all three zones, all three reports capture the essential and intended information to be communicated from the regional supervisors: the employee name, regular hours, and overtime hours (if applicable). All other relevant information pertaining to the employee, such as rate of pay, is prepopulated in the payroll system.

With respect to banking overtime, this is administered as per the CUPE master collective agreement, Article 18.09, and the NAPE master collective agreement, Article 8:06.

The report documents overtime for the maintenance employees operating in the Northern Zone. This occurred during a period when the District was constructing new schools in Port Saunders and L'Anse Au Loup, and developing Canon Richards School in Flower's Cove. The construction of these new schools meant the closure of seven older schools and the setup of the three new sites, which required additional work by staff. During this period of time, there was also a major flood in the newly redeveloped school in Flower's Cove, which required staff to work overtime to remediate the school. This flood occurred just prior to the opening of the school in September.

The District is currently implementing an On-Line Time Sheet Entry system for all support staff employees. Some of the features of this new system include: online submission of time sheets, computerized tracking and updating of all leave balances, computerized tracking and updating of banked overtime, and online review and supervisor approval of overtime prior to payment. Conversion to the new system for all support staff will be completed in the second half of the 2011-12 school year. This system will assist the District in being responsive to the concerns expressed by the Auditor General on overtime documentation.

Item 2A: Travel

Travel – Senior Employee

The Auditor General references the senior employee's travel and expense coverage. Although the Auditor General has not indicated otherwise, it should be noted that the total amount for the employee's travel is very reasonable. This involves travel within the District, frequent trips to St. John's, and, as required, travel outside the Province. The District will ensure improvements in documentation and procedures in these matters. The following provides important contexts to the Auditor General's comments.

The Auditor General writes that “the employee’s travel expenses such as accommodations, rental cars and airfare were directly billed to the District and paid by purchase orders”. It is the view of the District that this is a common and appropriate method for arranging travel and accommodations. The alternative might be for employees to use personal methods of payment for accommodations, rental cars, and airfare, and to seek reimbursement from the Board. There are significant vulnerabilities associated with this approach including, but not limited to, the use of personal credit cards. The District’s practice of paying directly for accommodations, rental cars, and airfares in the manner described is common within organizations. The District will assess and review this practice in response to the Auditor General’s comments.

Regarding meals, the amounts charged are readily available by examining hotel bills, which the Auditor General did in some instances. The District staff conducted a review of all such bills for the period indicated, and discussed this review with the staff of the Auditor General. This review by District staff indicates that, for the period of time in question, the employee’s total claims for meals (on hotel bills) were substantially less than the eligible claims using per diem rates. In short, documentation relating to meals is indeed available, and an analysis indicates that the employee claimed considerably below the approved per diem rates.

The Auditor General writes “where meals were charged for more than one person, there was no evidence that meals were provided for a legitimate business purpose.” For the time period involved, the Auditor General identified amounts of \$59 (3 people indicated), \$39 (3 people indicated), \$26 (2 people indicated), and \$23 (2 people indicated). The Auditor General is correct that the bills themselves did not indicate the names of the individual(s) involved. These individuals were staff members/trustees who attended meetings in St. John’s along with the employee, and this is verified through the dates of meetings, and the travel records of those attending. The District will ensure that documentation of names is also provided on the meal bills for future travel, and incorporated into travel claims.

Regarding telephone calls, senior employees of Western School District must engage in business related calls while travelling. Where possible, a land line is preferable to cell phone calls, for reasons of security, reception, etc. The Auditor General writes that “In instances where long-distance telephone calls were charged to the hotel bill, there was not always documentation to support whether the telephone calls were business-related or personal and within Government’s travel rules limits for personal long-distance calls.” We acknowledge the importance of documentation, but in fact a record of these calls is available on hotel bills. The Auditor General identified two instances in which the hotel had included the amounts of phone calls but not the

specific telephone numbers. The District retrieved phone number information from the hotel and this was available to the Auditor General. All of these bills are available and the business nature of the calls (usually to District staff or schools) can be easily verified. In response to the Auditor General's assessment, the District will ensure that all bills of this nature are provided in the original claim.

Inappropriate Claims

The District has a comprehensive and formal process for reviewing travel claims and processing payments. This detailed review process has proven to successfully identify and correct inaccuracies, and flag ineligible expenses. In relation to the travel claims noted in the report, the District would view these occurrences as uncommon. The employees for the noted travel claims have been contacted and the respective overpayments will be deducted from the next travel claim submission. A total of \$119, representing payment in full, will be recovered at this time.

The procedures for Executive claims are as follows:

- The accuracy of information presented in each travel claim rests primarily with the claimant.*
- Each claim is reviewed by accounts payable staff for completeness and accuracy of the financial information.*
- Each claim is then presented to the Comptroller for review. In this review, all claim content including the supporting documentation is scrutinized for eligibility and accuracy per the District's Executive Travel Guidelines.*
- Each claim is then submitted to the Assistant Director Education – Finance and Administration for review.*
- Lastly, the formal approval for payment is provided by the Director of Education, via signature on the claim document.*
- The approved claim is presented to the accountant for final authorization to enter in the system and release payment.*

The procedures for Standard claims are as follows:

- The accuracy of information presented in each travel claim rests primarily with the claimant.*
- Each claim is submitted to the employee's supervisor for review and approval. The Supervisor reviews all content and supporting documentation. If clarification of content is required or if the supporting documentation is insufficient, the Supervisor initiates contact with the employee to resolve.*

- *The approved claim is presented to accounts payable for processing. The accounts payable clerk conducts a review of the approved claim, checking totals and looking for non-compliance with policy. Any addition errors are corrected and any noted deviations from policy are either directly adjusted or raised with the employee/supervisor.*
- *The claim is presented to the Accountant for final authorization to enter in the system and release payment.*

Trip Advances

The Auditor General noted “trip advances not followed-up.” The District operates with a formal process for issuing, recording, and tracking travel advances.

With respect to the noted single employee with the \$3,532 balance, the Auditor General has indicated that further review by District staff confirmed that this balance was actually zero. The balance had been created due to the miscoding of some source documentation. This employee has always reimbursed the District immediately upon receipt of reimbursement from the Department of Education.

The District has offered a travel advance service for employees who have travel expenses related to Department of Education inservices, to help ease the financial burden of a significant wait for their reimbursement from the Department of Education. Therefore, the accounting department has extended the 30 day reimbursement policy up to a period of 120 days for these types of advances. The noted \$29,000 balance was comprised of receivables outstanding for less than 120 days, consistent with policy, and some others that did extend beyond this time frame. The District will ensure that all travel advances, and any related travel expenses to be claimed to the Department of Education, are duly established, monitored, and cleared in a timely manner. Any lingering balances will be duly addressed.

In response to the assessment of the Auditor General in this particular area, the District will also monitor the processing times experienced with Department claims, and will adjust the District travel advance policy in response to improvements in reimbursement time.

Payments to Janitorial Staff

In relation to the issue of the three janitorial staff receiving a stipend for use of their vehicles, this was an established practice of the former School District 2. These employees, who are the bus driver leads/lead hands in the Northern zone, would receive a \$250 stipend annually, based on need analysis by the former School District, to offset expenses incurred for use of

their private vehicles. To avoid the submission of frequent small travel claims (which would be challenging from an administrative processing perspective) this stipend continuance was supported. The employees in the positions are frequently required to travel small distances up to 2 km in the performance of their duties (e.g., travel to/from schools in proximity, picking up supplies within the community, picking up fellow drivers during breakdowns, and the provision of transportation).

The District acknowledges the former School District 2 did not have a policy to support this practice; however, the District continued to follow this long-standing practice. In response to the concern raised by the Auditor General, the District will now review this practice to ensure Government policy is applied.

Item 2B: Cell Phones

Cell Phone Listing

As indicated in the report, the District maintains a listing of employees with cell phones; however, the inventory of cell phones, at the time of the audit, was not up to date. In response to the findings of the Auditor General, the District has now implemented a new procedure for District cell phones to increase control and accountability. Each employee is required to sign out a cell phone and any applicable accessories (e.g., hands-free device) and also acknowledge that they have read the District's policy governing the use of cell phones. When an employee leaves the District, the cell phone and any accessories are to be returned to the immediate supervisor. This process is monitored regularly and the cell phone listing is kept up to date and complete.

Plan Review Follow-up

The audit report noted that there were four out of fifteen cell phones that were either not used or not used enough to warrant the purchased plan. The cell phones in question were necessary to conduct business of the District. In three of the four cases, they were needed for on-call or emergency purposes. For example, one cell phone was located at Killdevil Lodge in Lomond where students camp as part of their curriculum. The District-provided cell phone was the only means of communication in emergency situations for program staff and volunteers. Immediate connectivity for emergencies is essential for team leaders and participating students during these outdoor excursions.

The District was pleased that these employees were frugal with their cell phones, as required under the policy. After an internal review of all District cell phones, some of these cell phones were disconnected between February and September 2011.

Review of Cell Phone Bills

The report indicated that the District did not always document the review of cell phone bills for personal calls or request that employees reimburse the District for personal cell phone usage as required by the District's cell phone policy.

The District does not agree with this finding. It is the District's policy that cell phone bill reviews are to be completed by each employee and all personal charges are to be reimbursed to the District. Bills are forwarded to the applicable employees each month for review and personal calls are required to be reimbursed to the District following this review.

In accordance with policy, the employees noted in the report have reviewed their bills and a reimbursement of \$36.73 for one maintenance employee and \$8.20 for one manager has been received. The second maintenance employee had no personal costs for this period. In the absence of an Operations Manager, this employee was the primary contact for the Central Zone which led to a higher than normal call volume.

The District will continue to ensure processes are followed for monitoring all phone usage. In response to the comments of the Auditor General, the District will continue to complete a major audit of cell phone accounts once a year and also started a new process of completing monthly reviews of cell phone bills.

Cell phone for one executive

The reference to cell phone "costs" is, in our view, incorrect since the issue here is not about the costs, which are in fact very reasonable given the demands for business use. The issue is that the employee was on a cell phone plan that did not reflect the pattern and degree of use and that, as the report indicates, "usage charges [were] above the plan charges." Upon the review of cell phone usage in September 2009, prior to the arrival of the Office of the Auditor General, District staff determined that the plan provided was not consistent with the needs and usage patterns of this employee, and the plan was adjusted accordingly. Plans are now routinely adjusted to reflect the needs of the District and employees' patterns of usage. Since 2009, the District has also implemented a procedure where roaming packages are added to the particular cell phone plans on a need basis and only for the period of travel indicated.

With regards to the Blackberry, this was provided because the normal work cell phone did not provide cell phone coverage in the area in which the employee was travelling. This cell phone was arranged so that the employee could have access to the District office and Department of Education, and vice versa. The Blackberry was then maintained for a period of time for anticipated usage by others in similar circumstances. However, this need did not materialize and subsequently the Blackberry was cancelled without any cancellation fees.

Although the Auditor General has not indicated otherwise, it should be noted that phone bills are available and demonstrate the business nature of these calls.

Item 2C: Other

Discount Not Taken

The District, as a practice, takes advantage of all discounts offered by vendors. In this case, the invoice in question was placed on hold by the Comptroller to allow an opportunity for assessment. The amount of the tax, for this particular property, had increased substantially from the previous year and an inquiry was made to determine the reason for this increase. Unfortunately, the response from the town was not obtained in time to take advantage of the \$750 discount. This situation arose because of the District's continued efforts to ensure that expenditures are appropriately incurred and, where possible, reduced. The assessed value, and the \$750 charge, is still under review by the District, and the District continues to address this issue with the Town. The District will continue to endeavor to take advantage of all discounts, as recommended by the Auditor General.

Unnecessary Payment

The report references a billing for a router from a telephone company. The router in question was the property of a telecommunication vendor and it was not the responsibility of District to track or inventory equipment belonging to the service provider. It was incorrect for the vendor to bill District for the cost of this item as it was their responsibility to collect the equipment upon the closure of a school. The vendor stated that it was possible for billing to occur if the equipment was not retrieved by their technical staff in a timely manner. In response to the findings of the Auditor General, the District has been refunded and the router is back in the vendor's possession.

Contract Overpayment

With respect to invoice processing and payments to vendors, the District operates under a prescribed and detailed accounting process. It views the overpayment to one vendor as an isolated occurrence, which happened when the vendor changed the invoice format. In response to the comments by the Auditor General, accounting staff have been made aware of this incident and the overpayment will be recovered from the vendor.

Internal Auditor

The position of internal auditor is a relatively new position with District and other districts in the province. The District hired an Internal Auditor in June 2009.

The intent of the District, for the Internal Audit position, was to develop a financial position that reported to the executive staff and would also be assigned other administrative duties. The advertisement for the position described these major functions. In essence, the District was creating a position that would be responsible for auditing financial systems and performing other administrative duties as necessary. It was never intended for this position to operate in the strictest sense of an internal audit department. The position was created in this manner to provide additional support to the three major divisions within the District and to aid in the assessment and implementation of various operational systems, so as to achieve efficiencies and to operate under strong internal controls and processes. For example, the internal auditor was assigned the responsibility of conducting a review of the accounting systems in all of the District's schools over a two/three year period. The employee was also responsible for identifying specific areas for improvement in the school accounting systems and to participate in the design and implementation of the new accounting system which was fully implemented. In the development of a new accounting system for schools, the internal auditor would have interaction with the Comptroller, who has direct overall responsibility for school accounting systems and internal controls for District and school operations. In response to the comments by the Auditor General, the District will now review the operations of the Internal Auditor position.

Membership Fees

The Auditor General writes "Government policy permits the head of a Department or Agency to approve the payment of membership fees for those employees whose membership in an association or organization contributes to the mandate of the Department or Agency". The fees referenced were indeed approved by the Director of Education, who is recognized as "the

head of a Department or Agency”. The heading “Membership Fees not approved” is therefore inaccurate. The possible issue here is the documentation of the Director’s approval, and the policy is silent on that matter.

As to the specific instance, these approvals are for Educational Psychologists and Speech Language Pathologists, whose continued membership fees are a condition of their remaining eligible to perform their duties. Directors of the three previous Boards made the very defensible decision that the organization should reimburse for these costs. The District likewise supports this practice, and continues to do so each year.

It has been the District’s practice not to include these payments on T4s as a taxable benefit. This practice has been reaffirmed by an external consultant following a formal review of the legislation by his firm. The District will further review this issue in light of the Auditor General’s assessment.

Homestay Program

The District respectfully maintains that it was in full compliance with the September, 2008 Ministerial Directive to phase out its involvement in the Homestay and Recruitment components of the International Education program by June, 2009.

Subsequent to the Directive from the Minister of Education to “phase out” district involvement in International Education, there were many conversations/meetings with Department of Education officials, as well as discussions between Western School Board Trustees and the Minister. This culminated with the arrangement of a special meeting in the spring, 2009 involving the Minister and her officials, as well as Western School Board Executive Members and administrative staff. While these discussions were ongoing, the District discontinued its involvement in recruitment and began to wind down its involvement in coordinating the homestay component of the program, all of which was done by June 2009 as per the Minister’s directive.

However, it is important to note that the recruitment for the 2009-10 school year started in the fall of 2008. Prior to the conclusion of the meeting process with the Minister regarding the possibility of rescinding the directive (especially given that all other provinces in Canada were expanding their international education programs), the German agent made contact with us to place three students for September 2009. Our staff person indicated that we could no longer be involved in this process and directed the agent to a local resident who had a long time involvement in the international education program, and who had expressed an interest in potentially getting involved in the program as an independent service provider. Through this contact,

arrangements were made for 3 students to come to the District for September 2009. In essence, this resident acted as the homestay coordinator independent of the Western School District, therefore allowing the district to remain compliant with the Ministerial directive.

As well, the District had two Korean students who had attended school in the 2008-09 school year with the understanding that they would be able to return in 2009-10 to graduate from our school system. Allowing these students to stay in our schools to graduate in June 2010 was an important commitment that the District felt it needed to honour, while ensuring adherence to the Minister's directive regarding Recruitment and Homestay. In light of the directive, District staff made contact with the Korean agent to indicate that they would need to make contact with the homestay families to determine if they would be interested in independently providing homestay for these two students in the 2009-10 school year. These families did agree to provide homestay independent of involvement by District staff and the two students were able to stay in our district and graduate in June 2010.

In the spring of 2009, the District decided to continue to employ a Coordinator for the Access to Information and Protection of Privacy Act (ATIPPA), not Coordinator of International Education. However, the Coordinator did continue to be resident expert on International Education and helped the organization to meet its obligations for the five students for the 2009-10 school year. The Coordinator also positioned the District to process any other requests from private businesses involved in the recruitment of international students to the province as promoted by the Department of Education. Throughout the fall of 2009 and up to February 2010, in addition to significant work relating to ATIPPA, the Coordinator provided all the necessary services relating to these five international students, as per our obligations when the students were accepted the previous year.

Inappropriate Expenditures of School Based Funds

The issues noted by the Auditor General at one of the District's schools originates from the report of an external consultant engaged by the District to investigate this matter. Some of these issues were originally identified by the Human Resources Division while staff was completing work at this particular school. A timely and appropriate response was initiated by the District which began with the District's Internal Auditor completing a review of the school's financial records in accordance with the District's established school auditing program. Following this internal review, the District then engaged an external auditor to review six fiscal years for this school. At the request of the District Office, the school principal notified the RCMP of the situation at the school and provided an initial report. Following this

notification to the RCMP, senior staff from the District Office met with the RCMP to provide further details. Additional information was provided by the District, as requested by the RCMP. After a thorough investigation was completed by the RCMP, the District was informed that no charges were to be laid in the matter. Legal counsel for the District was notified of the issues at this particular school and continues to provide ongoing advice on the matter. This particular case remains open and the District will continue with appropriate strategies to recover materials or costs.

The Western School District has documented the concerns identified at this school and has taken action to ensure this school, and other schools in the District, are in compliance with District policies and sound financial practices. Since June 2009, the Internal Auditor has had direct communication with all schools to inform them of the financial practices to be followed and to ensure each and every item identified in the audit report is addressed in all schools. The Internal Auditor, through the regular school audit program, also conducts regular financial reviews of schools to ensure compliance with District practices, policies, and standards. A total of 36 school audits have been completed to date.

The District has implemented a standard school accounting system throughout all schools in the District. This new financial system includes financial policies, a standard chart of accounts, monthly financial statements, bank reconciliations, and access to school records on-line from the District Office.

Item 3 – Tendering Goods and Services

Item 3A: Goods and Services Greater Than \$10,000

The District currently operates with only one position having responsibility for the procurement of goods and services for the entire District. This position is responsible for a District procurement budget of approximately sixteen million dollars, and has responsibility for purchasing for the District Offices and all school sites throughout Western Newfoundland and Southern Labrador.

Compliance with the Public Tender Act

The report indicated that 27 of 34 purchases totaling \$1.6 million were tendered in accordance with the Public Tender Act.

The report referenced five purchases that were indicated as not being tendered as required by the Public Tender Act. However, it is the opinion of the District that two of the identified purchases totaling \$356,191 were approved by the Department of Education in accordance with their established protocols and compliant with the Public Tender Act.

With regard to the regular bus contract for one year in the amount of \$10,680, the District based its original estimate on historical financial data, which resulted in a yearly estimated total of less than \$10,000, which meant no public tender would have been required. However, in reality the number of students increased resulting in a contract amount slightly above \$10,000.

The recycling contract for the amount of \$51,397 was not tendered at the time, since it was thought that the acquisition of this service was sole source. Unknown to the District at the time, another service provider established operations and could provide service to the 15 schools noted in the report. As a result of the findings of the Auditor General, the District is now in the process of completing a tender for this service.

In relation to the one year contract for regular bus transportation for the amount of \$26,390, the District acknowledges there was an error in the prior year's addendum. The contract should not have been extended into the third year, but the extension was based on the addendum and not the original contract.

In relation to the contracts for the amounts of \$77,968 and \$280,125 respectively, the District renewed these contracts on the direction it received from the Department of Education. The Department provided this direction based on their established practices for contract renewals and was compliant with the Public Tender Act. In reference to the two contracts, the renewal process was initiated by the District following a thorough review of the transportation system in the areas covered by these contracts. The purpose of the review was to determine if efficiencies could be achieved in the transportation system, which would result in cost savings for the District and the Province. The annual savings realized from this restructuring initiative is \$46,750, and these savings will accrue every year. Over a ten-year period, for example, the savings achieved through the efforts of the District would be approximately \$467,500.

The report identifies two instances where no Form B was filed. We wish to note that in the 2009-10 school year the District did complete and submit Form B documents in eighteen other instances. The District is aware of the use and the requirements of Form B documentation. In response to the review of the Auditor General in this area, the District has now implemented additional control procedures to ensure that all Form Bs are filed with Government as required.

Issues with Contracts Tendered

The report indicated that of the thirteen contracts reviewed, seven were missing some of the required documentation. Some of these contracts were of a short term duration and the project was over prior to the collection of the requested documentation.

In response to the concerns of the Auditor General in this area, the District has now designed a database for all regular and special needs bus contracts. This new system was implemented in August 2011. The database tracks all the required documentation for each company. Management and support staff also follow up with each company until all documents are received.

As well, the District has also implemented a new process for tender documentation follow up and snow clearing contracts which has proven to be effective. The District is committed to ensuring all required contract documentation is on file as required.

Item 3B: Goods and Services \$10,000 and Less

District Policy and Government Policy

The District respectfully disagrees with the Auditor General's perspective on this issue. The District was informed in writing by Government Purchasing Agency that the policy referenced in the report was intended for internal Government departments only and that it does not apply to Government funded bodies.

Moreover, The Public Tender Act, Section 9(b), supports the District's approach in this matter. The Act states that the Government funded body shall "...establish for the circumstance a fair and reasonable price for the public work, the goods or services or the leased space through direct quotation substantiated by reference to trade catalogues, price lists or in a manner that the Government funded body considers advisable."

In response to the concern raised by the Auditor General, the District will now review its purchasing policy in this area.

Item 4 – Buildings, Furniture & Equipment

Item 4A: Safeguarding of Furniture and Equipment

Procedures to Safeguard Furniture and Equipment

The District has recognized and operated under the Province’s Tangible Capital Assets Policies and Guidelines since the incorporation of the amortization of tangible capital assets in our financial system in fiscal year 2007-08. Since inception, the thresholds for capitalization disclosed in these guidelines have been followed for all buildings, busses, vehicles, capital improvements, and furniture and equipment. In response to the findings of the Auditor General, the items noted in the report will be removed from the ledger. Three items fall into this category.

The District operates under a Capital Asset Disposal Policy which has been communicated to all schools and office staff. The disposal of assets follows a formal process and then, once an asset is approved for disposal, the asset is removed from the applicable District record.

Tagging of Assets

As noted in the audit report, the District has implemented a tagging system for fixed assets such as computers and SmartBoards. While the District does not disagree with the importance of this process, the ongoing task of tagging all of the fixed assets in the District will require the permanent addition of staff with responsibility for fixed asset tracking and management.

Capital Asset Ledger

The District has completed the first phase of its asset management plan, incorporating SmartBoards, computers, laptops, and photocopiers. In the summer of 2011, an inventory of untagged ICT (information, computing and technology) equipment, including computers, laptops, monitors, switches, SmartBoards, and SmartBoard projectors, was completed. ICT staff have been instructed that all new equipment purchased by the ICT Department must be tagged and inventoried prior to being placed in schools.

As well, the District has implemented a new process to identify any new computer equipment purchased for schools using school funds. The District is now using an inventory form for schools to complete when they purchase new items. Submission of this completed form will trigger ICT to assign asset numbers for equipment, deliver proper asset tags, and ensure the items are entered into the asset database. The ICT department will no longer accept service requests for equipment not containing asset tags.

The District acknowledges the concern expressed by the Auditor General. The District will continue to build its asset management system in stages, as resources permit. However, the development, implementation and maintenance of a capital asset system which encompasses all assets throughout District are a tremendous undertaking for the current complement of District staff.

Periodic Inventory Counts

The District began physical inventory counts on all tangible capital assets, for the school year ending June 30, 2011, in compliance with the definitions in the Province's Tangible Capital Asset Policies and Guidelines. Additional human resources will be required to complete annual physical inventory counts of all assets in the District located in schools throughout Western Newfoundland and Southern Labrador. The District acknowledges the importance of this issue and will monitor our progress in this area.

Item 4B: Land and Buildings

Identification of Land

The District is aware of the land it owns for the schools operated within its jurisdiction. In relation to the \$2.0 million reported in land values on the financial statements, much of this data dates back to information recorded many years ago by prior school districts. The District is researching this issue in further detail and will make appropriate land valuations following this assessment.

Recording of School Buildings Owned by Churches

The District is fully aware of all properties owned by denominational authorities. Formal agreements exist between the School District and Denominational Authorities for properties owned by a particular authority. In response to the comments of the Auditor General, the District will review its financial records and appropriate adjustments will be made to the necessary schedules.

Building Lease

The Auditor General makes reference to the lease agreement relating to a former school in Corner Brook. The specific reference was that no formal agreement was in place after the expiry of the original lease. The District does not agree with this statement, since the District operated under the terms and conditions of the original lease. The practices of the tenant and landlord during this time period also support this statement.

The report makes reference to the monthly lease payment for this former school. This was noted in the report as an issue raised at a Property and Finance Committee meeting in July 2009. Reference was made to the lease amount of \$5,000 (or \$1.52 per square foot) being below market value and that the rate had not increased since the establishment of the original lease agreement.

The lease for this property was one in which the tenant assumed financial responsibility for all repairs and maintenance both inside and outside the building. The District completed further work on this file to determine additional information about the property and the market. An appraisal was completed on this property by a qualified appraiser, which provided information about the building and market conditions. The appraisal report noted that the subject property would rent in the range from \$4.00 per square foot to \$6.00 per square foot. This specific information was then used by the District to determine the effective lease rate for the subject property, given that the tenant was responsible for all repairs to the building. The process of adding back the building repairs to the lease calculation revealed that the lease rate was much higher, and in some cases beyond market value. For example, in one particular year, the tenant paid for expenses related to roof repairs and work on the oil storage system valued at approximately \$275,000. When this expense is added to the original monthly lease rate for this particular year, the effective monthly rate is \$8.47 per square foot ($\$1.52 + \6.95). This analysis concludes that the lease rate for this particular year is a minimum of \$2.47 per square foot beyond the market evaluation of \$4.00 to \$6.00 per square foot, as noted in the appraisal report.

The report makes reference to the District not collecting and remitting HST on the annual lease on a property. The District does not agree with the position of the Auditor General on this issue. The District believes that it is not required to collect and remit HST on this property. An external consultant was hired to review this matter for the District and reaffirmed the position of the District. The consultant's letter states, "To conclude, based on the above [analysis], a supply of real property made by a public sector body is exempt from charging HST as long as the exceptions listed in (a) through (j) are not met. This is the case for the Western School District." In

response to the Auditor General's report, the District will further examine this issue.

The District wishes to report at this time that the property in question was determined to be surplus to the District's infrastructure needs, and has since been sold at the full appraised value of the building.

Sold Building

The report identified one building that was not removed from the District's financial records after it was sold. This building was the former carpenter shop, located in Corner Brook, which was an abandoned older building with minimal or no financial value. This particular building was sold with the property known as the Tibbo Building in 2009. In response to the findings of the Auditor General, the District has now removed the building from the capital assets listing.

Disposed Buildings

The District's normal operating process is to provide information to Government on a regular basis about its insured properties. In recent years, new schools have been constructed in the District and then added to the insured property list with the Department of Finance. The District also provides these updates to Government through its annual budget document which lists all properties, including those that are closed. The District is unaware of the origin of the information on the insurance listing noted in the report since it was not a document that was produced at the District level. The District acknowledges the Auditor General's comments and will now review its property listing with the Department of Finance to ensure accurate information is recorded about District properties.

Item 5 – Vehicles

Item 5A: Vehicle Usage and Expenses

Controls over Vehicle Usage

Vehicle operating costs are formally monitored by the District. The District, as noted in the audit report, has established a budget for vehicle operating costs by functional group. These budgets are monitored and reported to senior management and the Board. As well, the budgets pertaining to student transportation are reported to the Department of Education. Further, all service vehicles are tracked individually by account code. Given the limited resources of the District, further monitoring of operational costs is difficult to perform on a regular basis.

The District operates with a log book system for all service vehicles. Bus travel is also logged in accordance with guidelines from the Department of Education. Log books entries have been regularly completed by all drivers, with the exception of the two vehicles noted in the report. All log book entries are currently submitted on a monthly basis to the Internal Auditor for review.

The Auditor General writes that “operating costs for each vehicle was not accurately recorded in the financial records.” The District’s current process requires the source documentation for vehicle expenses to clearly indicate which vehicle incurred the costs and to which general ledger account the expenses should be charged. This process permits careful monitoring of all vehicle expenses. In the cases noted in the report, the account description was not changed in the general ledger to reflect the new plate number for the vehicles. In response to the findings of the Auditor General, this oversight has been corrected.

The District maintains a complete listing of all tangible capital assets. The three vehicles noted in the report were not removed from the listing immediately upon disposal. The vehicles have now been removed from the financial records.

Personal Vehicle Costs

The conditions upon which maintenance vehicles operate in our Northern zone are somewhat extreme in nature. Within a vast geographic area of coverage, vehicles encounter many gravel roads, cold temperatures, and generally higher than average wear and tear. The former School District 2: Northern Peninsula/Labrador South completed a cost-benefit analysis relating to the method of vehicle operation in the Northern zone. This analysis concluded that personal vehicle usage was more feasible than leased/purchased vehicles. The District recently completed an assessment of vehicle use and concluded that the personal vehicle usage strategy was more cost efficient than leased/bought vehicles. As well, maintenance employees in the Northern zone, when hired, were asked as a condition of employment to have their own personal vehicle for business use.

The amount of travel during the timeframe indicated was a direct result of the large volume of school construction that was occurring in this zone during the time period under review (e.g., the construction of two new schools in L’Anse au Loup and Port Saunders, in addition to the redevelopment of Canon Richards Memorial in Flower’s Cove).

In response to the concerns raised by the Auditor General in relation to personal vehicle use in this zone of the District, the District will continue to monitor vehicle use and make adjustments in the mode of operation, as appropriate.

Item 5B: Vehicle Fuel Purchases

Vehicle Fuel Cards

The District has an established process to review and monitor fuel credit card transactions. This process ensures that all fuel slips are individually validated and coded, matched to the corresponding entry on the monthly fuel statement, and subsequently approved for payment. Both the individual fuel slips and corresponding monthly vendor statements are thoroughly reviewed, with all irregularities investigated.

The District's corporate fuel credit cards have always been set up to ensure cash back is not permissible. This has been confirmed with our fuel supply vendors. The District also retrieved additional confirmation from this vendor that the description disclosed on the referenced \$100.03 slip was in fact miscoded by the vendor's staff, in error.

In response to the findings by the Auditor General, the District has now cancelled any excess cards, and has recently implemented the use of an on-line system with our largest fuel supply vendor to monitor the card inventory. In addition, the fuel credit cards now have chip technology and require a 4-digit pin for every purchase. As well, District staff have been reminded to sign and add the required detail to each slip.

PART 2.5

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

INDUSTRIAL COMPLIANCE

Executive Summary

The Department of Environment and Conservation (the Department) is responsible for the protection, enhancement, and conservation of the quality of the natural environment, including water, air, and soil quality.

The Department's Pollution Prevention Division (the Division) is responsible for the prevention of environmental degradation by industrial operations, and to ensure their compliance with the *Environmental Protection Act* and *Regulations*. The industrial sectors that the Division works with include pulp and paper, petroleum, mining, and power generation.

The Division's Industrial Compliance Section (the Section) is responsible for preventing the degradation of the environment by industrial facilities and ensuring facility compliance with environmental legislation. Section officials provide services to assist and regulate industrial facilities in the Province in the reduction of emissions of air pollution, discharge of wastewater and disposal of solid waste. The Section has five environmental engineers - four located in the St. John's office who are responsible for the industrial facilities east of Gander and certain facilities in Labrador, and one located in the Stephenville office who is responsible for industrial facilities west of Gander and two industrial facilities in western Labrador. At the time of our review, there were 20 industrial facilities for which routine inspections were conducted and 5 industrial facilities for which complaint-based or follow-up inspections were conducted.

The measures used by Section officials to monitor and enforce environmental legislation include: issuing Certificates of Approval (CoA) which provide terms and conditions to satisfy various *Environmental Protection Act* requirements related to the construction and/or operation of industrial facilities; reviewing monthly environmental monitoring reports of industrial data submitted by facility operators, to ensure the operators are complying with Provincial environmental requirements; conducting site inspections, discussions with industry representatives, and review of records; providing technical advice to industry and public members on various issues; and investigating environmental complaints.

Our review identified concerns with how Section officials conducted inspections, tracked monthly environmental monitoring reports submitted by the facility operators, recorded information relating to Section activities, and documented complaints. In particular, we found that:

Industrial Compliance

- there was no documented risk-based approach for determining inspection frequency;
- no formal training was provided to environmental engineers in performing inspections;
- no documented policies and procedures were in place for inspections;
- inspections were not being adequately documented;
- monthly monitoring reports that were received from the facility operators were not being reviewed in a timely manner by Section officials;
- complaints were not being formally tracked; and
- no information was readily available to demonstrate whether any required follow-up action from inspections and complaints had been taken.

In addition, information systems were not in place to track inspection and monitoring information relating to industrial facilities, and to enable officials to demonstrate whether their activities were successful in meeting Section responsibilities for preventing the degradation of the environment by industrial facilities and ensuring facility compliance with environmental legislation.

Inspections

Inspection frequency was not being determined using a documented risk-based approach and there was no inspection plan developed based on priority. Department officials indicated that while inspections are generally expected to be conducted for each facility at least once per year, the number and timing of inspections were determined by the environmental engineers. The Industrial Compliance Manager may also direct engineers to conduct an inspection should they identify the need.

Our review of inspection activity between 1 April 2010 and 31 March 2011 indicated that 6 of the 25 facilities that required industrial inspections did not have inspections completed, and of the remaining 19 facilities, inspection data entry forms for 8 of the 52 inspections completed were not evidenced as being approved by the Manager.

In addition, the Department: did not have documented policies and procedures to guide the inspection process; did not provide formal training to environmental engineers on performing inspections; and did not have a standard inspection form that inspectors could use to complete their inspections. Furthermore, documentation that was compiled by the inspectors relating to completed inspections was not always approved by the Industrial Compliance Manager.

Without policies and procedures, formal training, standard inspection completion forms and approval of inspection documentation, the Department cannot ensure that inspections are performed consistently.

Monitoring Reports

Of the 20 industrial facilities requiring routine inspections, 17 were required to submit monthly monitoring reports.

Our review of the monthly monitoring reports received from the 17 industrial facilities between 1 April 2010 and 1 December 2011 indicated the following:

- 2 of the 494 monthly monitoring reports were not received within a 30 day timeframe; and
- Of the 492 monthly monitoring reports that were received, 94 had not been reviewed by Section officials at the time of our review, with 18 of these reports having been received over 12 months prior to our review.

The lack of review of monthly reports increases the risk that there could be violations of the Province's environmental legislation that have not been identified by the Division and/or followed up on.

Information Management

While the Department maintained various spreadsheets to list CoAs and to track inspections, receipt of monthly environmental monitoring reports, and complaints, there was no centralized database for storage of all information relating to the industrial facilities. Such a database would improve data security and integrity, provide central data access to users, and enable officials to more readily identify and follow-up on issues identified. It would also provide the information necessary for officials to demonstrate whether their activities were successful in meeting the Section's responsibilities for preventing the degradation of the environment by industrial facilities and ensuring facility compliance with environmental legislation.

Complaints

There were no documented policies and procedures for handling complaints, and complaints received were not formally tracked. The lack of formal policies and procedures and the absence of a formal means to track complaints may lead to inconsistent handling of complaints, as well as an inability for the Department to readily track the number and/or type of complaints received, or to cross-reference complaints and related action taken to other information available for a particular facility. Such information could be used if the Department were to conduct inspections using a documented risk-based approach.

Inspection Follow-up

We found that although follow-up actions were identified on inspection forms, the action taken and follow-up completed to confirm required action was taken was not documented and therefore we were unable to determine that this follow-up had occurred.

Background

Department overview

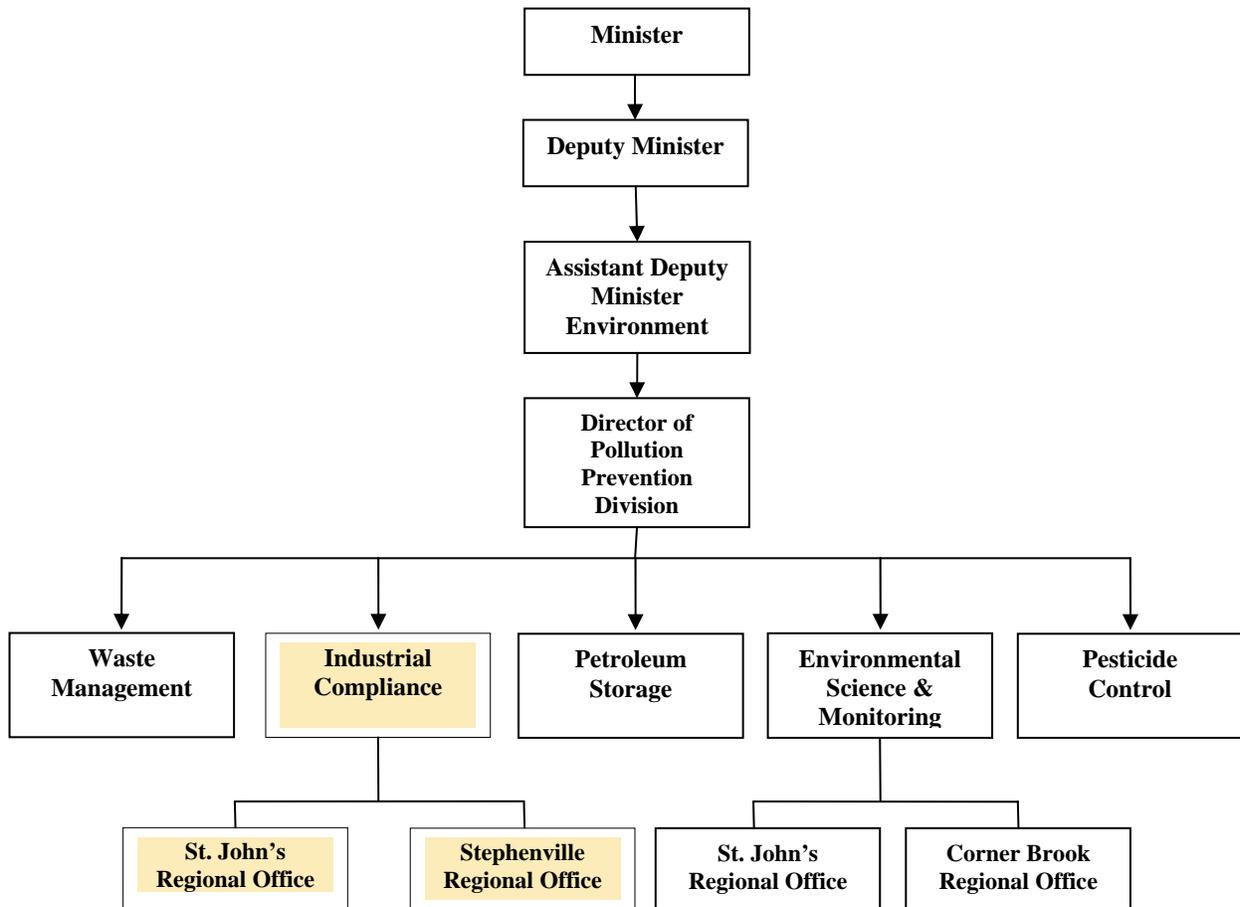
The Department of Environment and Conservation (the Department) is responsible for the protection, enhancement, and conservation of the quality of the natural environment, including water, air, and soil quality. The vision of the Department is a clean, sustainable environment and healthy, resilient ecosystems in perpetuity for the social, physical, cultural, biological and economic well-being of the Province.

The Department's Pollution Prevention Division (the Division) is responsible for the prevention of environmental degradation by industrial operations, and to ensure compliance with the *Environmental Protection Act* and *Regulations*. The industrial sectors that the Division works with include pulp and paper, petroleum, mining, and power generation. The Division is responsible for five sections, including the Industrial Compliance Section. The organization chart of the Department is shown in Figure 1.

Industrial Compliance

Figure 1

**Department of Environment and Conservation
Organization Chart
31 March 2011**



Source: Department of Environment and Conservation

Industrial Compliance

Industrial Compliance Section

The Division's Industrial Compliance Section (the Section) is responsible for preventing the degradation of the environment by industrial facilities and ensuring facility compliance with environmental legislation. Section officials provide services to assist and regulate industrial facilities in the Province in the reduction of emissions of air pollution, discharge of wastewater and disposal of solid waste. At the time of our review, there were 20 industrial facilities for which routine inspections were conducted and five industrial facilities for which complaint-based or follow-up inspections were conducted.

The Section develops and administers Certificates of Approval (CoA) for the construction and/or operation of various industrial facilities. Based upon an environmental assessment, industrial facilities with certain levels of air emissions and/or effluent discharge may be required to obtain a CoA. A CoA provides terms and conditions to satisfy various requirements of the *Environmental Protection Act*.

The Section reviews monthly environmental monitoring reports of industrial facilities to ensure that industry members are complying with Provincial environmental requirements. This allows the Division to verify that all emissions and effluent discharges are within acceptable levels. For many industrial facilities, submission of these reports is a requirement of the CoA.

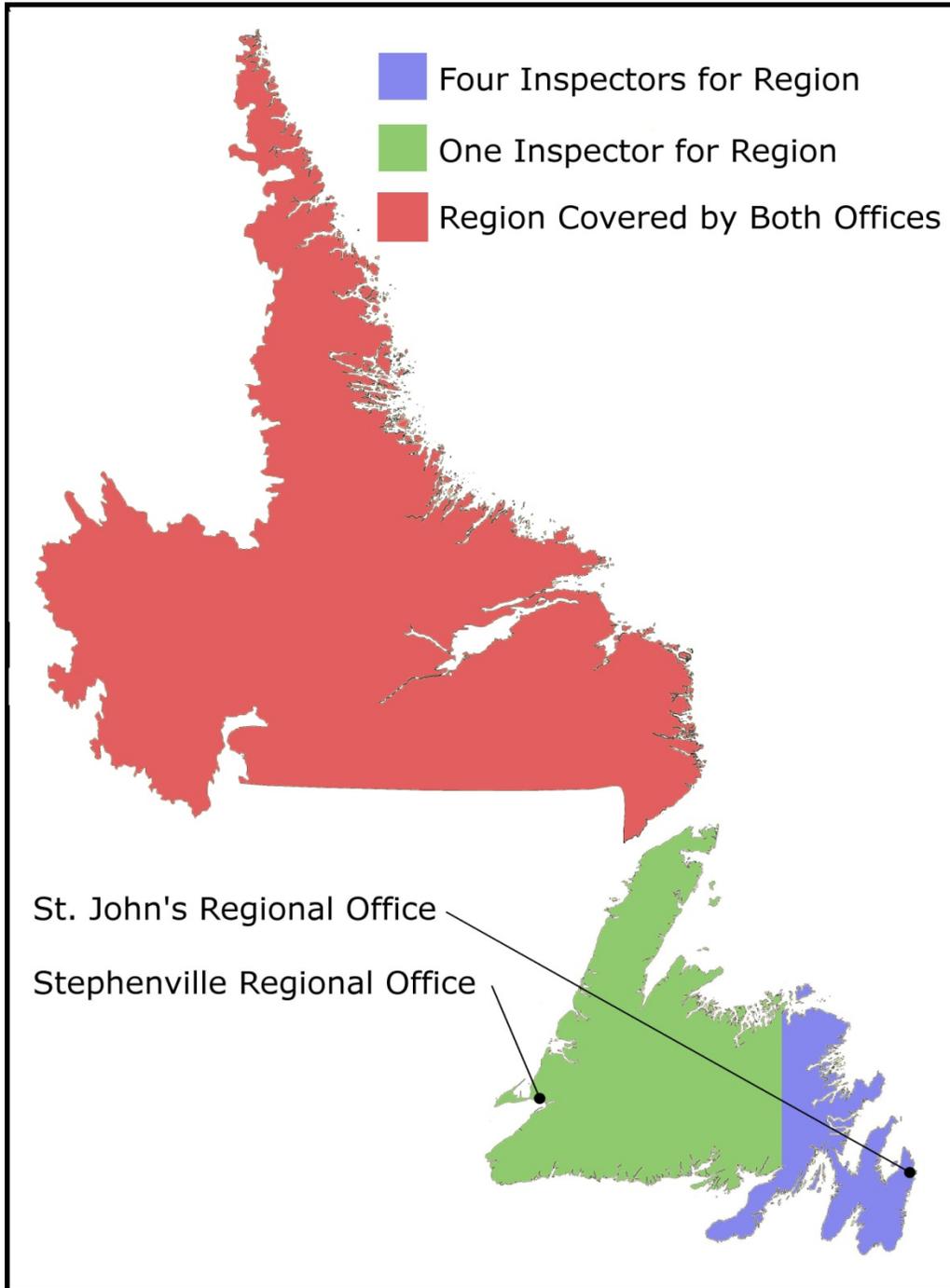
Staff conduct site inspections and provide technical advice to industry and public members on various issues; and receive and investigate environmental complaints. Inspections conducted by the Division may include; air, soil or water sampling, discussions with industry representatives, and review of records. The *Environmental Protection Act* provides inspectors with the authority required to carry out these duties. Inspectors also consider the provisions of the *Environmental Control Water and Sewer Regulations, 2003* and the *Air Pollution Control Regulations, 2004* in conducting inspections of industrial facilities.

Industrial compliance offices

As shown in Figure 2, the Section has five environmental engineers - four located in the St. John's office who are responsible for the industrial facilities east of Gander and certain facilities in Labrador, and one located in the Stephenville office who is responsible for industrial facilities west of Gander, and two industrial facilities in western Labrador.

Figure 2

Department of Environment and Conservation
Industrial Compliance Inspector Distribution



Source: Office of the Auditor General of Newfoundland and Labrador

Audit Objectives and Scope

Audit objectives	<p>The objectives of our review were to determine whether the Department had ensured that:</p> <ul style="list-style-type: none">• industrial inspections were being performed for air emissions and/or effluent testing in accordance with policies and procedures;• monthly monitoring reports were being submitted and reviewed on a timely basis;• adequate information systems were in place for the tracking of the approval, inspection and monitoring of information; and• the tracking and monitoring of complaints were being performed in accordance with policies and procedures.
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Audit scope	<p>Our review examined the Industrial Compliance Section of the Department's Pollution Prevention Division, including the monitoring and inspection of industrial facilities within the Province. The review covered the period 1 April 2010 to 31 March 2011 and was completed in December 2011.</p> <p>Our review included discussions with officials of the Department and a review of the monitoring and management software used to track inspections and complaints. We examined any policies and procedures in use by the Department to carry-out its duties related to industrial compliance. We reviewed a sample of 52 inspections and 494 monthly monitoring reports.</p>
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Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Industrial Inspections;
2. Monitoring Reports;
3. Information Management Systems;
4. Complaints Investigation; and
5. Inspection Follow-up

1. Industrial Inspections

Overview

The Division is responsible for monitoring and carrying out routine inspections of industrial facilities with air emissions and/or effluent discharge. Industrial facilities are inspected to determine compliance with the *Environmental Protection Act*. Departmental officials indicated that although there is no requirement for inspection frequency, industrial compliance inspections are generally expected to be conducted at least once per year. These industrial inspections are completed at a frequency determined by the environmental engineer. The Industrial Compliance Manager may also direct engineers to conduct an inspection should they identify the need. The environmental engineers inspect and review existing industrial operations, assess engineering submissions for new industries or for pollution control equipment for existing industries and advise both the Department and industry of the acceptability of such controls.

There are five environmental engineers designated as inspectors with power to conduct inspections under the authority of the *Environmental Protection Act*. Environmental engineers are assigned specific industrial facilities to follow as part of their regular duties and are responsible for carrying out on-site inspections and recording information in a database that accounts for all inspections that have taken place. An inspection is interpreted to be a predetermined sequence of activities done to assess compliance with environmental legislation. Visiting a site is a requirement when performing an inspection.

During the review we identified issues in the following areas related to industrial inspections:

- A. Policies and Procedures
- B. Inspection Frequency
- C. Inspection Documentation
- D. Inspection Training

Details are as follows:

1A. Policies and Procedures

Introduction

A policy is a guiding principle used to set direction in an organization. A procedure is a series of steps to be followed as a consistent and repetitive approach to accomplish an end result. We expected to see policies and procedures in place to guide the Division's industrial inspections to ensure that they are carried out effectively and consistently. Policies and procedures are a useful training tool for new employees and a good reference tool for existing staff. Without policies and procedures, Divisional reporting may be inconsistent or incomplete.

No documented policies and procedures for inspections

Our review found that the Division did not have policies and procedures in place to guide the inspection process. Without documented policies and procedures, it is difficult to ensure that the inspection process is performed consistently or completely. Inspections were also not being adequately documented. There was no standard form used to complete the industrial compliance inspections. The environmental engineers conducted the inspections by making informal notes. A standard computerized data entry form is used to record the inspection results and is completed by the environmental engineer upon returning to the office.

1B. Inspection Frequency

Introduction

We expected that the Division would have a documented risk-based approach to determine required frequency of industrial inspections and that a prioritized inspection plan would be in place. A risk-based approach can be used to prioritize and plan inspections by analyzing the industrial facilities risk factors. Using this approach, if an industrial facility was determined to be high risk, greater priority would be assigned and the inspection frequency would be expected to be higher. If the industry was determined to be low risk, lower priority would be assigned and the inspection frequency would be expected to only meet minimum requirements.

Documented risk-based approach not used

The Division did not use a documented risk-based approach to determine the required frequency of industrial inspections and did not have a prioritized inspection plan. Department officials indicated that facilities which have a greater risk for significant environmental impacts are given a higher priority for inspections; however, this is not formalized through documented policies and procedures. In determining inspection frequency, consideration is given to the time demands associated with the environmental engineers' other assigned duties.

1C. Inspection Documentation

Introduction

When inspections are completed, the environmental engineer makes notes and once back in the office, enters this information into the inspection database using the inspections data entry form. This form is then printed and forwarded to the Industrial Compliance Manager (the Manager) who is responsible for reviewing and signing the form, indicating approval. The form is then filed for documentation.

8 inspection forms not approved

Our review of inspection activity between 1 April 2010 and 31 March 2011 indicated the following:

- 6 of the 25 facilities that required industrial inspections did not have inspections completed;
- of the remaining 19 facilities, inspection data entry forms for 8 of the 52 inspections completed were not evidenced as being approved by the Manager;
- 1 of the 52 inspection data entry forms had an incorrect file number referenced; and
- 5 of the 52 inspection data entry forms had no file number referenced.

As a result, there could be violations that have not been identified on a timely basis.

1D. Inspection Training

Introduction

We expected that there would be formal inspection training for new industrial inspectors.

No formal inspection training

Departmental officials indicated that there was no formal training provided to environmental engineers on performing industrial inspections. Environmental engineers are oriented by shadowing a more senior environmental engineer to learn requirements for the inspection process. Consistent training can ensure the quality and consistency of self-reported data, and demonstrates the Division's commitment to the enforcement of the *Environmental Protection Act*.

Recommendations

The Department should:

- develop documented policies and procedures to guide and streamline the inspection process;
 - develop a documented risk-based approach to determine inspection frequency and develop a prioritized inspection plan; and
 - provide inspection training to new staff.
-

2. Monitoring Reports

Introduction

The Industrial Compliance Section, along with the Environmental Science and Monitoring Section is responsible for reviewing monthly monitoring reports from the industrial facilities. Enforcement of requirements pertaining to monthly monitoring reports is the responsibility of the Industrial Compliance Section. When the reports are received they are reviewed by environmental scientists who review the air and water quality data and summarize the data in a data comments submission form. It is then passed on to the environmental engineer who reviews the report, and submits the report to the Industrial Compliance Manager for review and sign-off. Once this sign off is completed the reports are sent to the Environmental Science and Monitoring Section for filing.

Industrial Compliance

Review process not performed on timely basis

Of the 20 industrial facilities requiring routine inspections, 17 were required to submit monthly monitoring reports.

Our review of the monthly monitoring reports received from the 17 industrial facilities between 1 April 2010 and 1 December 2011 indicated the following:

- 2 of the 494 monthly monitoring reports were not received within a 30 day timeframe; and
- Of the 492 monthly monitoring reports that were received, 94 had not been reviewed by Section officials at the time of our review, with 18 of these reports having been received over 12 months prior to our review.

The lack of review of monthly reports increases the risk that there could be violations of the Province's environmental legislation that have not been identified by the Division or followed up on.

Recommendation

The Department should ensure that the monitoring reports are reviewed on a timely basis.

3. Information Management Systems

Introduction

The Department is responsible for keeping data on all information submitted or retrieved regarding the operation of industrial facilities. This includes data on Certificate of Approvals (CoAs), monthly monitoring reports, and industrial and complaint based inspections.

A listing of CoAs is stored in a spreadsheet and physical copies are filed separately at the office. The spreadsheet contains all the CoA numbers assigned since 2002, and also includes information on the issue date, amendment date, and expiry date of the CoA. This spreadsheet is stored on a shared drive for the Division. The CoA specifies if there is a requirement for monthly monitoring of the industrial facility.

Industrial Compliance

The original monitoring report submitted by the industrial facilities is kept in a dedicated e-mail account which the Environmental Science and Monitoring Section and the Industrial Compliance Section have access to. A hard copy of this report is also filed separately in the industrial facilities paper file. The summarized report data, which is in spreadsheet format, is stored on the shared drive to which the Environmental Science and Monitoring Section and Industrial Compliance Section have access.

The summarized inspection data is prepared in spreadsheet format and kept in a separate database than the CoAs and monitoring reports. The original inspection notes are kept separately by the environmental engineer assigned to that facility.

Database information

A database is a collection of information that is organized so that it can easily be accessed, managed, and updated. The CoA information, monitoring reports, and inspection data all related to specific industrial facilities but were all maintained in and stored separately using differing software. We would have expected a centralized database for storage of all information relating to the industrial facilities.

Advantages of a centralized database for the Division would include:

- reduced chances for errors and increased efficiency;
- improved data security and integrity;
- improved data access to users;
- centralized control and storage; and
- availability of consistent and up-to-data information for all users

No centralized database

While the Department maintained various spreadsheets to list CoAs and to track inspections, receipt of monthly environmental monitoring reports, and complaints, there was no centralized database for storage of all information relating to the industrial facilities. Such a database would improve data security and integrity, provide central data access to users, and enable officials to more readily identify and follow-up on issues identified. It would also provide the information necessary for officials to demonstrate whether their activities were successful in meeting the Section's responsibilities for preventing the degradation of the environment by industrial facilities and ensuring facility compliance with environmental legislation. The different

methods for storing data make it hard to access and track this information as there was no way to manipulate the data to display the number of inspections done per year and original data was not kept with summarized data.

Recommendation

The Department should develop an integrated database that stores all industrial facility information, including Certificate of Approvals, monitoring data and inspection data.

4. Complaint Investigation

Overview

The *Environmental Protection Act* outlines the process for investigation requests. According to this section of the *Act*, where the Minister receives two or more requests to investigate the same matter, the Minister shall investigate the matter to determine the facts of the alleged contravention. The Division has a range of powers under the *Act* covering the investigation and handling of complaints. An environmental engineer, in carrying out duties under the *Act*, has and may exercise in the Province all powers, authorities, and immunities of a peace officer as defined in the *Criminal Code* (Canada).

Complaints are brought to the attention of the environmental engineer responsible for the industrial facility. Depending on the nature of the complaint and the associated environmental impact, the environmental engineer may follow-up on the complaint by visiting the industrial facility.

During the review we identified issues in the following areas related to complaint investigation:

- A. Complaint Tracking
- B. Single Contact for Complaints
- C. Policies and Procedures

Details are as follows:

4A. Complaint Tracking

Introduction We would expect to see a formal system in place such that data concerning complaints received was easily accessible to ensure that the complaint had been efficiently dealt with. Complaints are dealt with by the environmental engineer.

Complaints not formally tracked Complaints received from the public concerning industrial facilities are not stored in a way that they can be reviewed or cross-referenced to other information available for a particular company. According to Departmental officials, the Division does not formally track complaints, and a review of registry records would be needed to get a complete number of the complaints received. When a complaint is received, an inspection may be performed depending on the nature of the complaint and the associated environmental impact. The complaint inspection data was stored in the same database with the routine and follow-up inspections and could not be extracted to track the number and/or type of complaint, therefore, it was difficult to determine the total number of complaints received and/or issues broken down by industry, number of complaints, etc. over a defined number of years.

Tracking complaints and using the data will ensure a consistent approach and enable the Division to identify trends. Such information could be used if the Department were to conduct inspections using a documented risk-based approach.

4B. Single Contact for Complaints

Introduction A single contact for complaints would streamline the complaint process for the Division and make complaint information easier to track.

No single contact for complaints Departmental officials indicated that there was no single contact for complaints. The environmental engineer assigned to a particular industrial facility was responsible for handling the complaints for that specific facility. Therefore, there could be inconsistencies in how complaints are dealt with.

4C. Policies and Procedures

Introduction We would expect that documented policies and procedures would have been in place for the tracking of complaints. Policies and procedures outlining the process for investigating complaints would mean these investigations would be handled consistently when responding to complaints, and thus would reduce possible inequities in the complaints process.

No policies and procedures for tracking complaints Our review found that there were no policies and procedures outlining the complaint process.

Recommendations

The Department should:

- track and record all complaints in a centralized database;
 - consider assigning a single contact for taking and tracking public complaints; and
 - develop policies and procedures for tracking complaints.
-

5. Inspection Follow-up

Introduction As part of the routine inspections and complaint inspections, any follow-up actions identified were documented on the inspection sheet completed by the environmental engineer. This follow-up is the responsibility of the environmental engineer who is responsible for performing the inspection. The Department may become aware of non-compliance either through the company's submission of monthly monitoring reports, inspections, or public complaints. Departmental officials indicated that when the Division becomes aware of a non-compliance issue, the responsible engineer investigates and follows up with the industrial facility. Follow-up may lead to the issuance of a letter or other form of correspondence whereby information and/or action concerning the issue is requested within a specific timeframe. The CoA for an industrial facility may require that the industrial facility report non-compliance issues to the Department and follow up in 30 days with a written report that provides:

Industrial Compliance

- a detailed description of the issue;
 - a summary of contributing factors; and
 - a plan to prevent further non-compliance of a similar nature.
-

No documentation of follow-up on inspection forms

Departmental officials indicated that follow-up is completed by the environmental engineer on items identified on the inspections sheet. However, we found that although follow-up actions were identified on inspection forms, the action taken and follow-up completed to confirm required action was taken was not documented and therefore we were unable to determine that this follow-up occurred.

Recommendation

The Department should document follow-up action, and whether it has been completed, on the inspection forms.

Department's Response

Recommendations – Industrial Inspections

The Department should:

- *develop documented policies and procedures to guide and streamline the inspection process;*
- *develop a documented risk-based approach to determine inspection frequency and develop a prioritized inspection plan; and*
- *provide inspection training to new staff.*

Department's Response

The Department recognizes the potential merit in having formalized documented policies and procedures in place to guide the inspection process, and will work to develop these during fiscal year 2011-2012.

Your report notes that industrial compliance inspections were not being adequately documented by the Department. The Department believes that inspection results are thoroughly and consistently documented by staff. As noted in the report, standard data entry forms have been developed and are being utilized by the Department for the recording of inspection results. The use of these forms ensures consistency in reporting among our staff. Your report notes that the Industrial Compliance Manager is responsible for signing inspection reports to indicate approval. It should be noted that the Department has no requirement for the signing or approval of inspection reports. Initialing of inspection reports was an informal practice recently instituted by the Manager to indicate that he has seen the reports. Inspection reports document the observations of the engineers during industrial site visits. Any concerns identified through the Manager's review are discussed with the engineer who is responsible.

Your report states that between 1 April 2010 and 31 March 2011, 6 of 25 facilities that required industrial inspections did not have inspections completed. The Department does not concur with this statement, as there are no legal or policy requirements for facilities to be inspected. The need for an inspection is determined by Department engineers on a case by case basis. While many facilities are expected to be inspected at least once per calendar year, there are several facilities for which an annual inspection may not be needed.

In determining whether an inspection is warranted, Department staff consider the potential for environmental impacts, and the consequences of such impacts should they occur. In this regard, the Department currently follows a risk-based approach in determining the timing of industrial inspections. Through this approach, facilities that are deemed to have a greater risk for significant environmental impacts are given a higher priority for inspections. It should be noted that environmental protection is multi-faceted by nature and not well suited to a rigid prioritized inspection plan; rather, a flexible and holistic approach is best served in determining when inspections are to be conducted. Professional judgement and insights of the responsible Department engineers, the level of environmental stewardship and responsibility demonstrated by facility operators and the dynamic nature of industry are among the factors that are considered in making this determination. The Department will assess the opportunities for and merits of formalizing its risk-based inspection approach through documented policies and procedures, and implement such measures where deemed appropriate.

As noted in your report, inspection training for new staff is largely comprised of a mentoring or shadowing process with senior environmental engineers. Many Department staff have previously participated in a law enforcement investigators course, when such training was available in this province. The Department will continue to evaluate its current inspection training practices and explore further opportunities for appropriate formal training programs.

Recommendation - Monitoring Reports

The Department should ensure that the monitoring reports are reviewed on a timely basis.

Department's Response

The Department will endeavor to review monitoring reports in the timeliest manner possible with existing resources. The review of each industrial monitoring report is a time-consuming task requiring a thorough and detailed review by several environmental scientists as well as the responsible engineer. A vast amount of information must be reviewed by staff in conjunction with a wide array of other specialized duties. With new and expanding industrial operations creating additional workload demands, timely review of monitoring reports has been challenging.

Recommendation - Information Management Systems

The Department should develop an integrated database that stores all industrial facility information, including Certificate of Approvals, monitoring data and inspection data.

Department's Response

The Department agrees that an integrated database system would be desirable and has already conducted a preliminary assessment of the requirements for the development of such a system. The Department will further assess the developmental requirements and pursue procurement of the necessary resources through the budgetary process.

In the meantime, the current information management systems ensure that all records are readily available and well organized. Statistical information can be extracted if and when it is actually needed.

Recommendations - Complaint Investigation

The Department should:

- *track and record all complaints in a centralized database;*
- *consider assigning a single contact for taking and tracking public complaints; and*
- *develop policies and procedures for tracking complaints.*

Department's Response

Information pertaining to complaints received for any given industrial facility is stored in a registry file assigned to that particular facility. Such information is accessible for review as needed. Given the relatively low number of industry-related complaints received each year, the Department has not seen any beneficial use for summary statistics on the number and/or types of complaints received over a defined time period, as there has never been a request for such data.

The Department is of the opinion that it is beneficial, both in terms of efficiency and effectiveness, to have the engineer who is already knowledgeable in the various aspects of a facility's operations to handle complaints for that facility. Having a single person take all complaints would only mean that the information would go through an additional person before it is handed off to the responsible engineer.

As the Department pursues development of an integrated database system, consideration will be given to the inclusion of complaint records and tracking capabilities. The Department will further review its complaint investigation practices and work to develop formal policies or procedures, where deemed appropriate.

Recommendation - Inspection Follow-up

The Department should document follow-up action, and whether it has been completed, on the inspection forms.

Department's Response

Post-inspection follow-up actions taken by Departmental engineers are documented through correspondence with the company and others. This documentation is placed in the appropriate industrial facility files for future reference. Inspection reports are intended to provide a 'snapshot' of conditions present at the time of the inspection, and are not designed to document follow-up activities.

As the Department pursues development of an integrated database system, consideration will be given to the inclusion of inspection follow-up tracking capabilities within that system.

PART 2.6

DEPARTMENT OF JUSTICE

ROYAL NEWFOUNDLAND CONSTABULARY - FIREARMS

Executive Summary

The Royal Newfoundland Constabulary (RNC) was established in 1871 and operates under the authority of the *Royal Newfoundland Constabulary Act, 1992* and *Regulations*. The RNC is responsible for police services in three regions of the Province - the Northeast Avalon, Corner Brook, and Labrador West. The population of these regions was approximately 222,360 (Newfoundland and Labrador Statistics Agency – 1 July 2010). In providing these services, as at 18 October 2011, the RNC employed 415 police officers and 129 civilian staff.

In a report tabled on 31 March 1998, a Select Committee (the Committee) of the House of Assembly recommended that the arming policy of the RNC be amended to permit members on operational duty to wear side arms as part of the regular uniform. Based on this recommendation, the RNC provided side arms to their members and issued a Firearms Policy. As of November 2011, a total of 734 firearms were included in the RNC inventory system, consisting of 536 hand guns, 143 rifles and 55 shotguns.

The Committee also recommended that a firearms audit acceptable to the Minister of Justice (the Minister) be performed annually and submitted to the House of Assembly. To comply with this recommendation, the Chief of Police requested that the Office of the Auditor General (the Office) complete the required annual firearms audit for the seven year period from 1999 to 2006. In November 2007, the Department of Justice confirmed that the annual firearms audit, being conducted internally at that time by the Royal Newfoundland Constabulary, was acceptable to the Minister. As a result, the Office agreed to cease the annual review of firearms at the RNC.

The findings from our 1999 to 2006 firearms reviews included the following:

- firearms and ammunition inventory not accurate;
- non-compliance with Firearms Policy;
- Firearms Policy infractions not being properly followed up;
- inspections of firearms storage lockers not performed;
- personnel and equipment inspections not properly reported;
- training not being completed as required and training database not accurate;

- Use of Force Review Board not active; and
- no Select Committee formed to review arming policy.

Given these findings, and that five years had passed since our last review, it was decided to again review firearms and other use of force equipment along with use of force training at the RNC during 2011.

Our current review was completed in December 2011 and covered the period from November 2009 to November 2011. The review included an assessment of the systems, policies and procedures relating to the inventory, storage and control of firearms and other use of force equipment at the RNC, as well as the training and reporting policies related to the use of force by members.

Our review identified concerns with controls over firearms, ammunition and other use of force equipment, non-compliance with the Firearms Policy and how firearm use is monitored. Furthermore, RNC officials could not provide documentation demonstrating that the annual internal firearms audits agreed to by the Minister of Justice had been completed for 2007, 2008 or 2009. Given the serious repercussions, i.e. the increase in risk to workplace and public safety that could result from issues related to firearms and other use of force equipment, it is critical that the RNC continue efforts to improve compliance with established policies and procedures. We found the following:

Controls over Firearms and Ammunition

As part of our review, we conducted inventory counts of firearms, ammunition and other use of force equipment at the armories in the Northeast Avalon, Corner Brook and Labrador West regions. Based on the results of these inventory counts, we concluded that officials at the Corner Brook and Labrador West armories could not account for all items under their control. Examples included: seven firearms listed on the Labrador West inventory report that could not be located in the armory, one of which could not be located anywhere at the Labrador City office; two firearms located at the Corner Brook office which were not listed on the inventory report; three instances where there were differences between the amount of ammunition located within the Corner Brook armory and the inventory report, e.g. 525 rounds of 12 gauge ammunition listed in the inventory system could not be located in the armory; and three instances where there were differences between the amount of ammunition located within the Labrador West armory and the inventory report, e.g. 266 rounds of .40 calibre operational ammunition listed in the inventory system could not be located in the armory.

We also found that quarterly firearms storage locker inspections were not being conducted as required by the RNC Firearms Policy. Without such inspections, significant infractions of the policy could go undetected. Our review of documentation supporting the completion of the quarterly inspections of firearms and firearms storage areas for the period November 2009 to November 2011 indicated that of a total of eight possible quarterly inspections during that period, the Northeast Avalon region could provide support for only two inspections being conducted, the Corner Brook region could provide support for only one inspection being conducted, and the Labrador West region could not provide support that any of the eight required quarterly inspections had been completed.

Furthermore, the inventory system is not accurate because not all required adjustments, including additions, disposals or internal re-assignments of firearms and other use of force equipment, were made on a timely basis. For example, we found that even though a member had transferred to a different region in September 2011, the inventory system, as of November 2011, had not been updated to reflect the transfer.

The 2011 firearms audit completed internally by the RNC's Audit Manager found serious issues with regards to firearms locker security. The report stated that while each locker has a key, there have never been controls in place that would have prevented the duplication of keys and/or ensured the returning of keys when a locker change occurs. It was also found that when keys are missing and no spares are known to exist, the lock cylinder is replaced by cylinders that are sometimes duplicates of other firearms storage lockers held at the RNC. RNC officials indicated that there was one instance when a member could not locate their firearm because it had been removed from their firearms storage locker by another member on a different shift because the two lockers were in close proximity and had identical keys.

Non-compliance with the Firearms Policy

During our inspection of firearms storage lockers, we observed three infractions of the Firearms Policy at the Northeast Avalon region: two members had stored their firearms loaded; and one of those two members had also stored their firearm in their personal locker instead of in their approved firearms storage locker. We also observed two infractions at the Corner Brook region where members who were off duty did not have the correct amount of ammunition, as assigned to them per the firearms locker report, located in their firearms storage locker. The Firearms Policy states that every member is responsible for the safe storage of service firearms and ammunition and that the unloaded firearm, along with the issued ammunition and Oleoresin Capsicum (OC) spray, should be secured in the member's firearms storage locker at RNC facilities or in another approved location when the member is not on duty.

An additional 12 infractions were noted where firearms (6) or other use of force equipment (6), assigned to one member per the firearms locker report, were found in another member's firearms storage locker.

How Firearm Use is Monitored

RNC officials provided 1,034 use of force reports to support the 1,115 use of force incidents reported between November 2009 and November 2011. Of the 1,034 use of force reports that were available, we found that 17 were not signed as evidence of the required review by the District Inspector/Divisional Commander and none of the 1,034 reports evidenced the required review by the Firearms and Use of Force Instructors. Given that some use of force reports could not be provided and the lack of review of available reports, the RNC may be missing opportunities to identify inappropriate uses of force.

We also found that the Use of Force Training Database is neither accurate nor complete. As a result, we could not rely on the information contained within the database to demonstrate whether members were in compliance with the RNC's Use of Force Policy, or whether they had received all required training. We reviewed information entered into the database for 2010 and 2011, and found the following:

- 45 instances where the date for training was entered incorrectly; and
- 413 instances where training was completed but not entered into the database.

During our review of the Use of Force Training Database, it was found that the RNC is at risk of not complying with its policy on use of force training. For example, as at 24 November 2011, a total of 114 members had not yet completed the required Module 2 training (defensive tactics/handcuffing techniques and baton) in the 2011 calendar year, and 16 members had not yet completed the required Module 1 training (annual firearms training).

Annual Firearms Audit Reports

RNC officials could not provide audit reports or other documentation to suggest that the annual internal firearms audits for the years 2007, 2008 and 2009 had been completed, or that the results of any audits had been communicated to the Department of Justice. As a result, the RNC could not demonstrate that the internal firearms audits, deemed to be acceptable to the Minister, had been conducted to provide assurance that members complied with the RNC's Firearms Policy for those three years.

Furthermore, the five-year review of the RNC arming policy, recommended by the Select Committee and expected to be completed covering the five years to 31 March 2003, has never been completed.

Background

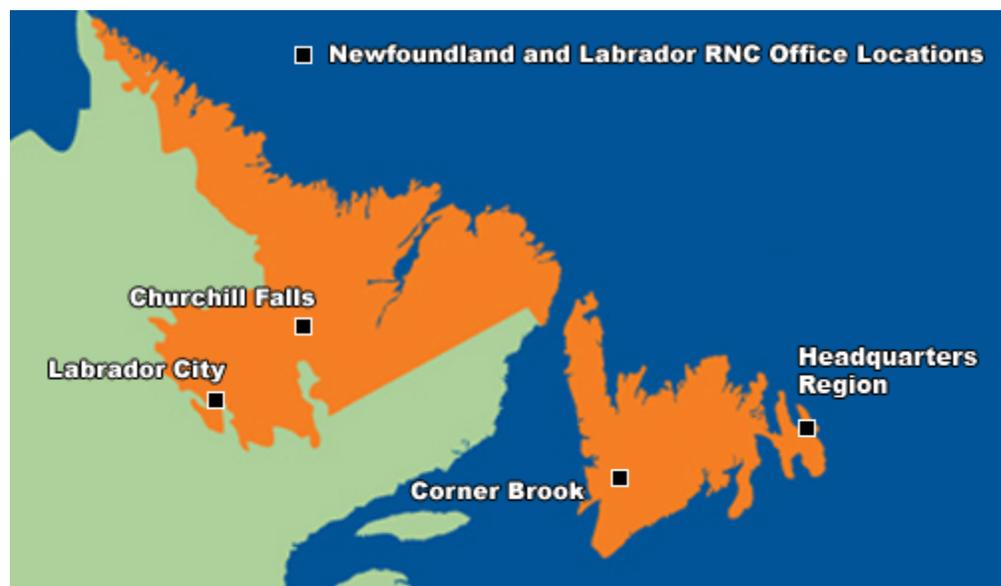
The Royal Newfoundland Constabulary (RNC) was established in 1871 and operates under the authority of the *Royal Newfoundland Constabulary Act, 1992* and *Regulations*. The Chief of Police, appointed by the Lieutenant-Governor in Council, is responsible for the RNC's general control and administration, and reports to the Minister of Justice and the Attorney General. The vision of the RNC is to establish safer communities through policing excellence.

The RNC is responsible for policing three regions of the Province - the Northeast Avalon, Corner Brook, and Labrador West. Within these three regions, there are numerous offices. In the Headquarters region of the Northeast Avalon there is Headquarters (St. John's), the Mount Pearl office, the Conception Bay South office and the Virginia Park office. Within the Corner Brook region this is the Corner Brook office and within the Labrador West region there is the Labrador City office and the Churchill Falls office.

Figure 1 shows the location of the RNC offices within the Province.

Figure 1

Royal Newfoundland Constabulary Office Locations



Source: RNC Website

The population of these regions was approximately 222,360 (Newfoundland and Labrador Statistics Agency - 1 July 2010). In providing these services, as of 18 October 2011, the RNC employed 415 police officers and 129 civilian staff.

On 2 December 1997, a Select Committee (the Committee) of the House of Assembly was appointed to enquire into the arming policy of the RNC and report its findings. The Committee conducted research, viewed presentations by interested parties and held public hearings, and tabled its report to the House of Assembly on 31 March 1998. The report recommended that the arming policy of the RNC be amended to permit members on operational duty to wear side arms as part of the regular uniform. In addition, the Committee recommended that:

- the Chief of Police have discretion in the administration of the policy including discretion in assigning officers to operational duty;
- police officers' sidearms be stored in a secure locker at the station when they are not on duty;
- a firearm audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly; and
- the arming policy be reviewed at the end of five years by a Select Committee of the House of Assembly (i.e. by 31 March 2003).

As a result of the recommendations of the Committee on the arming policy of the RNC, members on operational duty were permitted to wear sidearms commencing 14 June 1998. To provide specific direction to members on the control and usage of firearms, a Firearms Policy was also issued at that time. Over the years, it has been amended to reflect the changing needs of the organization. The last amendments were made 10 March 2010.

Figure 2 outlines the number of firearms maintained by the RNC as of November 2011 by region as per the RNC inventory system.

Figure 2

**Royal Newfoundland Constabulary
Number of Firearms by Region
November 2011**

Type of Firearm	Northeast Avalon	Corner Brook	Labrador West	Total
Hand Guns	449	56	31	536
Shotguns	41	6	8	55
Rifles	137	0	6	143
Total	627	62	45	734

Source: RNC Inventory System

As of November 2011, a total of 734 firearms were included in the RNC inventory system, consisting of 536 hand guns, 143 rifles and 55 shotguns.

The Committee also recommended that a firearms audit acceptable to the Minister of Justice (the Minister) be performed annually and submitted to the House of Assembly. To comply with this recommendation, the Chief of Police requested that the Office of the Auditor General (the Office) complete the required annual firearms audit for the seven year period from 1999 to 2006. In November 2007, the Department of Justice confirmed that the annual firearms audit, being conducted internally at that time by the Royal Newfoundland Constabulary, was acceptable to the Minister. As a result, the Office agreed to cease the annual review of firearms at the RNC.

The findings from our 1999 to 2006 firearms reviews included the following:

- firearms and ammunition inventory not accurate;
- non-compliance with Firearms Policy;
- Firearms Policy infractions not being properly followed up;
- inspections of firearms storage lockers not performed;
- personnel and equipment inspections not properly reported;
- training not being completed as required and training database not accurate;
- Use of Force Review Board not active; and
- no Select Committee formed to review arming policy.

Given these findings, and that five years had passed since our last review, it was decided to again review firearms and other use of force equipment along with use of force training at the RNC during 2011.

Audit Objectives and Scope

Audit objectives

The objectives of our review were to determine whether:

- the RNC has adequate systems in place to record, monitor, and secure its firearm and other use of force inventory;
 - the RNC has adequate procedures in place to monitor members' compliance with the Firearms Policy and all related policies and where appropriate, test compliance with these policies; and
 - the RNC is in compliance with the recommendations contained in the *Report on the Select Committee on the Arming of the Royal Newfoundland Constabulary*.
-

Audit scope

Our review of firearms and other use of force equipment at the RNC covered the period from November 2009 to November 2011. It included an assessment of the systems, policies and procedures relating to the inventory, storage and control of firearms and other use of force equipment at the RNC as well as the training and reporting policies that relate to the use of force by members.

The three RNC regions were visited over the course of our review. Within the Northeast Avalon region we visited Headquarters (St. John's), the Mount Pearl office, the Conception Bay South office, and the Virginia Park office. Within the Corner Brook region we visited the Corner Brook office and within the Labrador West region we visited the Labrador City office.

During our review we completed inventory counts of firearms, ammunition and other use of force equipment at the armories in the Northeast Avalon, Corner Brook and Labrador West regions; we tested the accuracy of the inventory listing by selecting all physical inventory items at the offices visited and comparing them to the inventory system. We also selected almost all of the use of force equipment from the inventory system to ensure that the equipment was located where listed in the inventory system.

As part of our review, we attended three locker inspections as follows:

- Northeast Avalon Region - October 2011;
- Corner Brook Office - November 2011; and
- Labrador City Office - November 2011.

This represented approximately 99% of the firearms storage lockers located within the three regions.

The review also included a detailed analysis of use of force training to determine if officers had received the required use of force training over the last two calendar years. It included discussions with members involved with the firearms and other use of force equipment inventory and use of force training. Our review was completed in December 2011.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Inventory Management
 2. Firearms Policy
 3. Use of Force Training
 4. Use of Force Reporting
 5. Select Committee Recommendations
-

1. Inventory Management

Overview

The RNC has developed inventory control procedures to provide for the proper management of its firearms, ammunition and other use of force equipment. These procedures include the assignment of responsibility for control of firearms, ammunition and other use of force equipment, the maintenance of a perpetual inventory system, the requirement for inventory counts and reports thereon and procedures to update the inventory system for acquisitions, transfers, disposals and any required adjustments.

The RNC stores unissued use of force equipment in a secure room, known as the armory, in each region. The types of use of force equipment maintained within the RNC armories are as follows:

- Handguns;
- Rifles;
- Shotguns;
- Ammunition;
- Batons;
- Oleoresin Capsicum (OC) spray;
- Tactical Equipment, such as tear gas and smoke grenades; and
- Distraction Devices.

According to Use of Force Policy, the Use of Force Training Section is responsible for controlling inventory and issuing orders to RNC members relating to firearms, ammunition and other use of force equipment and reconciling inventory with the inventory system.

In completing our inventory count of firearms, ammunition and other use of force equipment we identified the following issues:

- A. Inventory System
- B. Inventory Procedures

Details are as follows:

1A. Inventory System

Introduction

The inventory system used by the RNC is a perpetual inventory system in that it is intended to be continually updated. Therefore, adjustments, including additions, disposals and/or internal re-assignments of firearms, ammunition and other use of force equipment, should be made on a timely basis to ensure information on inventory is accurate and up to date at any given point in time. Two types of reports can be generated from the inventory system, inventory reports and firearm locker reports.

Inventory reports provide a complete listing of all inventory items held by the RNC by region and are generated for each type of inventory category. The inventory report provides the serial number for firearms, batons and other use of force equipment owned by the RNC, as well as the location of the item within the region and the member assignment, if applicable. For ammunition, the inventory report provides the quantity on hand and the location of ammunition within the region. The function of the inventory report is to serve as a complete list of all items owned by the RNC at any given point in time.

The firearms locker reports are a listing of all firearms storage lockers in use by the RNC. The firearms locker report shows the name of the member assigned to each locker, and the use of force equipment that is assigned to that member. Firearm locker reports are used to conduct firearms storage locker inspections because they provide a list of the use of force equipment that should be stored in each locker when a member is off duty.

**Firearms,
ammunition
and OC spray
inventory not
always accurate**

While our inventory counts within the Northeast Avalon region did not result in any findings our review indicated that the inventory systems at the Corner Brook office and Labrador City office were not accurate as follows:

Corner Brook November 2011 Inventory Count

- There were two instances where firearms were physically located at the Corner Brook office but were not listed on the inventory report. In one instance the firearm was assigned to a member as per the firearms locker report, although it was not listed on the inventory report. In the other instance, the member's firearm did not appear on either the firearm locker report or the inventory report. Instead it was listed on the Labrador West firearms locker report and inventory report;
- There were three instances where the quantity of ammunition that was physically counted in the armory did not agree to what was recorded on the Corner Brook inventory report. Details are as follows:
 - 12 Gauge (7½) Ammunition – the report indicated 250 more rounds than could be located at the armory;
 - 12 Gauge 00 Buckshot Ammunition – the report indicated 275 more rounds than could be located at the armory; and

- 38 Caliber Ammunition – the report indicated 5000 more rounds than could be located at the armory. RNC officials indicated that this ammunition was for firearms that were no longer being used by the RNC and thus the ammunition had been transferred to St. John's to be disposed; however, the transfer had not been reflected in the inventory system and thus was not showing on the inventory report.
- There was one instance where a unit of OC spray was physically located in the armory but was not listed on the inventory report. It was determined that the member that was assigned the OC spray had transferred to the Labrador West region. The OC spray was recorded as transferred in the inventory system but the OC spray was never physically moved to the new location.
- There was one instance where a baton was listed on the inventory report but could not be located within the armory. RNC officials indicated that the missing baton was assigned to a member who had retired in November 2010 but had not returned the baton. At the time of our review, in November 2011, the RNC had still not recovered the baton.

Labrador West November 2011 Inventory Count

- There were seven instances where firearms appeared on the Labrador West inventory report but were not physically located in the armory. In five of the seven instances, the firearms had been assigned to members of the RNC but the assignment had not been recorded in the inventory system and was not showing on the inventory report. In one instance the firearm was assigned to a member who had transferred to Corner Brook but the transfer had not been recorded in the inventory system. In the remaining instance, the firearm recorded in the inventory system could not be located.
- There were three instances where the quantity of ammunition that was physically counted in the armory did not agree to what was recorded on the Labrador West inventory report. Details are as follows:
 - .40 Calibre Operational Ammunition – the report indicated 266 more rounds than could be located at the armory;
 - 12 Gauge Slugs Ammunition – the report indicated 75 more rounds than could be located at the armory; and

- 12 Gauge 00 Buckshot Ammunition – the report indicated 66 less rounds than could be located at the armory.
 - There were four instances where a unit of OC spray appeared on the Labrador West inventory report but could not be physically located at the armory.
-

1B. Inventory Procedures

Introduction

There are procedures available to the RNC that if completed would ensure information on firearms, ammunition and other use of force equipment within the inventory system is accurate and up to date at any given point in time. For instance, purchases, disposals, equipment transfers between regions and equipment issued to and received from staff should be recorded manually on stock slips and then recorded in the inventory system on a timely basis. In addition, inventory control total reconciliations should be completed. If these procedures were being performed, it would result in a more complete and accurate inventory system.

Stock slips not being used

Stock slips are used to initiate additions and disposals, to transfer inventory between regions and to issue/receive firearms and other use of force equipment to/from members. Transactions are recorded in the inventory system based on stock slips. In several instances, it was noted that stock slips were not available to support inventory transactions. Examples are as follows:

- There was no stock slip completed in the Corner Brook region to initiate the transfer of a member's firearm and baton from that region to the Labrador West region in September 2011. As a result, the member's firearm and baton still appeared on the Corner Brook inventory report and not on the Labrador West inventory report where the equipment was physically located; and
 - There were no stock slips completed in either the Corner Brook region or the Labrador West region to record the addition or disposal of ammunition from August to October 2011. Accordingly, there were system adjustments required for three ammunition types in the Corner Brook region and four ammunition types in the Labrador West region when the physical inventory counts were completed and compared to the balances in the inventory system.
-

Database functions not being utilized**Member transfers not completed in inventory system**

When members transfer between regions their firearm, ammunition and other use of force equipment must be transferred within the inventory system. The member's use of force equipment is signed back into the armory in their old region. The transfer is then initiated by that region to record the movement of the equipment. When the use of force equipment is physically received at the member's new location, the inventory system must be updated to accept the transfer electronically. The transfer must be accepted in the inventory system at the new location in order for the transfer to be fully complete; otherwise, the use of force equipment will appear on the inventory report of the member's old location, or possibly on no inventory report for any region.

There were two instances within the Corner Brook region where a member had transferred between units/regions but the transfer had not been updated in the inventory system. Details are as follows:

- A member had transferred from the Corner Brook region to the Labrador West region in September 2011. At the time of our locker inspection, November 2011, the member's firearm was listed on the inventory report for Corner Brook because the electronic transfer of the firearm had not been completed; and
- A member had transferred from Corner Brook region to the Northeast Avalon region in October 2011. At the time of the firearm locker inspection in November 2011, the member's firearm was still listed on the inventory report for Corner Brook because the electronic transfer of the firearm had not been completed.

Use of force equipment assignments not completed in system

Use of force equipment is electronically assigned to members in the inventory system. If use of force equipment is not assigned to members, it will appear on the inventory report as being in stock within the armory. If the assignment is not made electronically in the system, then the actual location of that particular piece of use of force equipment is not properly recorded in the inventory system. This could result in difficulties in locating the item.

There were six instances within the Labrador West region where members were not assigned a firearm as per the firearms locker report or the inventory report. Of these six members, two were also not assigned OC spray, batons or ammunition. As a result, per the inventory system, these items would appear to be in the armory as opposed to issued to members.

Control total reconciliations not being completed

We found that no control totals existed for the firearms, ammunition or other use of force equipment in use within the three regions of the RNC. A control total would take into account all acquisitions and disposals of firearms and other use of force equipment which would serve as a benchmark against which to complete inventory reconciliations.

In prior years, the RNC had completed reconciliations for items listed in the inventory system, with the last one being completed in 2009. However, there was no indication within that reconciliation that the inventory had been compared to a control total to ensure completeness over the total amount of firearms and other use of force equipment inventory in the possession of the RNC.

Our Office has completed these reconciliations in the past during our annual audits. In an attempt to reconcile the total number of firearms that existed at the time of our last review to the total currently recorded in the RNC inventory system, we requested acquisition and disposal information for the last five years. The RNC were unable to provide this documentation for 2007 and 2008 and thus the reconciliation could not be completed. Therefore, it could not be determined if all firearms, ammunition and other use of force equipment that had been acquired by the RNC was recorded in the inventory system and accounted for either in a RNC armory or assigned to a RNC member.

As a result of these inventory counts, it was evident that officials at the Corner Brook and Labrador West armories could not account for all items under their control. Furthermore, the inventory system is not accurate because all required adjustments, including additions, disposals or internal re-assignments of firearms and other use of force equipment, were not made on a timely basis. In addition, the RNC cannot demonstrate control over the total number of firearms and other use of force equipment in their possession, as they do not perform control total reconciliations. Given the serious repercussions, i.e. the increase in risk to workplace and public safety that could result from issues related to firearms and other use of force equipment, it is critical that the RNC continue efforts to improve compliance with established policies and procedures.

Recommendation

The Royal Newfoundland Constabulary should ensure that basic inventory management procedures and relevant inventory system functions are used to produce accurate and complete information on firearms, ammunition and other use of force equipment inventory.

2. Firearms Policy

Overview

The RNC has a Firearms Policy which provides specific direction to its members on the control and usage of firearms. The policy outlines the authority and responsibility of members as it relate to firearms. These include:

- Carrying Firearms;
- Storage and Security;
- Types of Weapons and Ammunition;
- Issuance of Firearms;
- Handling of Firearms;
- Use of Firearms;
- Use of Force;
- Inspections;
- Maintenance; and
- Reporting Procedures.

In completing our review of the RNC's Firearms Policy we identified the following issues:

- A. Locker Inspections
- B. Firearms Storage
- C. Equipment
- D. Firearm Locker Reports
- E. Shotgun Policy
- F. Firearms Locker Security

Details are as follows:

2A. Locker Inspections

Introduction

The RNC Firearms Policy requires that unloaded firearms, ammunition and OC spray be secured in the members' firearms storage lockers at RNC facilities or in other approved locations when the member is not on duty. To monitor compliance with this policy, the officer in charge of the Use of Force Unit is responsible for the inspection of service firearms and firearm storage areas in the Northeast Avalon region. The Divisional Commanders are responsible for the inspections in the Labrador West and Corner Brook regions. Inspections are required to be completed on a quarterly basis and form part of the District/Divisional report to the Chief of Police. Certain infractions of this policy, such as firearms being stored loaded or use of force equipment being stored somewhere other than the approved firearms storage locker, are reported to the District Inspectors or the Divisional Commanders to follow up with the members.

Inspections not performed

RNC officials from the three regions were requested to provide documentation supporting the completion of the quarterly inspections of firearms and firearms storage lockers for the period November 2009 to November 2011. We found that of a total of eight possible quarterly inspections:

- the Northeast Avalon region could provide support for only two locker inspections (December 2009 and August 2011);
- the Corner Brook region could provide support for only one locker inspection (April 2010);
- the Labrador West region could not provide any documentation to support the completion of any locker inspections.

Quarterly firearms storage locker inspections were not being conducted as required by the RNC Firearms Policy. Without such inspections, significant infractions of the Firearms Policy could go undetected.

2B. Firearms Storage

Introduction

The Firearms Policy states that every member is responsible for the safe storage of service firearms and ammunition, and that the unloaded firearm, along with ammunition and OC spray, should be secured in the member's firearms storage lockers at RNC facilities or in another approved location when the member is not on duty and that the firearms storage lockers must contain only the service firearm, ammunition, OC spray and magazines. The Firearms Policy also states that should a firearm or ammunition be unaccounted for, an immediate report will be made to the Chief of Police.

Firearm stored loaded and not always in firearms storage locker

During the firearms storage locker inspections, we observed three infractions at the Northeast Avalon region where members' firearms were stored loaded and/or not stored in the approved firearms storage locker. Details are as follows:

- one member had a firearm stored loaded and it was stored in their personal locker instead of in the member's firearms storage locker; and
 - one member had a loaded firearm stored in their firearms storage locker.
-

Equipment missing from lockers

During the firearms storage locker inspections we observed four infractions where there was use of force equipment, other than firearms, missing from firearms storage lockers. Details are as follows:

Northeast Avalon Region

- one member's firearms storage locker was empty. RNC officials indicated that this member was on secondment with the Royal Canadian Mounted Police but still uses their RNC issued firearm; however, no documentation was provided to indicate approval had been given to store their firearms in an alternate location.

Corner Brook Region

- one member did not have their OC spray stored in their firearms storage locker even though they were not on duty; and
- two members did not have the amount of ammunition stored in their firearms storage lockers as what was recorded in the firearms locker report, even though they were not on duty. The Firearms Policy requires members to use loading/unloading ports that are located in the in the firearms locker storage areas for loading and unloading firearms. RNC officials indicated that the missing bullets had likely fallen into the port.

Incorrect equipment in firearms storage lockers

During the firearms storage locker inspections we observed twelve infractions where there was firearms or other use of force equipment found in a member's firearms storage locker that did not agree to what was issued to the member per the firearms locker report and the inventory report. Details are as follows:

Northeast Avalon Region

- four members had firearms stored in their firearms storage lockers that were actually assigned to another member as per the firearm locker report and the inventory report; and
- six members had OC spray stored in their firearm lockers that were actually assigned to another member as per the firearm locker report and the inventory report.

Corner Brook Region

- two members had firearms stored in their firearms storage lockers that were actually assigned to another member as per the firearms locker report and the inventory report.

This could result in an infraction being cited for the wrong member and also adds confusion when completing locker inspections.

2C. Equipment

Introduction According to the RNC's Firearms Policy, the Use of Force Training Unit shall maintain all RNC use of force equipment in serviceable condition. The OC spray issued to members of the RNC includes an expiration date. As per the Use of Force Training Unit, it is procedure that any OC spray found to be expired is replaced and then the expired item is disposed of.

Expired OC spray in operation During the firearms storage locker inspections, we observed two infractions within the Corner Brook region where there was expired OC spray stored in the firearms storage locker of members who were assigned to operational duty. Using expired OC spray could pose a risk to both the member and any subject exposed to it.

2D. Firearm Locker Reports

Introduction According to a routine order issued in October 2007, firearms lockers are assigned by the Firearms Control Officer, therefore members who have to change lockers must make the necessary arrangements through the Firearms Control Officer prior to doing so.

Inaccurate firearms locker report During the firearms storage locker inspections, we observed four instances within the Corner Brook region where a member's use of force equipment was found in a locker different than what was indicated on the firearms locker report. These members had changed lockers but the firearms locker report had not been updated to reflect this. This could result in an infraction being cited for the wrong member and also adds confusion when completing locker inspections.

2E. Shotgun Policy

Introduction

The Firearms Policy requires that one 12 gauge shotgun be contained in each Supervisor's Patrol Unit whenever the unit is in service. The shotgun is to be removed from each Supervisor's Patrol Unit and safely stored at the conclusion of each tour of duty or during any prolonged absence from the vehicle. Members are also to ensure that the shotguns assigned to specific Supervisor's Patrol Units are only deployed in the units to which they are assigned.

No evidence that policy is being followed

During previous annual firearms audits, a log book had been provided to record the logging in and out of shotguns for the purpose of complying with this policy.

During our review, we were informed that the log book for the Northeast Avalon region is no longer maintained. In addition, it was also observed during our inventory count that the shotguns assigned to the Headquarters armory in St. John's were all present at the time of inspection. This would suggest that the Supervisors were not on patrol or that they were out on patrol without a shotgun which is in violation of policy. In addition, RNC officials have indicated that there are no log books used in the Corner Brook and Labrador West regions; therefore, they have no documentation to support compliance with this policy.

2F. Firearm Locker Security

Introduction

The 2011 firearms audit completed internally by the RNC's Audit Manager found serious issues with regards to firearms storage locker security. The report stated that while each locker has a key, there have never been controls in place that would have prevented the duplication of keys and/or ensured the returning of keys when a locker change occurs. It was also found that when keys are missing and no spares are known to exist, the lock cylinder is replaced by cylinders that are sometimes duplicates of other firearms lockers held at the RNC.

RNC Firearms

No plan to correct firearm locker security issues

The Use of Force Training Unit confirmed that the five cylinder lock system currently used in the firearm lockers can result in a duplication of locks. RNC officials indicated that there was one instance where a member could not locate their firearm because it had been removed from their firearms storage locker by another member on a different shift because the two lockers were in close proximity and had identical keys. The Executive Director of Operations informed us that there are no plans in place to address these shortcomings of the firearms storage lockers.

RNC members have demonstrated several types of non-compliance with the Firearms Policy. Given the serious repercussions, i.e. the increase in risk to workplace and public safety that could result from issues related to firearms and other use of force equipment, it is critical that the RNC continue efforts to improve compliance with established policy.

Recommendations

The Royal Newfoundland Constabulary should:

- ensure that members are in compliance with the Firearms Policy; and
- consider establishing a plan that addresses the firearm locker security issue.

3. Use of Force Training

Overview

Use of force training consists of a basic one week use of force program plus four modules which are to be offered on a continual basis. The four modules include:

- Module 1 – Firearms;
- Module 2 – Defensive Tactics/Handcuffing Techniques and Baton;
- Module 3 – Tactical Room Entries/Weapons Retention; and
- Module 4 – Use of Force Continuum Lecture.

The Use of Force Policy requires that members complete Module 1 each calendar year and complete the remaining three modules on a cyclical basis over a three year period.

In completing our review of the Use of Force Policy we identified the following issues:

- A. Use of Force Training Database
- B. Use of Force Training Activity

Details are as follows:

3A. Use of Force Training Database

Introduction

Past reviews of the RNC use of force training have included an analysis of the RNC Training Database which was used to track training in use of force. Those reviews demonstrated that the database was incomplete and inaccurate. To correct this, the RNC Use of Force Training Unit developed a new database, the Use of Force Training Database, to attempt to maintain control over use of force training provided to members.

Training database inaccurate and incomplete

We reviewed the information entered in this database from 1 January 2010 to 4 November 2011. We tested the accuracy of the inputs into the system and determined that the information was neither accurate nor complete. For example:

- in 45 instances the date for training was entered incorrectly; and
- in 413 instances training was completed but not entered into the database.

As a result, we could not rely on the information contained within the use of force training database to demonstrate whether members were in compliance with the Use of Force Policy and had received all required training.

3B. Use of Force Training Activity

Introduction

According to the RNC Use of Force Policy, all members will receive compulsory training as approved by the Chief of Police. As per the Use of Force Policy related to training, members are to complete Module 1 (firearms) each calendar year and the remaining three modules on a cyclical basis over three years. During the 2010 calendar year, all members were required to complete Modules 1 and 4 while during the 2011 calendar year, all members were required to complete Modules 1 and 2 unless exempted due to leave or valid medical reasons.

Members without required training completed

For 2010, there were 390 members included on the roster. It was determined that 4 members had left the RNC and 29 were not required to receive training due to medical reasons or because they were on some type of leave. This left 357 members who required the training during the calendar year. For the 357 members requiring Module 1 (firearms) and Module 4 (use of force continuum lecture) use of force training during 2010 we noted the following as of 31 December 2010:

- Of the 357 members, all of them had completed Module 1 training in the calendar year; and
- Of the 357 members requiring Module 4 training, 355 had completed the training in the required time frame while the remaining 2 did not receive the required training within the calendar year.

For 2011 there were 417 members included on the roster. It was determined that 2 members had left the RNC and that 23 were not required to receive training due to medical reasons or because they were on some type of leave. This left 392 members who required the training during the calendar year. For the 392 members requiring Module 1 (firearms) and Module 2 (defensive tactics/handcuffing techniques and baton) use of force training during 2011 we noted the following as of 24 November 2011:

- Of the 392 members requiring Module 1 training, 376 had completed the training while 16 had not yet completed the training. To comply with RNC policy, the remaining 16 members will have to receive Module 1 training by 31 December 2011.

RNC Firearms

- Of the 392 members requiring Module 2 training, 278 had completed the training while 114 had not yet completed the training. To comply with RNC policy, the remaining 114 members will have to receive Module 2 training by 31 December 2011.

As a result, the RNC is at risk of not complying with its policy on use of force training as they have from 24 November 2011 to 31 December 2011 to train 16 members in Module 1 and 114 members in Module 2.

Recommendations

The Royal Newfoundland Constabulary should:

- ensure that all members are in compliance with established use of force training policy; and
 - consider changing the existing inventory system or developing/acquiring a new system that would meet the needs of the Use of Force Training Unit.
-

4. Use of Force Reporting

Overview

The RNC Firearms Policy requires that members be fully versed in the use of force guidelines as outlined in the Use of Force Policy. These guidelines provide guidance with respect to when it is appropriate to use force and the level of force required to be used in various situations. The Use of Force Policy requires that when a member engages in use of force, with the exception of compliant handcuffing, a use of force report must be filed.

RNC Policy requires that these reports be reviewed by the member's immediate supervisor and the District Inspectors and/or Divisional Commanders, and submitted to the Chief of Police. In addition, the RNC has established a Use of Force Review Board to monitor the procedures, practices and training relating to use of force and to review all incidents of use of force.

In completing our examination of the Use of Force Policy we identified the following issues:

- A. Use of Force Reporting Policy
- B. Use of Force Review Board

Details are as follows:

4A. Use of Force Reporting Policy

Introduction

According to the RNC Use of Force Policy, reporting on the use of force is mandatory in all cases. When members use force they must complete a use of force report and forward it to their immediate supervisor and the District Inspectors and/or Divisional Commanders for review. On a monthly basis, each of the eight units/platoons completes a monthly summary with general comments, policy references and other recommendations and forwards it to the Office of the Chief of Police.

From the use of force reports provided by the RNC, we determined that there were 1,115 use of force incidents reported between November 2009 and November 2011. Of these 1,115 incidents, 53 related to firearms, 45 of which involved drawing and/or pointing a firearm at a person while the remaining 8 involved the discharge of a firearm regarding animals.

Figure 3 shows these statistics for the period November 2009 - November 2011.

Figure 3

**Royal Newfoundland Constabulary
Firearm Use of Force Statistics
For the Period November 2009 – November 2011**

Incidents	2011	2010	2009	Total
Total Number of Incidents	393	635	87	1,115
Total Number of Incidents related to Firearms	21	26	6	53
Number of Incidents - Drawing/Pointing at a Person	19	22	4	45
Number of Incidents - Discharge regarding Animals	2	4	2	8

Source: RNC - Use of Force Unit

Use of force reports not always being reviewed

RNC officials provided 1,034 use of force reports were provided to support the 1,115 use of force incidents reported between November 2009 and November 2011. Of the 1,034 use of force reports that were available, we found that 17 of them were not signed as evidence of the required review by the District Inspector/Divisional Commander.

Use of force reports not provided

From our review of use of force reports we found:

- ten instances where we did not receive any Use of Force Reports pertaining to particular months for multiple platoons/units; and
 - one instance where we only received a summary pertaining to a particular month for a platoon/unit.
-

The RNC could not demonstrate that all use of force reports were being reviewed by the District Inspector or Divisional Commander as dictated by policy. As a result, the RNC may be missing opportunities to identify inappropriate uses of force.

4B. Use of Force Review Board

Introduction

According to the RNC Use of Force Policy, the RNC and its individual police officers have a vested interest in maintaining the highest standards in relation to use of force training and authorities granted under the Criminal Code of Canada. To accomplish this objective, ongoing evaluation of RNC procedures, practices and training in relation to the use of force is required. The responsibility for such evaluation rests with the RNC Use of Force Review Board (the Board). As per policy, this Board will review all instances of use of force, but will not act as a disciplinary committee. RNC officials indicated that all members of the Board receive copies of the Use of Force Reports. The Firearms and Use of Force Instructors, as well as the Solicitor and the Manager of Planning and Research, are responsible for reviewing the reports and advising which incidents warrant further discussion at Board meetings. Board meetings are held on an as-needed basis or as directed by the Chief of Police or his/her designate.

RNC Firearms

Lack of evidence indicating Board review

The Firearms and Use of Force Instructors could only provide 552 use of force reports out of approximately 1,034 that we received from other RNC officials. Of those 552, there was no evidence that they had been reviewed. In fact, there was no evidence that the Firearms and Use of Force Instructors had reviewed any of the 1,034 use of force reports.

Given that some of the use of force reports could not be provided and the lack of review of the available reports, the RNC could not demonstrate that use of force reports were being reviewed by the Firearms and Use of Force Instructors, on behalf of the Board. As a result, the RNC may be missing opportunities to identify inappropriate uses of force.

Board meeting not documented

As per the Use of Force Policy relating to the Use of Force Review Board, the Board is required to meet on an as-needed basis. During the period of our review, RNC officials indicated that three Use of Force Review Board meetings had taken place. While officials were able to provide minutes for meetings for 17 February 2010 and 19 April 2011, they could not provide minutes for a meeting that was reported to have taken place during June or July of 2010. As a result, there is no official record that the meeting actually occurred and there is nothing to document matters discussed.

The RNC is in violation of their Use of Force Policy. Given that some use of force reports could not be provided and the lack of review of some available reports, the RNC may be missing opportunities to identify inappropriate uses of force.

Recommendations

The Royal Newfoundland Constabulary should ensure that:

- all use of force reports are signed by required officials to indicate review to ensure compliance with policy ;
- the Firearms and Use of Force Instructors review all use of force incidents; and
- minutes are kept for all Use of Force Review Board meetings.

5. Select Committee Recommendations

Overview On 2 December 1997, a Select Committee (the Committee) of the House of Assembly was appointed to enquire into the arming policy of the RNC. The Committee tabled its report including recommendations to the House of Assembly on 31 March 1998. Included in the report tabled by the Committee was a recommendation that a firearms audit acceptable to the Minister of Justice be performed annually and submitted to the House of Assembly. To comply with this recommendation of the Committee, in 1999 the Chief of Police requested that the Office of the Auditor General complete the audit. The Office performed the annual audit from 1999-2006.

In addition, the Committee recommended in its report that the RNC arming policy be reviewed after five years by a committee appointed by the House of Assembly. Thus, this should have been completed covering the five years to 31 March 2003.

In 2007, the Chief of Police requested that the Minister of Justice (the Minister) approve the completion of the annual firearms audit internally by civilian audit staff at the RNC. In November 2007, the Department of Justice advised all parties that it was acceptable to the Minister that the Office of the Auditor General would no longer need to complete the annual firearms audit as it would be conducted internally by the RNC.

Annual firearms audits not completed RNC officials could not produce audit reports or other documentation to suggest that the annual internal firearms audits for the years 2007, 2008 and 2009 had been completed, or that the results of any audits had been communicated to the Department of Justice. The annual internal firearms audit reports and evidence of their submission were provided for 2010 and 2011.

As a result, the RNC could not demonstrate that the internal firearms audits, deemed to be acceptable to the Minister, had been conducted to provide assurance that members complied with the RNC's Firearms Policy for those three years.

Arming policy not reviewed As at December 2011, as per discussion with RNC officials, the five-year review of the RNC arming policy, recommended by the Select Committee and expected to be completed covering the five years to 31 March 2003, has never been completed.

Recommendations

The Royal Newfoundland Constabulary should:

- ensure that a firearms audit acceptable to the Minister of Justice is completed and submitted annually; and
 - consult with the Department of Justice as to whether to revisit the recommendation for a Select Committee to review the arming policy of the RNC.
-

RNC's Response

General Comments

We have reviewed this final audit report and most of these findings are relating to administrative issues. It is important to note that officers have received extensive and high quality firearms and use of force training. As well, no firearms are missing and all our firearms inventory is under tight control and there is no risk to the public. In addition, every use of force report is closely reviewed at multiple levels in the RNC.

We have taken or will be taking action to address all the issues raised in the report. In addition, we have now hired a new Audit Manager who is a qualified Chartered Accountant who will conduct our annual firearms in the future.

Furthermore, the RNC will be conducting a policy review to determine if our firearm and use of force policies meet our current operational needs and remain consistent with the standards of other police services across the country.

We would also like to comment on the detailed audit findings of the report. For those items where we have corrections or comments, we will outline the section titles for reference purposes. Our comments are as follows:

1A Inventory System

The operation of the RNC armory inventory system is a vast improvement to other attempts at inventory control in the past. This computer system and the procedures relating thereto, provide the basis of basic inventory management procedures. While there are instances of incomplete electronic transactions, the paper trail of inventory movements in the majority of instances is complete and accurate. It is important to highlight that the North East Avalon represents 85% of the total RNC inventory and this has 100 percent compliance with the inventory system.

Corner Brook November 2011 Inventory Count

You identify that one firearm in Corner Brook was signed out to a member but not listed on the inventory report. This was in relation to two transfers. To transfer firearms from one location to another is a two-step procedure. It requires the firearms officer to transfer the firearm electronically from the sending region, but it also requires the receiving region to accept or the transfer does not happen. This is what happened in this instance. This is something that will have to be addressed further with the IT development of the system.

The report indicates errors with the amount of ammunition on hand verses what the Corner Brook inventory reports indicated. The inventory shows 250 more rounds of one type of ammunition and 275 less of another similar type of ammunition. This was an error in that the Constable counted one type of ammunition for another and that actually the count was short by just 25 rounds.

The report indicates 5000 rounds of 38 caliber ammunition that the Corner Brook inventory indicates should be on hand but was not. This type of ammunition is no longer used by the RNC and was sent out to St. John's to be destroyed but still appears on the Corner Brook inventory.

Labrador West November 2011 Inventory Count

Regarding the Labrador West November 2011 Inventory Count, you noted that a firearm located in the inventory system could not be located.

Working with the serial number of the specific firearm, it was established that it had been transferred from our Corner Brook region to our Labrador West region and was assigned to a member who had recently transferred to one of the detachments within the region. The armory system permits assignment of inventories to Labrador City and Churchill Falls detachments from the Labrador West region inventories and so this was simply an instance of a transfer not taking place in the computer system. There is no missing firearm.

During the inventory counts in the Labrador West region where both an Auditor and the regional Firearms Officer were present, differences were identified that could not be explained. However, during subsequent counts, completed by the RNC, additional information was obtained to account for some of the differences. The RNC does acknowledge there is a lack of documentation in some instances.

The report indicates there are more rounds of .40 caliber operational ammunition identified on the Armory inventory system than there are in the Labrador armory. The total number of rounds unaccounted for are 276. These rounds would have been disposed of during the course of annual requalification and not noted on a stock sheet and not removed from the system.

Also there are more 12 gauge slug rounds listed than can be accounted for in the Labrador West armory. A subsequent count revealed a difference of 40 rounds.

The report indicates there are less rounds of 12 gauge 00 Buckshot ammunition than could be located in the Labrador West armory. A subsequent count revealed a difference of 40 rounds. The forty (40) rounds not accounted for would have been disposed and not recorded or removed.

It also indicates that there were 4 instances where a unit of OC spray appeared on the Labrador West inventory report but could not be physically located at the armory. Again, this is an instance of incomplete computer transactions as opposed to missing inventories. This is a major difference as the inventories are not missing and thereby, no increased risk to public safety.

Please be advised one of the OC spray canister was issued to a member within our Labrador West region, but was disposed of last year and the officer was issued another OC spray. The remaining OC spray said to be missing were all assigned to members within the Labrador West region.

Overall, the inventory system is the central source for the RNC armories. While all adjustments are not made immediately, the adjustments to the system are made as timely as possible at most times.

IB Inventory Procedures

Member transfers not completed in inventory system

It is highlighted that a transfer from Corner Brook to the Northeast Avalon region in October 2011 was not completed electronically in the system as at November 2011. It is important to note that the Use of Force Team are actively working with the new Recruits during the fall months and actively working on training requirements at any open times, thereby, it is possible that such a delay will take place in completing electronic documentation. The paper trail of such transfer is available.

If there was ever a question regarding the transferred member during this timeframe, the Use of Force team are involved and would foremost ensure that the electronic system reflects the actual location of the member and equipment. While the electronic system is the source of information, the Use of Force team drives this system. Hence, while the Use of Force team is extremely busy, particularly during active recruit training, the nature of some tasks cannot be completed immediately.

Comparing the actual training of members and completing the second level of inventory control procedures, it is obvious that the second level of documentation must not always be the main priority and thereby, is not completed immediately at times. This is part of the priority and risk management approach that must be taken. It is imperative to note on this matter that the Use of Force team considers this fact if any armory questions are to be investigated or confirmed.

To further highlight the conclusion in this section of the report, the RNC does not entirely agree with the statements. It is accepted that the Corner Brook and Labrador West officials require further attention to detail in managing the armories. However, it is important to note that such inventory roles are secondary in these locations and thereby, the attention to detail is not always available and this is simply due to the staffing requirements and available resources in these areas.

It is also important to note that routine counts are completed throughout the year and any such issues noted at these times are indeed documented, corrected and reflected in the armory inventory system. To note that the inventory system is not accurate - this is a statement of time. As identified before, system updates are not made immediately and hence, some of the issues noted by you are simply a matter of timeliness and the paper documentation of inventories is available, meaning there is no definite loss or lack of control of such armory inventories.

2A Locker Inspections

The report indicates that various quarterly inspections of firearms and firearms storage lockers were not completed for the period of November 2009 to November 2011. However, there were additional inspections completed that were not formally recorded, thus could not be provided to your office. In particular, a former member was assigned as our Inspections Officer until his retirement in March, 2011.

Finally, it is important to note that upon requalification training each year, the firearms are inspected again for every officer. We will also be conducting research with other police services but it is our understanding that other police services do not conduct quarterly inspections, therefore we may be revising our policy in this area to an annual audit only.

2B Firearms Storage

The report stated, "During the firearms storage locker inspections, we observed three infractions at the Northeast Avalon region where members' firearms were stored loaded and/or not stored in the approved firearms storage locker.

- one member had a firearm stored loaded and it was stored in their personal locker instead of in the member's firearms storage locker; and*
- one member had a loaded firearm stored in their firearms storage locker."*

We would like to clarify that our firearms officer was present during this finding and in the first instance, the firearm belonging to the officer was stored in their "locked" personal locker.

In the second instance, the firearm was stored in the officer's locked firearms locker with a magazine in the firearm, but it was not fully charged.

In neither incident was the public at risk.

A further comment on this issue relates to the ongoing assignments and checks and controls by the Use of Force team or as otherwise arisen. As noted in your report, there are over 400 police officers whereby each and every officer is communicated policy and then, the onus is on the officer to comply with all policies and procedures at all times. This is the case in the finding by you in relation to firearms being stored in personal lockers.

During locker inspections or otherwise, such compliance issues are investigated internally and the officers are reprimanded as required and according to policy. Similarly, the findings relating to OC Spray located in a specific officer's locker being assigned to another member is one of the common findings by our Use of Force team and former Audit Manager. During operational and training exercises, the OC canisters are often accidentally switched as one member simply picks a canister. As this finding is a continuous communication issue during firearms training and/or assurance procedures, the importance of viewing one's serial ID will become more paramount and routine for the officers.

The report references two members in Corner Brook had firearms in their lockers which belonged to another member. One of the officers has indicated that his firearm and another officer's firearm were inadvertently switched during a recent firearm training session. This concern has been addressed and we have taken steps to prevent such occurrences in the future.

It also references two members having OC spray that was expired which has since been rectified. This has now been reviewed and we have replaced those which have expired.

There were also four instances where members' use of force equipment was located in a different locker than was assigned. This has since been updated in the system to accurately reflect proper ownership of lockers to address this problem.

2F Firearm Locker Security

The report indicates that there are serious issues with regards to firearms storage locker security and that there could be serious repercussions (i.e. increased risk to workplace and public safety). However, we feel the security is strong since they are in locked steel boxes only accessible by our officers and monitored by a security camera inside a locked room inside a secure building. Therefore, the public is not at risk. As well, when the new RNC Headquarters Building redevelopment is completed, there will be an enhanced gun locker system implemented.

3A Use of Force Training Database

The report indicates that in 413 instances training was completed but not entered into the database.

The key here is, of course, that the training was completed for these members. However, it was actually recorded twice – in the database and again on an Excel spreadsheet. The database is old software (access 97) and that is why we are now using a spreadsheet system as well.

In the past year, there were significant upgrades to the Use of Force database in correspondence with the Office of the Chief Information Officer (OCIO) to try to make the database salvageable and useful to our Force. While these upgrades were ongoing, the use of the excel spreadsheets for 100% accuracy and reliability was commenced. Due to the previous issues with the database, the excel spreadsheets are continued. The most recent issues with the database will either result in more required reporting improvements if possible or abolishment of the electronic database. Nevertheless, as noted, the most important message is that all training is being tracked and that there is a source to determine which members still require any training.

3B Use of Force Training Activity

As reported, the training success rate for the RNC is excellent for 2010. All members requiring module 1 training received it and all, but two, members received the module 4 training in the calendar year.

The audit report also notes that as of November 2011, not all training is yet completed for modules 1 or 2 in the current calendar year. However, there is a further update to the 2011 training statistics contained in the audit report and we are pleased to report as follows:

- *Of the 392 members requiring module 1 training, 380 (not 376) have now completed the training while 12 (not 16) had not yet completed the training.*
- *Of the 392 members requiring module 2 training, 388 (not 278) have now completed the training while 4 (not 114) have not yet completed the training.*

4A Use of Force Reporting Policy

The report indicates that 17 of the 1034 use of force reports were not signed as evidence of the required review by the District Inspector/Divisional Commander. This represents only 1.6% of the reports, however most importantly, while this may be the case, we can assure you that we take the review of all these reports very seriously and they were all not only reviewed by the District Inspector/Divisional Commander, but also at the Deputy Chief level. We, at the RNC, feel confident in our review mechanisms and recognize that while the signature of evidence for your audit may not be present, we are confident that the review is completed by senior ranks.

4B Use of Force Review Board

The report indicates that we could not demonstrate that all use of force reports were being reviewed by the firearms and use of force instructors. While this may be the case, we can assure you that they thoroughly review all use of force reports and will initial them in future accordingly. Again, this is an instance whereby the RNC does not consider this a significant audit finding as the confidence of the review procedures is assured but, the documentation of that is lacking. This signature of evidence will be available in all future instances.

5. Select Committee Recommendations

The report indicates that there were no annual internal firearms audits for the years 2007, 2008 and 2009. This requires some explanation as follows:

During November 2006, it was proposed that a new RNC civilian management position, entitled Operational Audit and Compliance Manager (“Audit Manager”), should be responsible for completing the annual firearms audit. However, it was not until 14 October 2008, that a conclusion was reached whereby the Minister of Justice and the Department agreed that this was an acceptable approach and accordingly, reported this to the Office of the Auditor General.

While this new position was originally filled in October 2007, the individual occupying this role did so only for a short period of time. Thereby, it was actually 1 December 2008 when this position was filled again for the long term.

When this position was originally filled, the individual commenced the firearms audit for 2007. While this was ongoing, it was not completed prior to the position becoming vacant again and that particular audit was not continued by the new manager. Instead, it was determined that it was primarily necessary to act upon the findings previously reported by the Auditor General as it related to the Royal Newfoundland Constabulary’s armory system and armory controls. As a result, the Operational Audit and Compliance Manager actively monitored the reconciliation of the armories held by the RNC. This included consultations with the Audit Manager to identify a controlled process for managing the armories, as well as recommendations to direct an accurate and controlled approach to complete the armory reconciliation.

Our commitment is to continue to conduct annual firearms audits and we are pleased to announce that we have now hired a very experienced Chartered Accountant who will be our new Audit Manager.

RNC Firearms

Also, the audit report indicates that the five-year review of the RNC arming policy, recommended by the Select Committee and expected to be completed covering the five years to 31 March 2003, has never been completed. However, the appointment of this Select Committee is not within the control of the Royal Newfoundland Constabulary and the RNC executive has not received any indication that this will take place and we do not hold the intention to revisit this matter.

PART 2.7

DEPARTMENT OF NATURAL RESOURCES

GROWING FORWARD PROGRAM

Executive Summary

The Growing Forward Program (the Program) is administered by the Agrifoods Development Branch of the Forestry and Agrifoods Agency within the Department of Natural Resources (the Department). The objective of the Program is to promote “*a profitable and innovative... industry that seizes opportunities in responding to market demands and contributes to the health and well-being of Canadians.*”

The Program is expected to provide \$29.58 million in total funding for the five years ending 31 March 2013, and is jointly funded by the Federal and Provincial governments at 60% and 40% respectively. Applicants are eligible for a non-repayable contribution of up to \$500,000 subject to Program demand and availability of Program funds. As at 31 March 2011, a total of \$15 million had been approved for 360 projects.

Our review identified concerns as to how the Department was administering the Program. We found that applications were not always assessed and approved in accordance with the Program Guide, payments were sometimes made without adequate documentation, and projects were not adequately monitored to determine whether project deliverables were met.

Assessment and Approval

We reviewed 30 approved projects (27 for producers/processors and associations, and 3 administered by the Department) and found the following issues with the assessment and approval process:

- A total amount of \$1.306 million was approved and paid to three related parties (\$500,000, \$500,000 and \$306,000). In cases where related parties are involved, the Implementation Committee (IC) is required under the Program Guide to consider the benefit to the industry, the amount of funding previously received, and the availability of existing funds; however, there was no documentation to indicate that these factors were considered.
- A total of \$1.08 million was approved for three producers/processors and associations' projects which did not meet eligibility requirements for funding under the Program. One of the three applicants was approved for funding of \$500,000 even though they did not meet the requirement of operating a commercial farm or an agricultural processing facility. There was no documentation to indicate why the IC approved the funding when three different departmental staff had recommended that the application

be rejected. Reasons given by the Department staff for the recommended rejection included that: the company was ineligible for funding under the Program because it was a land clearing company and did not generate farm sales; the company was in a weak financial position; and that the funding would create unfair competition.

For the other two applicants that did not meet the eligibility requirements for funding, one producer had not completed the required Environmental Farm Plan (EFP) within the five years before being approved, and another did not have the required environmental certificate of approval for farm operations. There were 6 other approved projects where confirmation that the EFPs had been completed was not on file at the Department at the time of our review.

- A total of \$830,145 was approved for 5 projects even though required information was missing from the application, such as ownership in related companies (3), information related to an Environmental Farm Plan (1) or whether there were arrears owing to Government (1).
- A total of \$1.34 million was approved for 5 projects even though the documentation to support expected project costs of \$272,779 was inadequate. Examples include the absence of quotes (3), and the inclusion of HST and an incorrect application of exchange rates, both of which are ineligible costs (2). Although included in approved funding, the HST and incorrect exchange rate amounts were not paid out when the funding was disbursed.
- A total of \$1.97 million was approved for 9 projects even though the required checks were not completed by the Department to determine whether the applicants or related entities had arrears owing to Government.

The decisions of the IC and the discussion as to how these decisions were reached were not documented in the Committee minutes. Although a Record of Decision (ROD) was prepared from meeting notes and signed by the chairperson, the ROD was not reviewed by the Committee to identify and correct any discrepancies.

Payments

Our review of payments made relating to approved projects indicated the following issues with the timing of payments and the documentation required to support payments:

Growing Forward Program

- Holdbacks totalling \$84,732 were not deducted from payments for 3 projects. Contrary to the Program Guide and the contribution agreement, a holdback was not deducted from a claim payment for 1 project. In addition, holdbacks were not deducted for 2 projects where the required project reports were not provided to the Department prior to the disbursement of the final payment.
- An amount of \$6,750 was paid to 1 applicant for site development and video production before the work was completed. This should not have been paid as it was a pre-payment and therefore, was not in compliance with the contribution agreement. Furthermore, the required on-site inspection for these activities was not completed until after the payment had been made, and the Department did not receive a copy of the video until more than one year and five months after the funding was paid.
- An amount of \$27,117 to cover third party labour costs was paid to one applicant even though there was no proof of payment provided.
- Although inspections are required prior to payment, there was inadequate documentation to support the completion of inspections for 5 of the 23 projects which required such inspections. There was one inspection certificate not completed for 1 project and the other 4 projects had information missing on the inspection certificate, such as serial numbers of equipment or sizes of the buildings.
- Payments totalling \$47,128 were made for three claim forms that were submitted after the submission deadline. The Program Guide indicates that claim forms must be submitted within 30 days of project completion or by 10 April for projects with a 31 March completion date. Invoices received after this date may not be processed for payment. Claim forms for the three projects were submitted 67 days, 13 days and 6 days later than the date required.

Monitoring

Our review indicated that projects were not always well monitored and that the Department did not determine whether project deliverables were being achieved. Our review identified the following:

Growing Forward Program

- Although the Department sometimes requires applicants to submit project reports, the reports submitted for 2 of the 3 projects administered by the Department contained errors and were not adequate in that there was no comparison of actual expenses to budgeted amounts, little comparison of actual results to targets for performance indicators, and a lack of adequate explanation for any variances. Of the remaining 5 project reports required to be submitted, 1 was not submitted and another was submitted over 5 months late.
- Monitoring activity was not always adequate to determine whether project deliverables were met. Project reports or follow-up on 15 projects could have provided beneficial information had they been completed. Applicants for 3 of the 15 projects offered to provide final reports in their application; however, the Department did not require such reports in the contribution agreements, and reports were never submitted.
- The Department's database of projects was not up to date. The database indicated that 9 of the 30 projects reviewed were incomplete; however these projects had been completed.
- The Department's Performance Report submitted to the Federal Government for 2009-10 indicated that 26 of 34 Program targets were not met. Only 3 of the 26 targets had comments to indicate why they were not met.
- The Department did not claim the full amount eligible from the Federal Government under the Bilateral Agreement for the year ended 31 March 2011. The Department received \$465,046 less than the amount eligible for funding from the Federal Government due to a difference in the Federal/Provincial allocation percentages used.

Background

Department/ Agency Overview

The Growing Forward Program (the Program) is a Federal-Provincial cost-shared program administered by the Agrifoods Development Branch of the Forestry and Agrifoods Agency within the Department of Natural Resources (the Department). The Branch is responsible for promoting the Department's development, expansion and diversification of competitive and sustainable primary agriculture and agrifoods businesses. The Program is delivered from the Corner Brook office.

Figure 1

**Department of Natural Resources
Corner Brook Office**



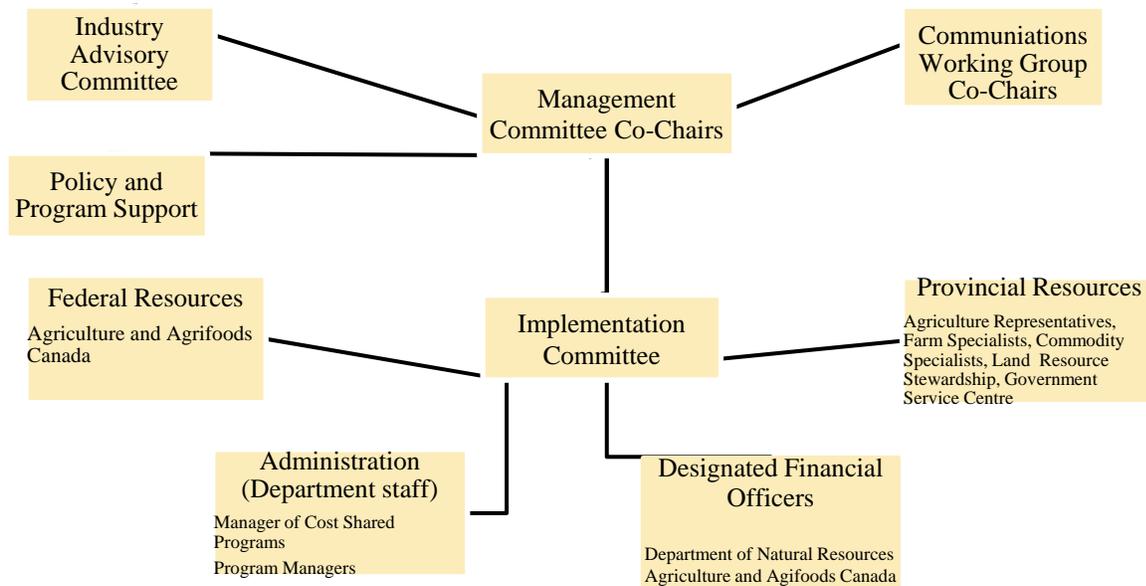
Source: Office of the Auditor General

The Program is overseen by a Management Committee which is comprised of one Federal delegate and one Provincial delegate. The Management Committee delegated its authority for the implementation of the Program to an Implementation Committee (IC) appointed by the Provincial Minister of Natural Resources. The IC is to consist of at least three members and is chaired by the Department's Director of Agriculture Business Development. Department officials are responsible for the day to day administration of the Program.

Figure 2 shows a diagram of the governance structure of the Program.

Figure 2

Growing Forward Program Governance Structure



Source: Department of Natural Resources

Program description

The Program replaced the Agriculture Policy Framework Initiative, a five year Federal-Provincial cost shared agreement which ended 31 March 2008. The Program is governed by the Canada-Newfoundland and Labrador Growing Forward Bilateral Agreement (the Bilateral Agreement) which was signed in June 2009 and will expire on 31 March 2013. The Program is expected to provide \$29.58 million in total funding for the five years ending 31 March 2013, and is jointly funded by the Federal and Provincial governments at 60% and 40% respectively.

The objective of the Program is to promote “*a profitable and innovative...industry that seizes opportunities in responding to market demands and contributes to the health and well-being of Canadians.*” The Program’s focus is to operate towards three strategic outcomes:

- a competitive and innovative sector;
- a sector that contributes to society’s priorities; and
- a sector that is proactive in managing risks.

Growing Forward Program

The Bilateral Agreement also sets eight thematic areas with the following six designated programs to be implemented in Newfoundland and Labrador:

- Agriculture Innovation Program;
- Agriculture Opportunities Program;
- Agriculture Land Development Program;
- New Farm Investment Program;
- Agriculture Sustainability; and
- Mitigating Agricultural Risks.

Program budget

For the year ended 31 March 2011, Program expenditures totalled \$6.8 million (2010 - \$5.5 million) with Federal contributions of \$4.1 million (2010-\$641,000). Figure 3 shows the actual expenditures for the years ended 31 March 2010 and 2011.

Figure 3

Growing Forward Program Expenditures For the Years Ending 31 March (\$ 000's)

Program Activity	2010	2011
Salaries and Benefits	\$ 424	\$ 626
Transportation and Communication	33	38
Supplies	16	30
Professional Services	16	13
Purchased Services	36	34
Property, Furnishings and Equipment	33	4
Grants and Subsidies	4,928	6,037
Total expenditures	5,486	6,782
Less: Federal Revenue	(641)	(4,124)
Net Expenditures	\$4,845	\$2,658

Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund

Growing Forward Program

Program funding

Applicants are eligible for a non-repayable contribution of up to \$500,000 subject to Program demand and availability of Program funds. The Program is available to existing producers/processors, new entrants, returning farmers, agricultural not-for-profit organizations, regional pastures, and regional economic development groups, as well as Government departments and Crown agencies. Funding levels vary from 75% to 100% of eligible expenses depending on the type of applicant and program. Land clearing activities under the Agricultural Land Development Program are funded based on a fixed amount per acre.

Figure 4 shows the number of projects approved and the funding provided for the years ended 31 March 2010 and 2011. As indicated in the Figure, at 31 March 2011, a total of approximately \$15 million had been approved for 360 projects.

Figure 4

Growing Forward Program Projects Approved and Funded Years Ended 31 March

	2010		2011		Total	
	#	(\$000's)	#	(\$000's)	#	(\$000's)
Projects Approved (Note 1)	176	\$6,913	184	\$8,057	360	\$14,970
Projects with Payments	166	\$5,488	168	\$6,508	334	\$11,996

Source: Department of Natural Resources' Growing Forward Projects reports.

Note 1: Projects approved are reported on an annual basis and include carry-over projects, and deferred projects.

Application process

Applications for funding are sent to the Program Manager responsible for that particular program. The Program Manager reviews the application and requests a separate assessment from the Agriculture Development Officer for the area, and if deemed necessary, a Specialist. Once these assessments are received, the Program Manager completes a project assessment and a recommendation is made to the IC that the project be accepted, rejected, or deferred.

Growing Forward Program

The IC is responsible for approving all projects with the exception of requests that are less than \$25,000 for the Agriculture Land Development and the Agriculture Opportunities Programs. These requests are approved by the Program Manager responsible for that particular program. For those projects approved by the IC, a Record of Decision (ROD) is prepared. Once approved, the Program Manager prepares a contribution agreement which states the amount and the conditions of funding. The contribution agreement is then forwarded to the applicant for signing. If a project is rejected, a letter is sent to the applicant indicating the reason for the rejection.

Funding activities

The Program provides funding for various types of activities such as research into crop and livestock development, human resource projects, business development, food safety, environmental planning and land development activities. Figure 5 shows a picture of land clearing equipment purchased with funding from the Program.

Figure 5

Growing Forward Program Land Clearing Equipment



Source: Department of Natural Resources

Audit Objectives and Scope

Audit objectives

The objectives of our review were to determine whether the Department:

- assessed and approved project applications in accordance with Program criteria;
 - ensured payments were within the maximum funding limits, supported by the required documentation and properly approved; and
 - monitored approved projects to determine if funds were spent as intended and Program objectives were achieved.
-

Audit scope

Our review was completed in October 2011 and covered the years ended 31 March 2010 and 2011. Our review included an examination of policies and procedures, committee minutes and reports submitted to the Federal Government; and included interviews with staff. Our review also included an examination of a sample of 30 approved project files and 5 rejected project files.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Assessment and Approval
 2. Payments
 3. Monitoring
-

1. Assessment and Approval

Overview

We reviewed files for 27 approved projects carried out by producers/processors and associations and 3 approved project files that were administered by the Department. We also reviewed files for 5 projects that were rejected by the IC.

Growing Forward Program

In reviewing the 30 approved project files we identified issues in the assessment and approval process in the following areas:

- A. Funding to Related Parties
- B. Eligibility
- C. Documentation

1A. Funding to Related Parties

Introduction

Each applicant is eligible for funding up to a maximum of \$500,000. The Program Guide contains a related party policy which indicates that in cases of entities in the same line of business under common ownership, funding recommendations will be made at the discretion of the IC and will take into consideration such factors as the availability of existing funds, industry benefit from the project, and the amount of funding that common shareholders have received in previous projects. The funding approval may be reduced according to the percentage of ownership held by the common shareholders. We identified the following issues.

Related party policy not considered

A total of \$1.306 million was paid to three related entities, which represents \$806,000 above the maximum funding under the guidelines of \$500,000 per applicant. However, there was no documentation that the related party policy was considered. Figure 6 shows the total amounts approved and the total expenditures to each entity during the years ended 31 March 2010 and 2011.

Figure 6

**Growing Forward Program
Funding to Related Entities
(000's)**

Related Entities	# of Projects Approved	Approved	Funded
Entity 1	3	\$ 500	\$ 500
Entity 2	1	500	500
Entity 3	5	306	306
Total	9	\$ 1,306	\$ 1,306

Source: Department project reports

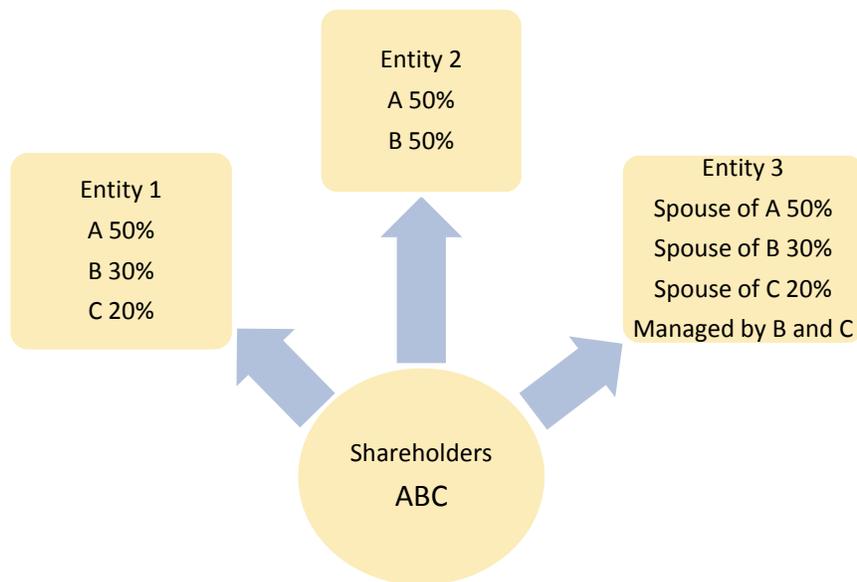
Growing Forward Program

The projects for Entity 2 and 3 were approved after the projects for Entity 1; however, there was no documentation in the files indicating a discussion regarding the \$500,000 in funding already approved for Entity 1. Therefore, it was not known if the possibility of a reduced percentage for common ownership was considered in the assessment process.

Figure 7 shows the shareholders and their relationship to each entity.

Figure 7

Growing Forward Program Ownership of Entities



Source: Department of Natural Resources Information

The Canadian Institute of Chartered Accountants Handbook states:

“Related parties exist when one party has the ability to exercise, directly or indirectly, control, joint control or significant influence over the other. Two or more parties are related when they are subject to common control, joint control or common significant influence. Related parties also include management and immediate family members.”

In our opinion these three entities were related and the related party policy should have been considered. Entity 1 and Entity 2 were under common control and therefore, were related parties. Since Entity 3 was owned by the spouses (immediate family members) of A, B, and C as well as being managed by B and C, this was also a related entity.

Funding provided contrary to staff recommendations

The \$500,000 in funding to Entity 2 was approved by the IC even though staff recommended rejection of the project.

The project for Entity 2 was a request for land clearing equipment to provide services to local producers. The project was approved by the IC on 3 March 2010 for \$500,000; however, three different Department staff recommended rejection of this project for the following reasons:

- Entity 2 was ineligible under the Program as the company did not generate farm sales; it was a land clearing company only;
- over the past three years, Entity 2 had developed more land for its related entities than that for local producers (560 of 700 acres cleared was for its related companies);
- other producers had their own equipment for developing land. For example, another producer had funding approved for the same type of equipment on 21 December 2009, less than one month before the application was received from Entity 2 on 10 January 2010;
- Entity 2 was in a weak financial position; and
- funding to Entity 2 created unfair competition for other entities engaged in land improvement.

Although funding recommendations are made at the discretion of the IC, there was no documentation in the file to indicate why the IC approved funding contrary to the recommendations of Department staff.

Excess funding affects availability of funding to other producers

While the IC has the discretion to grant funding to related parties, its policy indicates it should consider the following:

- **Benefit to the industry.** Department staff questioned the benefit of Entity 2's project to the industry. In addition, the \$806,000 paid in excess of the \$500,000 limit for these related entities could have been available to other producers in the farming industry who had not yet received any funding or had not yet reached the maximum limit of \$500,000.
- **Amount of funding that common shareholders have previously received under the program.** Our review indicated that there was no documentation in the project files assessing the impact of the funding already approved for the common shareholders of Entity 1 when assessing Entity 2 and Entity 3.

- **Availability of existing funds.** For the year ended 31 March 2010, the Department received \$9.8 million in requests for funding; however, only \$6.2 million was budgeted as per the Bilateral Agreement. For 2011, \$13.2 million in requests were received; however, only \$7 million was budgeted as per the Bilateral Agreement. Furthermore, as at 5 August 2011, \$19.2 million in requests had been received for 2012; however, the budget for 2012 is only \$7 million. Given this, it was questionable whether available funds existed to approve over \$1.3 million in funding for these three related entities.
-

1B. Eligibility

Introduction

The Program Guide provides a number of eligibility requirements, including that existing producers/processors and associations must:

- be a Canadian citizen or landed immigrant at least 19 years of age;
 - operate or have ownership in a commercial farm or agricultural processing facility within the Province;
 - be an individual or legal entity capable of entering into a contractual agreement with the Minister of Natural Resources;
 - have a minimum of \$15,000 in annual gross farm sales or provincially processed agricultural products as reported to the Canada Revenue Agency within three years prior to the application date; and
 - have completed an Environmental Farm Plan (EFP) within the last five years.
-

Ineligible applicants approved for funding

Our review identified that 3 of the 27 producer/processor or association projects sampled, who received funding totalling \$1,084,070, were approved even though the applicants did not meet the eligibility requirements of the Program. Specifically:

- 1 applicant, as previously mentioned in relation to the related party policy, was a land clearing company that did not operate a commercial farm or an agricultural processing facility, and therefore should not have been considered eligible.

- 1 applicant had not completed an EFP within the five years prior to being approved, and therefore should not have been considered eligible. The EFP was not completed until 99 days after all funding was paid. In addition, 6 more projects did not have the confirmation on file at the time of our review that an EFP had been completed; however, subsequent to our enquiry, the confirmations were placed on file.
- 1 applicant did not have the required environmental certificate of approval for their farm operations. While a certificate of approval was not required for this specific project, it is a requirement for general operations. The Program Guide and the contribution agreement required the applicant to obtain all permits and ensure environmental compliance.

Failure to ensure that eligibility requirements are met before projects are approved could result in the inappropriate disbursement of funds.

1C. Documentation

Introduction

Applications are required to be completed for the appropriate program, and quotes are required to be submitted for estimated building and equipment costs.

As part of the assessment process, Program managers are required to confirm that the applicant and its related parties are not in arrears (excluding not-for-profit associations) with three Government entities/divisions: the Business Investment Corporation; the Department of Finance's Expenditure Control and Compliance Division; and the Department of Finance's Debt Management Division.

As part of the approval process, the decisions of the IC are to be recorded in a Record of Decision (ROD).

Our review identified documentation issues in the application, assessment and approval processes as follows.

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Applications incomplete 5 of the 27 projects totalling \$830,145 in approved funding had information missing from the application as follows:

- The three related parties that received more than the maximum \$500,000, as discussed previously, had information missing regarding their ownership interest in other companies. In at least one instance, it was evident that Department staff should have known there was a related party missing in the application; however, staff failed to request that the applicant complete this information;
- 1 file had the date of the EFP missing from the application; and
- 1 file had information missing on the application regarding whether arrears and debts were owed to Government.

Documentation for project costs not adequate 5 of the 27 projects totalling \$1.34 million in approved funding did not have adequate documentation to support the project costs. Specifically:

- Quotes for project costs of \$262,349 were not available for 3 projects that were approved for a total of \$784,715 in funding.
- 2 projects approved for a total of \$558,500 in funding incorrectly included \$10,430 in HST for estimated costs and an incorrect application of an exchange rate which were not eligible costs for funding. In both cases, funding was approved at 75% based on these estimated costs, and as a result, the approved funding was overstated by \$7,822. Although included in approved funding, these amounts were not paid out when the funding was disbursed.

Failure to obtain all the required documentation may result in insufficient information to adequately assess applications in accordance with the Program's requirements.

Arrears checks incomplete 9 projects totalling \$1.97 million in approved funding of 24 projects that required the Department to perform an arrears check, did not have the required checks completed from all three Government entities/divisions as follows:

- 3 of the 24 projects did not have all the arrears checks for the entity itself; and
- 8 (2 also had checks not done on the entity itself) of the 13 projects that required an arrears check for the applicant's related entities did not have this check completed in any of the Government entities/divisions.

IC decisions not adequately documented

Our review identified that the decisions of the IC and discussions as to how decisions were reached were not documented in the minutes of the IC meetings for any project.

The Department indicated that the decision-making process required Program Managers to note at the IC meetings whether the IC accepted, rejected, or deferred the decision. Based on these notes, the Program Manager prepared the Record of Decision (ROD) which was subsequently provided to the Chairperson of the IC for review and signing. The ROD was then filed in the applicant's project file. This process was inadequate as the documentation on file only showed approval by the Chair of the IC, not all members of the Committee. Furthermore, since the decisions of the IC and the ROD were not part of the minutes, there was no opportunity for the members of IC to review the official decision and correct any discrepancies.

The Department provided a list of projects discussed at meetings; however, there was nothing to indicate the decisions made concerning these projects. We also note that the list was not part of the minutes.

Department staff indicated that the IC minutes only include policy and financial updates, and not decisions on individual projects. In our opinion, all decisions of the IC should be properly documented in the minutes of the meetings.

Recommendations

The Department should:

- consider and document discussions regarding the Program's policy on funding to related companies;
- provide documentation to support the decision of the IC in all files but particularly in cases where the decision is contrary to staff assessments;
- ensure that all applications are complete including adequate documentation to support estimated costs;
- complete all required arrears checks; and
- document all IC decisions in the minutes.

2. Payments

Overview

The Program Guide includes several requirements that must be met before funding is disbursed to applicants. The applicant must prepare a project claim form and submit it to the respective Agriculture Development Officer at the Department. Project claims must be supported by invoices for purchased goods and services, or by cancelled cheques for third party labour.

If required, a project report must be submitted with the project claim form. All payment documents must be submitted within 30 days of project completion or by 10 April for those projects with a 31 March completion date. In addition, on-site inspections of completed activities are required prior to the claim payment. The final payment may be withheld until all project conditions are met.

An applicant may request progress payments when a substantial amount of the project has been completed and eligible invoices and proof of payment are submitted; however, these payments are subject to a 10% holdback. The holdback is not released until the project is inspected and the applicant signs a declaration that the project is complete and all conditions have been met. Failure to complete the project within a reasonable time period will result in the proponent being required to repay any amounts received.

Our review of the 30 project files identified issues with progress payments, invoice documentation, inspections and the timeliness of claims.

Holdbacks not applied

3 projects should have required a 10% holdback on their claim payments; however, these projects did not have holdbacks totalling \$84,732 deducted from payments made:

- 1 project approved for \$500,000 had an initial progress claim for \$187,683 which was submitted and paid in August 2010. The contribution agreement required that all interim progress claims be subject to a 10% holdback until the project was completed and inspected; however, a 10% holdback of \$18,768 was not deducted from the claim payment. Our review identified that the final claim for \$312,317 was not paid until March 2011, upon the project's completion and inspection.
- In 2 instances projects were fully funded even though the final report required under the contribution agreement had not been completed prior to payment. Specifically:

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- For 1 project approved for \$500,000, the contribution agreement required that a report be submitted by 31 October 2010, eight months after the invoice eligibility date. However, on 31 March 2010, the full \$500,000 in funding was paid, and therefore, 10% or \$50,000 should have been held back until submission of the report.
- For 1 project approved for \$167,617, the contribution agreement required that a report be submitted by 31 January 2011, 10 months after the invoice eligibility date. However, on 12 March 2010, a final payment of \$159,635 in funding was paid, but a 10% holdback or \$15,964 was not held back until submission of the report.

In our opinion, these projects were not completed until submission of the final report, and therefore, the payments should have been regarded as progress payments with a 10% holdback.

Documentation for payment inadequate

In 1 project file, there was no proof of payment for \$27,117 in third party labour costs. Subsequent to our enquiry, the documentation for proof of payment was placed in the file. In addition, a number of invoices did not have the applicant's name on the invoice and one invoice did not have the supplier contact information as required in the contribution agreement.

Funding paid before work completed

In 1 project file, the Department made a progress payment on 31 March 2010 of \$139,050 (75% of \$206,000 project cost less a 10% holdback) to one producer for a project that was approved under the Agriculture Land Development Program. The \$206,000 project claim included the purchase of land clearing equipment (\$196,000), site development (\$8,000) and production of a video (\$2,000). Our review identified a number of issues with the project payment as follows:

- Progress payments for expenses other than equipment (in this case the site development and video production) are normally made when a substantial amount of the project had been completed. However, the delivery and the inspection of the equipment did not take place until 28 May 2010. On 31 March 2010, the time of payment, none of the site development could have been completed and the video could not have been produced as the land clearing equipment had not been received. Therefore, these expenses should not have been eligible for progress payments and \$6,750 (75% of 10,000 less a 10% holdback) should not have been paid at that time. Furthermore, on-site inspections of completed activities are required prior to the payment of invoices; however, in this case the inspection was completed after the payment was made.

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- The contribution agreement states that “all purchases must be fully utilized in the project within the term of invoice eligibility” and “any inputs for future use will not be reimbursed” (i.e. no prepayment). In this case the term of invoice eligibility was from 23 November 2009 to 31 March 2010. If the equipment was not delivered until May 2010, the site development and the video production could not have been completed within the eligibility date and associated invoices should not have been funded on 31 March 2010. It should also be noted that there were invoices on file along with proof of payment, therefore, the applicant paid for the work before it was completed. (i.e. prepayment).
- The Program Guide indicates that funding cannot be carried forward from one fiscal year to another. Department staff indicated that if projects are not finished at year end, the applicant has to reapply in the following fiscal year. Therefore, the land clearing and the video production should not have been funded in 2009-10 but brought to the IC as a project for approval in 2010-11.
- The \$8,000 invoice for site development was from a related company and was submitted before the work was completed. Since the invoice was prepared before the work was done, it was not clear how the cost was calculated or whether the amount was an accurate reflection of the actual cost. In addition, land clearing activities approved through the Agriculture Land Development Program are usually paid based on \$1,000 per acre; however, the invoice did not indicate the number of acres cleared. As a result, it was not possible to determine whether the Department’s funding for site development was used for its intended purpose.
- The Department did not receive a copy of the video until 2 August 2011; one year and five months after the funding was paid to the applicant for this purpose.

**Inspection
documentation
not adequate**

On-site inspections of completed activities are required prior to the claim payment. Inspections are an important tool to evaluate whether the completed project is in line with the goals of the approved project. In addition, serial numbers and pictures would be useful in determining whether the applicant has possession of the asset for follow-up compliance purposes. Failure to include all information from the inspection in the file could result in inappropriate funding. Our review identified that 5 of 23 projects that required inspections did not have adequate documentation on file as follows:

Growing Forward Program

- 4 project files had inspection certificates but certain required information was missing. For example, the serial numbers were not recorded for 6 pieces of equipment and the size of the structure was not recorded for 2 buildings; and
- 1 project file did not have an inspection certificate on file documenting a second inspection which was completed to examine work not finished at the time of the first inspection.

Project claim forms late

Our review identified that of the 27 projects that required claim forms, 3 claim forms totalling \$47,128 were submitted late. The Program Guide indicates that all claim forms must be submitted within 30 days of project completion or by 10 April for those projects with a 31 March completion date. Claim forms received after this date may not be processed for payment. Specifically:

- 1 project was completed on 14 January 2010 as per reports sent to the Department; however, the claim form was not submitted until 21 April 2010, 97 days after project completion (67 days late).
- 1 project was completed on 9 November 2009 but the claim form was not received until 22 December 2009, 43 days after project completion (13 days late).
- 1 project was completed on 31 August 2010 but the claim form was not received until 6 October 2010, 36 days after project completion (6 days late).

Recommendations

The Department should:

- apply holdbacks to payments until all project activities are complete, including the submission of final reports;
- obtain documentation to adequately support disbursements and ensure the completion of all project activity before funding is disbursed;
- obtain adequate documentation for inspections; and
- obtain claim forms within the required time period.

3. Monitoring

Overview

The Program Guide provides for the monitoring of individual projects through the use of on-site inspections, the submission of project reports (if required) and the performance of compliance audits to verify that project requirements have been met. In addition, the Department maintains a database that records general and financial information on each project. Also, the Newfoundland and Labrador Bilateral Agreement includes requirements for monitoring the Program.

Our review identified the following issues with the submission of project reports, the documentation used in project monitoring, and reporting on performance targets.

Of the 30 project files reviewed, only 7 project files required the submission of reports to evaluate the project. Of these 7:

Reports required but not on file

- 1 project report was not on file. 1 Department project required semi-annual performance reporting on 15 September 2009 and 15 March 2010; however, only a year end annual report had been submitted.

Reports submitted late

- 1 project report was submitted late as the final report was due on 31 October 2010 but was not received until 17 March 2011 (outstanding for over five months).

Reports submitted not adequate

- The annual reports required for 2 of the 3 Department projects were submitted but were not adequate. There was no comparison of actual expenses to budgeted amounts or adequate explanation of variances. Figure 8 shows the variances of actual expenditures to budgeted amounts for these projects for the years ended 31 March 2010 and 2011.

Figure 8

**Growing Forward Program
Department Project Variances
Years Ended 31 March**

	Project 1		Project 2	
	2010	2011	2010	2011
Budget	\$ 220,793	\$283,332	\$130,410	\$142,410
Actual	109,661	154,718	62,588	119,294
\$ Variance	111,132	128,614	67,822	23,116
% Variance	50%	45%	52%	16%

Source: Department of Natural Resources' Growing Forward reports and Government's Financial Management System.

In addition, both 2009-10 reports contained errors as results reported in these reports differed from the results in the annual performance report submitted to the Federal Government. When questioned, staff indicated that the annual reports contained errors and revisions had to be made to both reports. Furthermore, while there were other non-financial indicators listed in the reports there was little comparison of actual results to set targets.

- 3 reports were filed within the deadlines and were adequate to evaluate the projects' results.

Without adequate reporting by the applicant, the Department cannot demonstrate if the project objectives were met or if actual project costs were in line with approved amounts.

Project reports or follow-up not always completed

Our review identified that of the 23 projects that did not require final reports, such reports or Department follow-up on 15 of these projects could have provided beneficial information, had they been completed.

- All 15 projects identified project deliverables in their applications and assessments such as savings on fuel and labour, increases in capacity or other efficiencies as a result of the funding provided. However, there was no follow-up by the Department to determine if these deliverables were ever achieved. While inspections were completed, they were only intended to support payment of funding and did not address project deliverables.

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- 2 of the 15 projects were for the purchase of equipment for land clearing but the Department did not follow up to determine if the equipment was used for land clearing activities. The Department inspected the equipment upon delivery but no follow-up was completed to ensure that this equipment was used to clear the acreage stated in the application. The contribution agreement required that all purchase inputs must be used during the term of invoice eligibility. Without follow-up, it is unknown whether this condition was met by the client.
- 3 of the 15 project applications stated that final reports would be prepared on results once the project was completed; however, the Department did not require any reporting in the contribution agreements and therefore, the reports were never submitted.

The Department indicated that follow-up of these projects was not planned to determine if the deliverables were met. In our opinion, these reports would provide valuable information to the Department and industry on whether the project objectives were successfully met and this information could also be used in future assessment of projects with similar objectives or equipment needs.

Projects not completed as proposed

Our review identified that 4 of the 30 project files sampled included differences between the completed project and the proposed project as follows:

- 2 project files did not include the completion of all approved items. Specifically, for 1 project, instead of purchasing the four greenhouses that were approved, three greenhouses were purchased at a higher cost per greenhouse, and an approved building and electrical work were not completed for another project. Even though these items were not completed, the amount of funding paid was not fully reduced for the amounts estimated in the proposals as the savings were used to cover overruns in other areas of the project.
- 2 projects were not completed in the time frame proposed.
 - 1 applicant did not complete a number of deliverables before its project completion date. The project was originally approved at \$167,013, amended to \$135,345 and later amended to \$71,194 due to delays encountered by the applicant. By 31 March 2011, the applicant was to establish a steering committee, develop terms of reference, review past Provincial agricultural promotional campaigns, hold a food show, attend trade shows/fairs, complete an interactive display and complete an industry consultation survey.

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Our review identified that as at 31 March 2011, \$71,194 had been paid to the applicant and 83% or \$59,146 had been spent; however, the terms of reference had not been prepared, and the industry consultation survey was not completed.

- 1 project applicant did not complete rock removal or a video production before the term of eligibility on 31 March 2010.

File checklist incomplete

24 of the 25 projects included File Completion Checklists but did not have these forms fully completed. The File Completion Checklist provides a record of tasks to be performed and documents that are required to be filed throughout the funding process to prevent funding from being disbursed prior to all tasks being completed and documents filed; however, the checklists were only partially completed in that they indicated only a few of the tasks were completed or documents filed.

Projects noted as incomplete

The Department's database of projects was not up to date in that entries in the database indicated that 9 of the 30 project files reviewed were incomplete; although the projects were in fact completed.

Targets not met

The Province's 2009-10 Performance Report submitted to the Federal Government identified performance targets for the Program such as: the number of clients implementing land clearing and enhancement activities; the number of new entrants by type; the number of farm businesses participating in traceability programs; the number participating in biosecurity activities; or the number of producers that have implemented marketing strategies. The report indicated that 26 of the 34 performance targets had not been met. Of the 26 targets not met only 3 had comments as to why the targets were not met. Staff indicated some targets were not met in 2009-10 due to the late rollout of the Program but this information was not included in the 2009-10 Performance Report. It was also not clear if any action was being taken to address the targets not yet reached.

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Eligible amounts not claimed

The Department did not claim the full amount eligible under the Bilateral Agreement for the year ended 31 March 2011. The 2010-11 claims submitted to the Federal Government used percentages for the Federal/Provincial allocation that differed from the percentages allowed in the Bilateral Agreement. The total spending by both the Federal and Provincial Governments for the Program in 2010-11 was \$7,108,932. In our opinion, if the Program is to be jointly funded at 60% and 40%, then the Federal portion would be \$4,265,359 (60%) and the Provincial portion would be \$2,843,573 (40%). However, the claims submitted by the Department resulted in the Federal portion being \$3,800,313 (53%), and the Provincial portion being \$3,308,619 (47%), a difference of \$465,046 in Provincial funding. Although this amount can be carried forward to subsequent years as the Bilateral Agreement allows a carry forward of up to 25% of unused funding, it would be more cost-effective to recover funding as quickly as possible.

Recommendations

The Department should:

- require follow-up and/or final reports on all projects to assess outcomes;
- obtain final reports by the required deadlines that are adequate to assess project outcomes;
- document the reasons why targets established for performance indicators were not met and take action to address areas where actual results are below targeted amounts; and
- review the accuracy of claims to the Federal Government before submission to ensure the maximum amount eligible is claimed.

Department's Response

The Department of Natural Resources – Forestry and Agrifoods Agency has reviewed the findings and recommendations of the audit conducted by your office on the Growing Forward Program in the areas of Assessment and Approval, Payments and Monitoring. It is the Department's opinion that this program is being delivered within a responsible context while exercising due diligence in the administration of the Canada-Newfoundland and Labrador Bilateral Growing Forward Agreement. The Department of Natural Resources acknowledges the comments of the Auditor General and offers the following comments for clarification.

Assessment and Approval

The Department had developed a policy for funding applicants with common ownership in response to an audit recommendation from the Office of the Auditor General in 2007. In an update report in June 2009 the OAG agreed that the Department's actions had addressed their recommendation. The related companies policy was brought forward and used in the administration of Growing Forward. With respect to the Growing Forward projects noted in the audit, the Department applied the related companies policy to all three companies and deemed that the companies were each eligible for the funding maximum. No company received funding above the maximum permitted under the program as suggested by the OAG. All three companies were in separate lines of business and all three companies were agricultural operations that reported farming income to the Canada Revenue Agency, and therefore based on the program's related companies policy the Implementation Committee approved funding.

The Department acknowledges and has noted your findings for documentation to support decisions of the Implementation Committee. The Department will ensure that Implementation Committee decisions are better documented, in particular when the decision of the Implementation Committee is contrary to staff assessments and when applying the policy for related companies.

The Department maintains that all projects are reviewed with due diligence, however acknowledges your findings for improvements and will act upon your recommendations to ensure that all applications are complete and that arrears checks are performed where required.

All decisions of the Implementation Committee are documented in a Record of Decision prepared by the administrative staff and signed by the Implementation Committee Co-Chair. The Record of Decision notes the project decision, project number, applicant, project title, project description, eligible and ineligible activities, funding level, project conditions, commodity, meeting date, project start date, and applicable Growing Forward strategic outcome among other project details. The Department will further document the Implementation Committee decisions and ensure that the decisions are also included in the minutes.

Payments

The Department acknowledges your findings related to holdbacks and due to an oversight the 10% policy holdback was not properly applied in the three projects noted in your report. The Department will ensure that the holdback policy will be applied in future until all project activities are complete. As part of the holdback process, administration staff has now developed a holdback project monitoring listing which is reviewed by the Implementation Committee. This listing will document those projects with applied holdbacks and permit monitoring of project completion dates.

Project inspections are conducted by Departmental staff prior to the reimbursement of funds. In some projects that involve equipment purchases, the serial numbers were either not available or applicable. Staff has been advised to note on the project inspection forms if serial numbers are not available or applicable. The Department will also ensure that project inspection forms are fully completed in future.

The Department acknowledges that not all claim forms are submitted by applicants within the 30 days of project completion as indicated in the Program Guide. The Program Guide also notes that invoices received after this date may not be processed for payment. While the Department encourages applicants to submit their claims in a timely manner, we also recognize that this is not always possible in all cases. Applicants may be waiting on cancelled cheques to verify payment or they may have time constraints due to hectic planting and harvesting periods that would delay the submission of claim forms. The administrative staff will continue to monitor project completion dates and contact applicants to encourage early submission of claim forms however, we realize that some claims may continue to be submitted and processed after the 30 days as noted in the Program Guide. Subject to administrative capacity, processing claims after the 30 days will ensure that applicants are reimbursed for the project activities they have undertaken.

Monitoring

The Department acknowledges and has noted your findings for improvements in monitoring projects. Currently, the Department conducts thorough assessments of all projects utilizing various staff with financial and technical knowledge in the agriculture and agrifoods industry. On-site inspections are conducted for all physical projects involving land development, equipment purchase and/or building construction. The inspection is conducted to ensure that the project conditions have been met as per the contribution agreement. For example, land development requires the mapping of developed acreage using GPS equipment. Follow-up compliance inspections are also conducted

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on 20% of funded projects to ensure the asset/project is still being used for its intended purpose within three years of purchase/construction. The IC only requires project reports if it is felt that the project information would have industry wide benefits, such as results from research and development projects. Project reports are not typically required for many projects such as land development, manure storage construction, or on-farm food safety enhancements.

The Department will consider implementing improved project monitoring procedures and will continue to work with applicants to ensure that project reports are submitted in a timely manner.

The Department acknowledges your findings related to the 2009-10 Performance Report. The 2009-10 fiscal year was the first year that Growing Forward programs were delivered and due to the late roll out of the programs there was lower uptake than anticipated. As a result, many of the program targets could not realistically be met in the first year of the program. The Performance Report is a document compiled for internal purposes for both the provincial and federal governments. In November 2009, the provincial and federal Management Committee Co-Chairs discussed whether to adjust the 2009-10 performance targets as permitted under the Bilateral Agreement, however it was decided that an adjustment was not required as both governments were aware of the late delivery of Growing Forward programs across Canada.

The Department provided explanations on variances and why targets may not have been met and/or had been exceeded on the 2010-11 Performance Report.

The Department will continue to exercise due diligence and closely review the accuracy of claims to the Federal Government. Growing Forward is a five year agreement funded 60% and 40% by the Federal and Provincial governments, respectively, however each of the six programs under the Agreement is funded at different levels. This complicates the funding percentages particularly when funds are reprofiled from the previous year. Up to 25% of unused funds in any one year can be reprofiled or carried forward into the subsequent year. The Department tracks financial program data including provincial and federal program expenditures, federally attributed expenditures, and program revenue on both an annual and program-to-date basis to ensure efficiency and accuracy in the claiming process.

The Department of Natural Resources - Forestry and Agrifoods Agency would like to thank your office for its review of the Growing Forward Program and for this opportunity to respond to the audit findings.

Growing Forward Program

PART 2.8

DEPARTMENT OF NATURAL RESOURCES

MINERAL INCENTIVE PROGRAM

Executive Summary

The Mineral Development Division (the Division) of the Department of Natural Resources (the Department) is responsible for: the approval and permitting of mining operations through the *Mining Act*; the administration of the Mineral Incentive Program; the collection, analysis and publication of mineral production data; and the assessment and remediation of abandoned mine sites across the Province. The Division has a staff of 19, with Division expenditures for the year ended 31 March 2011 accounting for \$10.3 million, or 58.9% of the total \$17.5 million in expenditures for the Department's Mines Branch.

The Mineral Incentive Program provides funding for mineral exploration activities through the Junior Exploration Assistance Program (the JEA Program), the Natural Stone Assessment Program and through the provision of grants and training for prospectors under the Prospectors Assistance Program.

In 2010-11, grants totalling \$2.75 million were provided under the Mineral Incentive Program to assist in mineral exploration and production. Of this total, \$2.37 million in grants were provided under the JEA Program, \$109,000 under the Natural Stone Assessment Program and \$270,000 under the Prospectors Assistance Program. As the JEA Program represents 86% of all grants provided, our review was primarily focused on that aspect of the Mineral Incentive Program. We selected 14 projects with grants totalling \$1,392,000. These grants represented 51% of the total Mineral Incentive Program grants provided during 2010-11.

The JEA Program was established to encourage companies and local prospectors to conduct advanced exploration in the Province and carry mineral prospects to a more advanced stage. Funding under the JEA Program is designed to defray 50% of approved eligible costs, to a maximum grant of \$100,000 per undertaking on the island and \$150,000 for Labrador-based projects. Applications are assessed on a "first come, first served" basis, with grants to be paid after a final report, acceptable to the Minister, is received.

Our review identified concerns with how the Department was administering the JEA Program. We found that: applications were not being properly completed and assessed; progress and final reports were not being properly received, monitored and reviewed; on-site inspections, and audits and examinations were not being performed; and project evaluations were not being prepared.

We also found that: while work plans were in place for the Division for 2009-10 and 2011-12, no work plan was in place for 2010-11; performance measures and reporting requirements for the Division and for the Mineral Incentive Program were, in general, not well defined; the Division's database was not adequately tracking information to facilitate project monitoring and reporting; and policies and procedures for the administration of the Mineral Incentive Program were inadequate.

Application Assessment and Approval

The application process for the JEA Program begins with the receipt of an application. The application must then be reviewed and assessed by the JEA Selection Committee (the Selection Committee), comprised of three Departmental geologists. Applications must be recommended by at least two Selection Committee members and each member is required to complete an application assessment form which includes a recommendation as to whether to accept or reject the application. A Selection Committee checklist is completed by the Program Manager to document assessment of the applicant's eligibility, project activity and project funding.

Our review of assessment and approval for the selected 14 projects approved under the JEA Program indicated the following:

Applications not properly completed

- 3 instances where the applicant did not provide all required information in their application - 1 applicant did not specify the proposed work schedule; 1 applicant did not have the required application check list; and 1 applicant did not have the proposed work schedule or completed application checklist;
- 1 instance where the required declaration was not signed by the applicant certifying that all information in the application package was, to the best of their knowledge, complete, true and accurate; and
- None of the 14 applications had the section of the application completed by the Department indicating that the application had been properly assessed, and that all required documentation had been received.

Application assessments not properly performed

- 5 instances where only two of the three members of the Selection Committee completed the required assessment of the application;

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- 4 instances where at least one Selection Committee member raised concerns on the application assessment form and recommended approval pending resolution of various issues, with no indication of how the issues were resolved;
- 9 instances where Selection Committee members had not indicated, on the application assessment form, the date the application was reviewed;
- 11 instances where Selection Committee checklists were not being properly completed, including 10 instances where the omissions were in the funding portion of the checklist;
- 3 instances where the Selection Committee checklist indicated that required information was pending, and 2 instances where the checklist indicated that the information was missing or incomplete, with no indication on file of how the issues were resolved; and
- 2 instances where the Selection Committee checklist only included a small description of the project and the remainder of the checklist was blank, with no evidence that an assessment had been completed of applicant eligibility, activity and funding.

We also found that no terms of reference were in place for the Selection Committee, indicating the framework within which the Selection Committee should function, its roles and responsibilities, and its objectives and expected outcomes.

Project Monitoring and Evaluation

Once a project has been approved within the JEA Program, a contribution agreement is signed between the applicant and the Department containing provisions to assist the Department in assessing the success of the project and providing assurance that the requested funding has been appropriately utilized. Provisions include the requirement for progress reports by applicants, the authority for the Department to conduct site visits and to examine and audit applicant records, and a requirement for the applicant to submit a final report for approval.

Our review of project monitoring and evaluation for the selected 14 projects approved under the JEA Program indicated the following:

On-site inspections, audits or examinations not performed

- Although the contribution agreements allow for site visits that would assist the Department in assessing the progress of projects, none of the 14 projects had evidence that site visits were conducted; and

Mineral Incentive Program

- Although the contribution agreements allow for examinations or audits which would assist the Department in evaluating whether approved funding is being spent as intended, none of the 14 projects had evidence that examinations or audits of applicant records were conducted.

Contribution agreements signed after projects were completed

- 4 instances where applicants were approved for funding near the end of the fiscal year and the effective date of the contribution agreement was back-dated to the date of the original application - in 3 of these 4 instances, the project was already completed before the applicants were notified that they had been accepted for funding, which brings into question whether the grant provided was a factor in the applicant's decision to continue with the project and whether it had a significant effect on exploration activity for the funded projects.

Progress reports not properly submitted

- progress reports were not being submitted in accordance with the contribution agreements - of the 10 instances where contribution agreements required progress reports to be submitted, a total of 15 reports were required to be submitted, and of these, 8 were not submitted and 5 of the 7 that were submitted were not received by the date required; and
- the 7 progress reports received contained very limited information on project progress, e.g. 1 progress report consisted of just an e-mail received from an applicant indicating that the proposed drill program had just started and that it would be 1,300-1,500 meters in length, and stating that the budget would be in excess of the spending required to receive the full amount of the grant.

Final reports not being properly reviewed

- 7 instances where no report evaluation checklist had been prepared or other evidence present to indicate that Department officials had reviewed final reports received. While there was some indication of review of the other 5 reports received, there was no report evaluation checklist prepared.
- 1 instance where approved expenditures were reimbursed by the Department, even though a final report submitted stated that the project was not complete; and

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- 2 instances where approved expenditures were reimbursed by the Department, even though the invoice dates were outside of the period covered by the agreements.

Final reports not submitted within contribution agreement deadlines

- 2 instances where final reports were on file; however, they were not date-stamped to document whether they had been received within the contribution agreement deadlines; and
- 9 of the 12 final reports that were received and date-stamped were not received by the project completion date and 4 of the 9 were not received by the final deadline date.

Project evaluations not prepared

- 12 instances where there was no evidence on file of a project evaluation being completed to summarize the overall results and future potential of the project, and to determine the success of individual projects which could ultimately serve to measure the success of the overall JEA Program.

Performance Measurement and Monitoring

Performance measures for the Mineral Incentive Program and mineral development, in general, were not well defined. Measures which could be used include: expected application processing time; frequency of site visits and project evaluations; and frequency and content of management reports.

There was also no work plan in place in 2010-11 to enable the Division to focus its activities towards achieving strategic goals and objectives. While work plans were in place for 2009-10 and 2011-12, performance measures were not well defined.

Database Management

The Division's Mineral Incentive Plan Central Approval Control Program (the Control Program) was not always used to track project information which could be used to facilitate project monitoring and reporting. Information which could be tracked includes information relating to the status of progress reports and final reports, site visits and project evaluations. Also, the Division had not been updating spreadsheets that had been intended to track certain monitoring information.

Mineral Incentive Program

In addition, an operations manual for the Control Program had never been prepared by the Division to ensure the system was understood by staff and that procedures were properly complied with.

Furthermore, there were no regular reconciliations of payment information between the Control Program and Government's Financial Management System, which could be used to highlight any differences in payment information recorded in the two systems.

Policies and Procedures

Although application and related guidelines for the Mineral Incentive Program are on the Department's website, policies and procedures relating to the administration of the Mineral Incentive Program were not developed or communicated to staff. Such policies and procedures would provide assistance to staff and the Department in the consistent administration of the Mineral Incentive Program, including in the areas of application assessment and approval, project monitoring and evaluation, performance measurement and monitoring, and database management.

Background

Department Overview

The Department of Natural Resources (the Department) is responsible for the preservation and development of the Province's natural resources.

The Department is made up of five branches:

- Executive Support;
- Energy;
- Mines;
- Forestry Services; and
- Agrifoods Development.

The Mines Branch consists of three divisions:

- Mineral Development;
 - Mineral Lands; and
 - Geological Survey.
-

Mineral Incentive Program

Expenditure As at 31 March 2011, the Mines Branch had a total staff of 89. Total expenditure for the Mines Branch for the year ended 31 March 2011 was \$17.5 million. Mineral Development Division expenditures accounted for \$10.3 million, or 58.9% of the total. These details are outlined in Figure 1 below.

Figure 1

**Department of Natural Resources
Mines Branch
Expenditures
For the Year Ended 31 March 2011
(000's)**

Expenditure	Mineral Development	Mineral Lands	Geological Survey	Total
Salaries and benefits	\$1,190	\$1,197	\$4,150	\$6,537
Transportation & Communications	108	142	769	1,019
Supplies	25	43	263	331
Professional Services	3,250	14	23	3,287
Purchased Services	2,902	87	381	3,370
Property Furnishings and Equipment	3	40	62	105
Grants and Subsidies (Note 1)	2,844	-	6	2,850
Total Expenditure	\$10,322	\$1,523	\$5,654	\$17,499

Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund

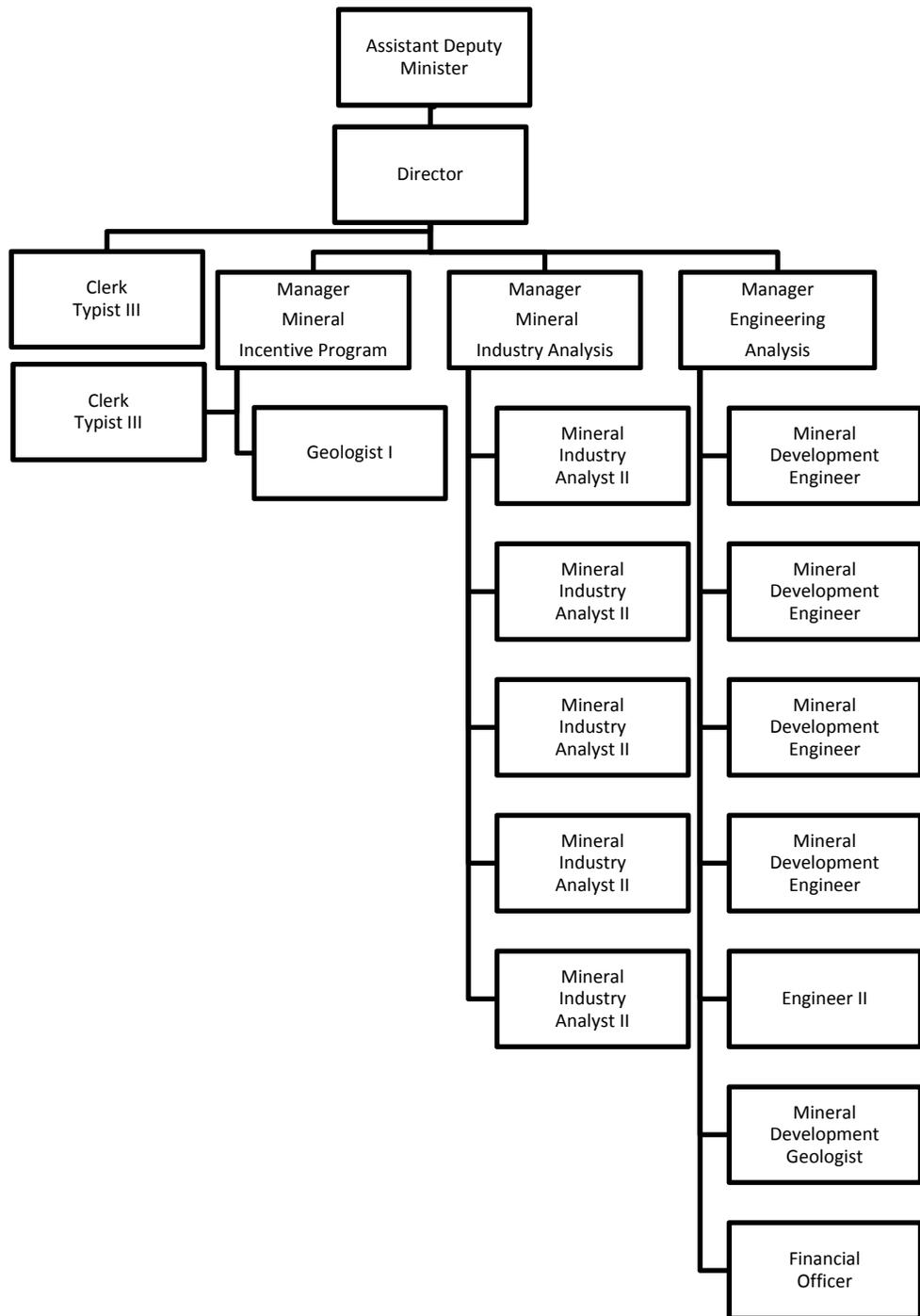
Note 1: Included in Grants and Subsidies of the Mineral Development Division were grants paid directly to applicants totalling \$2,747,000.

Mineral Development Division

The Mineral Development Division within the Mines Branch is responsible for: the approval and permitting of mining operations through the *Mining Act*; the administration of the Mineral Incentive Program; the collection, analysis and publication of mineral production data; and the assessment and remediation of abandoned mine sites across the Province.

The Mineral Development Division has a staff of 19 as shown in Figure 2.

Figure 2
Department of Natural Resources
Mineral Development Division
Organizational Chart



Source: The Department of Natural Resources

Mineral Incentive Program

Mineral Incentive Program Description

The Mineral Incentive Program provides funding for mineral exploration activities through the Junior Exploration Assistance Program (the JEA Program), the Natural Stone Assessment Program and through the provision of grants and training for prospectors under the Prospectors Assistance Program.

In 2010-11, grants totalling \$2.75 million were provided under the Mineral Incentive Program to assist in mineral exploration and production. Of this total, the JEA Program paid out grants of \$2.37 million, the Natural Stone Assessment Program \$109,000 and the Prospectors Assistance Program \$270,000.

The JEA Program was established to encourage companies and local prospectors to conduct advanced exploration in the Province and carry mineral prospects to a more advanced stage. Funding under the JEA Program is designed to defray 50% of approved eligible costs, to a maximum grant of \$100,000 per undertaking on the island and \$150,000 for Labrador-based projects. In accordance with the contribution agreement, a grant is to be paid after a final report acceptable to the Minister is received.

The Natural Stone Assessment Program helps to offset the costs associated with companies or individuals conducting exploration and natural stone assessment by taking new or underdeveloped prospects to a more advanced stage. The Program is designed to encourage and promote a greater involvement by local entrepreneurs in the natural stone industry. The Program provides grants towards 75% of eligible costs up to a maximum grant of \$50,000. In accordance with the contribution agreement, a grant is to be paid after a final report acceptable to the Minister is received.

The Prospectors Assistance Program provides grants to resident prospectors who are involved in independent mineral exploration activities. Approved projects on Crown land or the proponents' registered claims are supported by grants of up to \$6,000 for traditional and grass-roots prospecting. An extra \$2,500 is also available for air (float plane or helicopter) support to remote properties with no other means of access. The prospectors are also supported by field visits and guidance from the Program Manager, as well as other Department personnel. Sixty percent of the grant is paid in advance and the remainder is paid upon satisfactory completion of the project and submission of an approved final prospecting report in accordance with the Prospectors Reimbursement Agreement.

Figure 3 compares the Mineral Incentive Program spending by Program for fiscal years 2008-09, 2009-10 and 2010-11.

Figure 3

**Department of Natural Resources
Mineral Incentive Program
Grants Paid
For the Years Ending 31 March**

Program	2009	2010	2011	2011 % of Total
Junior Exploration Assistance	\$2,000,000	\$2,122,000	\$2,368,000	86%
Natural Stone Assessment	76,000	26,000	109,000	4%
Prospectors Assistance	162,000	346,000	270,000	10%
Total	\$2,238,000	\$2,494,000	\$2,747,000	100%

Source: Department of Natural Resources

Audit Objectives and Scope

Audit objectives

The primary objective of this audit was to review the Mineral Incentive Program within the Mineral Development Division of the Department of Natural Resources with a focus on the JEA Program. Our review included:

- Application Assessment and Approval;
- Project Monitoring and Evaluation;
- Performance Measurement and Monitoring; and
- Database Management.

Audit scope

Our review covered, primarily, the period 1 April 2010 to 31 March 2011. It was completed in December 2011.

Our review included interviews with key personnel and compliance testing in various areas.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Application Assessment and Approval
2. Project Monitoring and Evaluation
3. Performance Measurement and Monitoring
4. Database Management
5. Other Findings

The JEA Program represents 86% of all Mineral Incentive Program grants paid out during the year ended 31 March 2011(see Figure 3). In performing our review, we selected 14 approved projects totalling \$1,392,000 in grants paid representing 51% of total Mineral Incentive Program grants paid out in the fiscal year 2010-11. The 14 projects reviewed were selected from grants paid within the JEA Program.

1. Application Assessment and Approval

Overview

The application process for the JEA Program begins with the receipt of an application from the applicant. The application includes such information as: the proposed exploration work; rationale for conducting the work; proposed work schedule; proposed budget; and, a declaration by the applicant certifying that all information in the application package is, to the best of their knowledge, complete, true and accurate. The Department accepts applications for funding on the first business day in March of each year, and reviews those applications starting 1 April. Applications are reviewed on a “first come, first served” basis.

The application is date stamped when received. The application must be reviewed and assessed by the JEA Selection Committee (the Selection Committee).

The Selection Committee consists of three Departmental geologists, including the Program Manager. Applications within the JEA Program are assessed by the members of the Selection Committee, who are to evaluate the quality and merit of the proposal as related to program objectives. Applications must be recommended by at least two members of the Selection Committee.

Mineral Incentive Program

The Selection Committee members are required to complete an application assessment form which would include a recommendation by each member as to whether to accept or reject the application. In addition, a Selection Committee checklist, used in assessing eligibility of the applicant, project activity and project funding is to be completed by the Program Manager.

The application has a section that is to be completed by other Department officials. This section requires an indication of whether additional information was requested and whether the application was approved or rejected by the Selection Committee.

All applications are reviewed and evaluated through this process. Funding is granted to each approved applicant until all JEA Program funds are exhausted. Those applicants not offered funding are sent a letter advising them of that fact and that their exploration project will be reconsidered if more funding becomes available.

As indicated above, we selected 14 approved project files from the JEA Program for our review of the application assessment and approval process. The results of this review are as follows.

Applications not properly completed

In order to apply for funding under the JEA Program, an applicant must submit a completed application form. However, we found for three projects that the application did not include all required information. For example, one applicant did not specify the proposed work schedule; one applicant didn't provide a complete application checklist; and one applicant did not have the proposed work schedule or completed application checklist. We also found one instance where the required declaration was not signed by the applicant.

The section to be completed internally, by the Department, serves to ensure that an application is properly assessed and all required documentation is received. Our review disclosed that this section of the application was not completed for any of the 14 projects reviewed.

Application assessments not properly performed

Our review indicated that application assessment forms were not always completed by Selection Committee members. There were 5 instances where only 2 of the 3 members of the Selection Committee completed the assessment.

Mineral Incentive Program

We also found 4 instances where at least one Selection Committee member raised concerns on the application assessment form and recommended approval pending resolution of various issues. However, within the project files, there was no indication of how the issues were resolved. In all 4 cases, the applications were approved.

There were also 9 instances where Selection Committee members had not indicated, on the application assessment form, the date the application was reviewed.

Our review also revealed that the Selection Committee checklists were not being properly completed. We noted 11 instances where the checklists were not complete. In 10 of the 11 instances, there were omissions in the funding portion of the checklist. In these cases, information relating to total eligible costs, the date costs were to commence or additional government funding received, was not indicated.

We found 3 instances where the Selection Committee checklist indicated that required information was pending. We also found 2 instances where the checklist indicated that the information was missing or incomplete. However, in all 5 cases, there was no evidence on file as to how these items had been resolved prior to approving the applicant for funding.

We identified 2 instances where the Selection Committee checklist included just a small description of the project and the remainder of the checklist was blank. As a result, there was no evidence that the eligibility of the applicant, activity and funding was properly assessed for these two projects.

No defined Selection Committee terms of reference

The terms of reference of a committee provides the framework within which a committee will function. It defines the objectives and expected outcomes of the committee. The terms of reference addresses the: who, what, when, where and how of a committee's operations, structure and composition.

Our review revealed that the Selection Committee does not have any terms of reference. As a result, roles and responsibilities of Selection Committee members may not be clear.

Recommendations

The Department should ensure that:

- all required information is received before applications are assessed and approved;
- application assessments are performed, as required; and
- terms of reference for project selection committees are well defined.

2. Project Monitoring and Evaluation

Overview

Once a project has been approved within the JEA Program, a contribution agreement is signed between the applicant and the Department. The contribution agreement has provisions to assist the Department in assessing the success of the project and providing assurance that the requested funding has been appropriately utilized. Such provisions include the requirement for progress reports by applicants, the authority for the Department to conduct site visits and to examine and audit applicant records, and a requirement for the applicant to submit a final report for approval. These provisions help assess the success of the project and provide assurance that the requested funding has been appropriately utilized.

On-site inspections not performed

Section 4.2 of the contribution agreement states that “*The Minister shall have access to the premises of the Applicant and the premises where any part of the work on the project is being carried on at all reasonable times, to inspect and assess the progress of the Project...*”.

While site visits are not a requirement, they would assist the Department in assessing the progress of a project.

There was no evidence on file of on-site inspection visits performed for any of the 14 projects reviewed. As a result, the Department is not assessing the progress of projects through on-site visits.

Mineral Incentive Program

Project audits or examinations not being performed

Section 4.1 of the contribution agreement states that “*The Applicant shall keep and preserve all books, accounts and records relating to the Project and keep them available for examination and audit by the Minister...*”

Although the contribution agreement does not require such examinations or audits, they would assist the Department in assessing whether approved funding is being spent as intended.

Our review revealed that there were no examinations or audits of books and records performed for any of the 14 projects examined. As a result, the Department is not using all tools available to evaluate whether approved funding is being spent as intended.

Contribution agreements signed after projects were completed

A contribution agreement is required to be signed for all approved applications. The effective date of the contribution agreement, which is the date from which expenses can be incurred and still be reimbursed, is back-dated to the date of application. Therefore, an applicant’s expenses that have been incurred prior to a contribution agreement being signed, can still be reimbursed to the applicant.

Department officials indicated that additional funding opportunities for the JEA Program may occur. Examples include: when funds are not advanced because companies failed to complete approved projects and when other Mineral Incentive Programs are not fully subscribed. We identified four instances where applicants were approved for funding near the fiscal year end as a result of unsubscribed funds becoming available. In each instance, the effective date of the contract was back-dated to the date of the original application.

In three of these instances, we found that the project was already completed before the applicants were notified that they had been accepted for funding. As a result, no contribution agreement was in place when the projects were in progress and subsequently completed. The three applicants received a total funding of \$284,000.

The Department conducted an independent evaluation of the Junior Company Exploration Assistance Program (JCEAP) in 2004. The JCEAP Program was the predecessor of the JEA Program.

A review of the consultant's report revealed that the consultant had surveyed the applicants who had previously received funding under the JCEAP Program. The consultant stated that "100% of the respondents indicated that in the absence of JCEAP their activity would have been reduced and 84% indicated that they would have been significantly reduced. This demonstrates that JCEAP is, consistent with the program's objectives, having a positive and significant impact on exploration activity in Newfoundland and Labrador."

Since the 3 projects were already completed, this brings into question whether the grant provided was a factor in the applicant's decision to continue with the project and whether it had a significant effect on exploration activity for the funded projects.

Progress reports not being properly submitted

Section 4.3 of the contribution agreement states that "*The Applicant agrees to provide the Minister with reports on progress of the Project as requested by the Minister.*" Schedule A of the contribution agreement outlines when progress reports are to be submitted by the applicant. Progress reports are used to monitor the status of the project, and ensure compliance with the contribution agreement.

Our review of the 14 projects indicated that 10 of the contribution agreements required progress reports to be submitted. The remaining 4 contribution agreements did not require progress reports. These contracts relate to contribution agreements signed near fiscal year end, as discussed above.

A total of 15 progress reports were required for the 10 contribution agreements requiring progress reports. Of the 15 progress reports that were required, 7 were submitted, while 8 were not submitted. With respect to the 7 progress reports that were received, 5 had not been submitted within the required time frame. Only 1 progress report was placed on file. The other progress reports were provided upon request and obtained through the client's review of emails.

Our review of the 7 progress reports received indicated that most contained very limited information on project progress. For example, 1 progress report consisted of just an email received from an applicant indicating that the proposed drill program had just started and that it would be 1,300-1,500 meters in length. It also stated that the budget would be in excess of the spending required to receive the full amount of the grant.

Final reports not being properly reviewed

The contribution agreement requires that the Department's contribution amount be payable to the applicant after the applicant submits a final report that is acceptable to the Minister. The final project report consists of a financial report and a technical report.

The financial report would include an accounting summary of the project costs along with supporting documentation such as paid invoices, copies of cancelled cheques or official receipts. The technical report is to include information as described in Schedule A of the contribution agreement.

Schedule A of the contribution agreement states *“The applicant shall.....submit a final, completely documented report providing: a description of the implementation of the Project by the Applicant; a typewritten copy of all descriptive diamond drill logs and analytical information; map(s), drill hole section(s), and geophysical results; an indication of the overall success of the Project; and an outline of future plans by the Applicant as they relate to the success of this Project.”*

We would expect to find evidence that the project final report was assessed and met all criteria outlined in Schedule A of the contribution agreement before payment was made. This may be done using a final report evaluation checklist.

Our review disclosed that 12 of the 14 projects had final reports, including the technical report and the financial report, on file. The other 2 projects had the financial report but no technical report on file within the Mineral Development Division. Officials informed us that, for these 2 projects, the annual assessment report for the mineral exploration licence that was submitted to the Mineral Lands Division was considered acceptable.

Our review disclosed that there was no evidence of a review of final reports for 7 of the 12 that were on file within the Mineral Development Division. The other 5 reports had some indication of review. However, there was no report evaluation checklist prepared for all 12 projects.

Our review identified 1 instance where a final report submitted stated that the project was not complete. The report indicated that the project was still ongoing. Also, more than one-third of the approved expenditures were incurred outside of the period covered by the contribution agreement. Despite the fact that the project was reported as not complete, and reported expenditures were outside of the period covered by the contribution agreement, the applicant received the total approved grant of \$100,000. There was no evidence of the final report being reviewed for this project.

Mineral Incentive Program

Our review also identified another instance where an approved expenditure of over \$13,000 was reimbursed by the Department, even though the invoice date was outside of the period covered by the contribution agreement. There was, also, no evidence of the final report being reviewed for this project.

Final reports not submitted within contribution agreement deadlines

Section 2.3 of the contribution agreement requires that the project be completed to the satisfaction of the Minister by a specified project completion date. This date may be extended by a maximum of 30 days upon a letter of agreement between the Minister and the applicant.

Section 3.2 of the contribution agreement states *“notwithstanding anything contained in this agreement, no contribution shall be payable by the Minister to the Applicant unless the Applicant submits a claim for payment and a report including supporting documentation, acceptable to the Minister not later than **sixty (60) days** following the date upon which the Project is completed to the satisfaction of the Minister, as per Section 2.3.”*

Final reports are required to be date stamped when received, to help ensure compliance with these provisions of the contribution agreement.

Of the 14 projects reviewed, final reports for 2 projects were not date-stamped. As a result, we were unable to determine whether they were in compliance with these contractual provisions.

Of the 12 final reports that were received and date-stamped, 9 reports were submitted after the project completion date as specified in clause 2.3. In addition, 4 of the 9 final reports were submitted after the final deadline set in clause 3.2. Grants totalling \$450,000 were paid to the applicants even though the contribution agreement final reports were submitted after the deadline.

Project evaluations not prepared

We would expect to see a project evaluation in place for each completed project. The evaluation would summarize the overall results and future potential of the project. The evaluation could be used to determine the success of individual projects and ultimately could serve to measure the success of the overall JEA Program.

There was no evidence on file of a project evaluation being completed for 12 of the 14 projects reviewed. As a result, the Department is not evaluating the success of individual projects.

Recommendations

The Department should:

- consider conducting on-site visits, as provided for in the contribution agreement, to assess the progress of the projects;
- consider conducting project audits or examinations, as provided for in the contribution agreements;
- consider the appropriateness of approving contribution funding for projects which have already been completed;
- ensure progress reports are submitted in accordance with the contribution agreements and provide sufficient detail to properly assess project progress;
- ensure final reports are properly submitted and reviewed prior to payment of grants; and
- prepare project evaluations.

3. Performance Measurement and Monitoring

Overview

We would expect to find well defined performance measures relating to the Mineral Incentive Program within the Mineral Development Division (the Division). These performance measures would be included as part of the performance measures for all mineral development within the Division. These measures should form part of a divisional operating plan. For example, performance measures may include: expected application processing time, frequency of site visits and project evaluations, and frequency and content of management reports.

A divisional operational/work plan should contain information specific to the Division. This plan should contain goals, objectives, measures, indicators for the goals and objectives, actions necessary and reporting requirements.

A divisional operational/work plan will enable the Division to focus its activities towards achieving strategic goals and objectives. The plan would be necessary to determine whether the Department's Strategic Plan objectives are being met and are a necessary part of a good system of accountability.

Mineral Incentive Program

Our review indicated the following issues with performance measurement and monitoring of the Mineral Incentive Program within the Division.

Performance measures not well defined

Performance measures for the Mineral Incentive Program and mineral development, in general, were not well defined. There was no work plan in place for the Division in 2010-11. Work plans were in place for 2009-10 and 2011-12, however, performance measures were not well defined in these plans.

System for reporting not adequate

Reporting requirements for the Mineral Incentive Program and the Mineral Development Division, in general, were not well defined. There were no established reporting standards within the Division, for such things as:

- who is responsible for reporting;
- nature and content of the reports;
- frequency of reporting;
- deadline for report preparation and submission; and
- who is to receive and review the reports.

Our review disclosed that there was no established reporting mechanism for the monitoring of project status under the Mineral Incentive Program.

As a result, regular reports on the status of projects were not prepared for review by Management.

Recommendations

The Department should ensure:

- performance measures for the Mineral Incentive Program and mineral development, in general, are well defined and communicated;
- an operational plan is in place for the Division; and
- a system for reporting back on these performance measures is in place, including the establishment of reporting standards.

4. Database Management

Overview

The Division tracks Mineral Incentive Program information through a computer application: the Mineral Incentive Plan Central Approval Control Program (the Control Program). The Control Program tracks project information, such as: project costs, budgets and application information. The Control Program also has the capability of tracking monitoring information relating to projects. The Division also has excel spreadsheets created for tracking project monitoring information.

We would expect to see relevant project information being tracked by the Division to facilitate project monitoring and reporting. This information would include dates and other details relating to the following:

- Expected progress report;
- Actual progress report;
- Expected project completion;
- Actual project completion;
- Expected final report;
- Actual final report;
- Site visit; and
- Project evaluation.

Project monitoring information not being adequately tracked

Our review disclosed that monitoring information was not tracked by the Control Program during the first three quarters of the 2010-11 fiscal year. The Department started tracking some of its monitoring information on the Control Program during the fourth quarter of the 2010-11 fiscal year.

Our review also indicated that the Division has not been updating spreadsheets that had been intended to track certain monitoring information. The spreadsheets created for tracking the JEA Program and the Natural Stone Assessment Program for the 2010-11 fiscal year did not contain the monitoring information they were intended to track. Examples of information not tracked in the spreadsheet includes: the status of progress reports, final reports, site visits, contract compliance and project evaluations for these two Programs. Our review disclosed that there was no spreadsheet prepared to track monitoring information for the Prospectors Assistance Program in 2010-11.

As a result, the Division was not adequately tracking information to facilitate project monitoring and reporting.

Mineral Incentive Program

Program information not being reconciled to Financial Management System

The Control Program is independent of Government's Financial Management System. However, both systems contain information relating to payments made to applicants.

Our review revealed that there were no regular reconciliations done between the two information systems. Regular reconciliations of the two information systems would help ensure the accuracy of both systems by highlighting any differences in payment information.

No database operations manual

We would expect to see procedures for the Control Program to be well documented in an operations manual. This would help ensure the system is understood by staff and procedures are properly complied with. In addition, the manual should be updated for any changes in policy, processes or procedures.

Our review disclosed that an operations manual for the Control Program had never been prepared by the Division.

As a result, there was an increased risk that the Control Program was not well understood by staff and operating procedures were not properly complied with.

Recommendations

The Department should ensure:

- project monitoring information is being adequately tracked;
- JEA Program information in the Division's database is reconciled to Government's Financial Management System; and
- a database operations manual is prepared and maintained.

5. Other Findings

Policies and procedures not well defined

The Mineral Development Division within the Mines Branch is responsible for the administration of the Mineral Incentive Program.

We would expect to see well defined policies and procedures within the Division to ensure proper administration of the Mineral Incentive Program. Our review of the Mineral Incentive Program revealed that although application and related guidelines are on the Department's website, policy and procedures relating to the administration of the Mineral Incentive Program were inadequate in that they were not developed or communicated to staff. Such policy and procedures would provide assistance to staff and the Department in the consistent administration of the Mineral Incentive Program.

These areas include:

- Application assessment and approval;
- Project monitoring and evaluation;
- Performance measurement and monitoring; and
- Database management.

As a result there is an increased risk of non-compliance with Mineral Incentive Program objectives.

Recommendation

The Department should develop and communicate well defined policies and procedures for the administration of the Mineral Incentive Program.

Department's Response

The discovery of new mineral deposits is fundamental to the economic sustainability of the minerals industry in Newfoundland and Labrador. The vast majority of the effort to find new deposits is undertaken by individuals and smaller companies who must raise money to undertake this financially risky activity. The Government of Newfoundland and Labrador uses the Mineral Incentive Program to attract mineral-industry investment in the Province, and thus enhance the long term sustainability of the mining and exploration industry. The program continues to attract increased interest from individual prospectors and exploration companies. The current program is well regarded by the minerals industry.

This is the second in-depth review of the program completed by the Office of the Auditor General. As was the case in the first review, a majority of the recommendations suggest improvement in defining the programs, policies and objectives, and enhancing program controls and monitoring. The Department of Natural Resources acknowledges the validity of the comments and recommendations and has begun working towards implementation of the recommendations.

The department will review its current practice of retroactively funding exploration projects taking into consideration the objectives of the Mineral Incentive Program and alternatives available to ensure that incentive grant money is fully used.

The Department of Natural Resources is appreciative of the efforts taken by the Office of the Auditor General and the feedback provided in this report.

PART 2.9

DEPARTMENT OF NATURAL RESOURCES

PROVINCIAL COMMODITY BOARDS

Executive Summary

The *Natural Products Marketing Act* provides the Minister of Natural Resources with the authority to establish schemes (plans) for the promotion, control, regulation or prohibition of the production and marketing of a natural product. Under the authority of the *Act*, the Minister established three schemes which provided for the establishment of commodity boards and also provided for the powers, functions, and duties of each commodity board for the application and enforcement of the scheme.

Regulations were established under each scheme which applied to all producers and processors engaged in the production and marketing of their respective natural product (i.e. milk, eggs and chicken). The regulations governed such things as licensing, production quotas, production levies, production pricing and inspections.

The Minister established three commodity boards - the Dairy Farmers of Newfoundland and Labrador (DFNL), the Egg Producers of Newfoundland and Labrador (EPNL), and the Chicken Farmers of Newfoundland and Labrador (CFNL). The Minister also established the Farm Industry Review Board (FIRB) to control and direct the operations of the three Provincial commodity boards.

Our review of the Farm Industry Review Board and the three commodity boards identified concerns relating to how the three boards were operated and how the Department, through the Farm Industry Review Board, controls and directs the activities of the commodity boards. In many instances, expenditures by the three commodity boards for such things as board remuneration, employee compensation and leave entitlements, travel and entertainment, and other discretionary expenses were inconsistent between the three boards, inconsistent and above the amounts provided for in Government policy, and in our opinion, in some cases, were not an appropriate use of board funds.

Farm Industry Review Board (FIRB)

Although the Farm Industry Review Board (FIRB) was established to control, direct and monitor the operations of the three Provincial commodity boards, it has not had an active role in the operations of the commodity boards, and in informing commodity boards of Government policy. The lack of meaningful monitoring and supervision of the three boards has contributed to the inconsistent expenditure and personnel policies of the three boards and presents an increased risk of financial loss within the commodity boards.

In September 2008, the Department of Natural Resources requested that the Office of the Comptroller General (OCG) perform a financial review of the CFNL's 2006 fiscal year. The review was requested as a result of identified financial inconsistencies. A report, resulting from the review, was provided to the Department in March 2009, and was followed up with a forensic assessment of the CFNL's 2005 fiscal year by an external accounting firm, the findings from which were reported in May 2010. The review identified a number of issues including: a serious lack of oversight by the CFNL's board of directors; an overall lack of effective controls including untimely deposits, cheques with only one signature and no support or inadequate support for certain expenses; personal items charged to the board; excess mileage claims; and various payroll, leave and overtime issues.

Although a FIRB employee indicated that, where necessary, a FIRB representative may attend annual meetings and regular board meetings of commodity boards, a review of each commodity board's meeting minutes indicated that a FIRB representative rarely attended these meetings. Regular attendance at the meetings would increase the level of FIRB's involvement in the financial and operational affairs of the commodity boards.

Although commodity boards submit annual audited financial statements to FIRB for review, FIRB officials did not perform financial reviews or inspections of commodity boards to determine if adequate controls were in place or that financial transactions were appropriate.

Dairy Farmers of Newfoundland and Labrador (DFNL)

The Dairy Farmers of Newfoundland and Labrador (DFNL) is the regulatory body for the production and marketing of milk in the Province. DFNL regulates the operations of 34 registered milk producers and two registered milk processors. DFNL charges producers a \$0.024 administration levy for every litre of milk produced to fund its operations. DFNL expenditures for the year ended 31 July 2010 totalled \$16.9 million, of which \$850,000 related to operating expenditures.

In accordance with the *Milk Scheme, 1998* the Dairy Farmers of Newfoundland and Labrador (DFNL) consisted of 6 directors; however, no member was appointed by the Minister as required by the *Scheme*. Furthermore, as DFNL was not deemed to be a public body under the *Transparency and Accountability Act*, it was not required and therefore, did not submit its annual report or its strategic plan to the House of Assembly.

Provincial Commodity Boards

Our review identified the following DFNL expenditures which were inconsistent with the other two commodity boards, inconsistent with and above the amounts provided for in Government policy, and in our opinion, in some cases, were not an appropriate use of DFNL funds.

- DFNL paid Board members per diems at a rate of \$115 per half-day, \$230 for a full-day, or \$50 for conference calls. These amounts were not consistent with Government per diem rates of \$70 per half-day and \$145 per full-day for board members and \$95 per half-day and \$190 per full-day for the board chairperson. DFNL paid its chairperson an additional \$800 per month honorarium (\$9,600 annually), while Government policy does not provide for such payments.
- Salary increases paid to employees were inconsistent between Board employees and inconsistent with Government salary increases. For the 2009 calendar year, two employees received increases of 3% while one employee received 5%. For 2010, two employees received a salary increase of 3.5%, one employee received a \$1 per hour increase to a wage rate of \$15 per hour (approximately 7%) and one employee received an increase of 24%.
- Christmas bonuses of \$800 were paid to three employees in December 2009 and \$800 was paid to three employees and \$400 to two employees in December 2010, where Government policy does not provide for such payments.
- Employees are entitled up to 20 weeks of severance pay after five years of service, where Government policy requires nine years of service prior to entitlement for severance pay.
- Employees are entitled to annual leave of two weeks after one year of service, three weeks after four years and four weeks after 10 years of service, where Government policy provides unionized and non-management staff with three weeks up to 10 years, four weeks after 10 years of service and five weeks after 25 years of service.
- Employees are entitled to two days per month of sick leave up to a maximum of 90 days, where Government policy provides unionized and non-management staff one day of sick leave per month up to a maximum of 240 days (or if hired before 4 May 2004 - two days of sick leave per month up to a maximum of 480 days).

Provincial Commodity Boards

- Employees are provided with health insurance coverage under which DFNL pays 70% of the health plan costs, where Government's policy has premium costs shared 50-50 between the employer and employee.
- Employment contracts provide each employee with an annual RRSP contribution of 6% of their annual salary; however, we were unable to confirm that the contributions were made to a RRSP as the contributions were made payable to the employee and not to a financial institution.
- Employees on travel status are entitled to a meal allowance at a rate of \$35 per day in the Province or \$55 per day out of Province and receipts are not required, where Government travel rules allow \$36.50 per day for meals within the Province or \$43 for outside the Province and within Canada/United States for non-executive employees, and \$44 per day within the Province or \$49 outside the Province and within Canada/United States for executive employees and board members.

Although these meal rates were in effect, DFNL reimbursed travel expenses for its employees and Board members based on meal receipts claimed on expense claims, amounts charged to DFNL's corporate credit cards, or amounts directly billed from the vendor (e.g. hotel or restaurant). Approximately \$13,340 in meals were charged to the corporate credit cards, and \$1,249 in meals were included on hotel bills which were directly billed to DFNL. Many of the amounts either did not have receipts attached or the receipts were not adequate to support the charge.

- DFNL policy states that mileage will be reimbursed at the rate of \$0.44 per kilometre, where, during the period reviewed, the highest basic automobile reimbursement rate allowed under Government's policy was \$0.37 per kilometre.
- In 61 instances, no documentation was provided on receipts to document the purpose of meal and other restaurant charges or whether the charges were for more than one person. Government's policy requires that the purpose of the meal and identification of attendees should be documented to determine whether the expense is a legitimate entertainment expense and that business is being conducted with non-Government employees.

Provincial Commodity Boards

- DFNL spent \$5,435 on its 2010 semi-annual meeting and \$16,072 on its 2009 annual general meeting, and spent \$5,162 on its 2011 semi-annual meeting and \$11,593 on its 2010 annual general meeting. The annual general meetings included dinner receptions costing \$8,426 for 2009 and \$3,808 for 2010, where Government policy restricts such events to \$2,500.

Furthermore, employees and Board members in attendance at these meetings charged meals, and other amounts to their hotel bills or their corporate credit cards that were either in excess of the meal rates allowed or for more than one individual, with no details provided as to who was in attendance at the meal.

- DFNL and the School Milk Foundation host an annual Christmas social for their employees, Board members, spouses and guests. DFNL pays for the social and recovers 50% of the costs from the School Milk Foundation. The 2009 social was attended by 62 people (based upon meals charged) and cost \$2,360 of which \$1,179 was recovered. The 2010 social was attended by 54 people (based upon meals charged) and cost \$3,792 of which \$1,896 was recovered. Government policy does not provide for such socials.
- DFNL purchased liquor for semi-annual and annual general meetings. Liquor was also charged to hotel bills directly billed to DFNL for various meetings and socials, and included with meals charged to DFNL's corporate credit cards. For example, \$1,102 in liquor was purchased for the 2010 Christmas social. Although Government policy does not prohibit the provision or purchase of alcohol in its entertainment policy, in our opinion, given the number and extent of these purchases by DFNL, these expenditures were not an appropriate use of DFNL funds.
- DFNL pays for personal travel expenses, with any charges to be subsequently recovered. For example, a total of \$4,872 was paid for five flights for a Board member's spouse and one hotel night, and a total of \$8,741 was paid for seven flights for an employee and their spouse, one flight change fee and a restaurant charge. Although these expenses were recovered by DFNL, this practice is not consistent with Government policy.

- From April 2011 to July 2011, DFNL paid for an employee's spouse's cell phone plan which cost DFNL \$331 or approximately \$83 per month for the plan rate and usage charges as part of a shared plan with the employee. There was no documentation that the Board approved this personal benefit to the employee, and the provision of such a benefit is not consistent with Government policy. As of October 2011, costs for the phone were still being paid by DFNL.
- DFNL paid \$638 towards 50% of a retirement gift for a former employee of a milk processing company who was also a former board member of the School Milk Foundation, and paid \$113 towards 50% for a lunch and gift for an employee of the School Milk Foundation going on maternity leave. Government policy does not provide for such expenditures.

Egg Producers of Newfoundland and Labrador (EPNL)

The Egg Producers of Newfoundland and Labrador (EPNL) is the regulatory body for the production and marketing of eggs in the Province. EPNL regulates the operations of seven registered egg producers and one registered egg processor. EPNL charges an administration levy of \$0.035 per dozen eggs produced to fund its operations. EPNL expenditures for the year ended 31 December 2010 totalled \$3.0 million, of which \$344,000 related to operating expenses.

In accordance with the *Egg Scheme, 2000* the Board consisted of seven directors; however, no member was appointed by the Minister as required by the *Scheme*. Furthermore, as EPNL was not deemed to be a public body under the *Transparency and Accountability Act*, it was not required and therefore, did not submit its annual report or prepare and submit a strategic plan to the House of Assembly.

Our review identified the following EPNL expenditures which were inconsistent with the other two commodity boards, inconsistent with and above the amounts provided for in Government policy, and in our opinion, in some cases, were not an appropriate use of EPNL funds.

- EPNL paid Board members per diems at a rate of \$75 per half-day, \$150 for a full-day, or \$75 for conference calls. These amounts were inconsistent with Government per diem rates of \$70 per half-day and \$145 per full-day for board members and \$95 per half-day and \$190 per full-day for the board chairperson. EPNL paid its chairperson an additional \$1,000 per month honorarium (\$12,000 annually), while Government policy does not provide for such payments.

Provincial Commodity Boards

- Salary increases paid to employees were inconsistent between Board employees and inconsistent with Government salary increases. For the 2009 fiscal year, one employee received an increase of 11.8% while one employee received 3%. For the 2010 fiscal year, one employee received a 3.8% salary increase and one employee received a 3% increase. For the 2011 fiscal year both employees received a 2.5% increase.
- Christmas bonuses totalling \$1,450 were paid to four employees in December 2009 and bonuses totalling \$1,100 were paid to two employees in December 2010, where Government policy does not provide for such payments.
- EPNL policy entitles employees to vacation leave of two weeks after completion of one year of employment, three weeks after five years and four weeks after 10 years of service, or in the case of one employee three weeks of vacation with no increase, where Government policy provides unionized and non-management staff with three weeks up to 10 years, four weeks after 10 years of service and five weeks after 25 years of service.
- Employees are entitled to one and one-half days per month of sick leave up to a maximum of 85 days, where Government policy for unionized and non-management staff allow one day of sick leave per month up to a maximum of 240 days (or if hired before 4 May 2004 - two days of sick leave per month up to a maximum of 480 days).
- Employees are provided with health insurance coverage under which EPNL pays 100% of the health plan costs, where Government's policy has premium costs shared 50-50 between the employer and employee.
- Employees on travel status are entitled to a meal allowance at a rate of \$60 per day and receipts are not required, where Government travel rules allow \$36.50 per day for meals within the Province or \$43 for outside the Province and within Canada/United States for non-executive employees, and \$44 per day within the Province or \$49 for outside the Province and within Canada/United States for executive employees and board members.
- Board members were paid a \$60 meal per diem a total of 62 times while attending eight Board meetings even though EPNL paid for nine luncheons and one dinner on behalf of the Board members in attendance at these meetings.

Provincial Commodity Boards

- Employees and Board members are entitled to claim \$50 per night for private accommodations while on travel status, where Government policy provides \$25 per night for non-executive employees and \$53 for executive employees.
- EPNL policy states that mileage will be reimbursed at the rate of \$0.53 per kilometre, where, during the period reviewed, the highest basic automobile reimbursement rate allowed under Government's policy was \$0.37 per kilometre.
- For 2009 and 2010, EPNL cost-shared Christmas socials for its employees, Board members, spouses and guests with three other agriculture organizations. The 2009 social cost EPNL \$609 plus HST for its share of the Christmas social and the 2010 social cost EPNL \$1,207. Government policy does not provide for such socials. As well, for 2009 and 2010, EPNL spent a total of \$220 on turkeys as Christmas gifts for its employees.
- A \$25 per month communication allowance is provided to Board members in lieu of claiming telephone and other communication expenses while on Board business. EPNL paid \$2,100 during 2009, \$1,750 in 2010 and \$1,500 up to October 2011 for these allowances. Government policy does not provide for such an allowance.

Chicken Farmers of Newfoundland and Labrador (CFNL)

The Chicken Farmers of Newfoundland and Labrador (CFNL) is the regulatory body for the production and marketing of chickens in the Province. The Province has only one registered producer which is also the only processor. This company contracts out chicken production to seven farmers (contract growers) throughout the Province. CFNL imposes a levy of \$0.015 per kilogram of chickens (live weight) marketed to fund its operations. CFNL expenditures for the year ended 31 December 2010 totalled \$316,000, of which \$199,000 related to operating expenses.

Our review identified the following CFNL expenditures which were inconsistent with the other two commodity boards, inconsistent with and above the amounts provided for in Government policy and, in our opinion, in some cases were not an appropriate use of CFNL funds.

Provincial Commodity Boards

- CFNL paid Board members per diems at a rate of \$150 per day (\$250 for Chairperson) and \$75 for conference calls. These amounts were inconsistent with Government per diem rates of \$70 per half-day and \$145 per full-day for board members and \$95 per half-day and \$190 per full-day for the board chairperson. CFNL paid its chairperson an additional \$1,000 per month honorarium (\$12,000 annually), while Government policy does not provide for such payments.
- Salary increases paid to the CFNL's employee were inconsistent with Government salary increases. The employee received an increase of 12.5% in 2009, an increase of 9.1% in 2010 and an increase of 3% in January 2011.
- The employee is entitled to severance pay for each year of service up to a maximum of 20 years, with no minimum established years of service, where Government policy requires nine years of service prior to entitlement for severance pay.
- CFNL policy entitles the employee to vacation leave of three weeks after completion of one year of employment, four weeks after five years and five weeks after 10 years of service, where Government policy provides unionized and non-management staff with three weeks up to 10 years, four weeks after 10 years of service and five weeks after 25 years of service.
- The employee is entitled to one day per month of sick leave up to a maximum of 90 days, where Government policy for unionized and non-management staff allow one day of sick leave per month up to a maximum of 240 days (or if hired before 4 May 2004 - two days of sick leave per month up to a maximum of 480 days).
- The employee was provided with a car allowance of \$5,000 annually for the use of the employee's personal vehicle. Government policy does not provide for the payment of car allowances to its employees, instead, personal vehicle travel for Government business purposes is reimbursed at specified rates.
- The employee was provided with health insurance coverage under which CFNL pays 100% of the health plan costs, including 100% coverage of basic healthcare, dental expenses and long-term disability benefits, where Government's policy has premium costs shared 50-50 between the employer and employee for basic health and life insurance.

Provincial Commodity Boards

- The employee, while on travel status, was entitled to a meal allowance at a rate of \$60 per day and receipts were not required, where Government travel rules allow \$36.50 per day for meals within the Province or \$43 for outside the Province and within Canada/United States for non-executive employees, and \$44 per day within the Province or \$49 for outside the Province and within Canada/United States for executive employees and board members.
- The employee and a Board member claimed and were paid for meals even though the meals were already paid for, for example while attending a national conference where meals were provided.
- CFNL policy states that mileage will be reimbursed at the rate of \$0.525 per kilometre, where, during the period reviewed, the highest basic automobile reimbursement rate allowed under Government policy was \$0.37 per kilometre.
- For 2009 and 2010, CFNL cost-shared Christmas socials for its employee, Board members, spouses and guests with three other agriculture organizations. The 2009 social cost CFNL \$675 plus HST for its share of the Christmas social and the 2010 social cost CFNL \$864. Government policy does not provide for such socials. Furthermore, for 2009 and 2010, the employee was reimbursed \$500 towards the purchase of a Christmas gift each year. As well, CFNL spent \$600 in 2009 and \$670 in 2010 for Christmas gift cards provided to chicken farmers and a Board member, and for door prizes at the Christmas social.
- Since January 2009, CFNL spent \$3,819 (approximately \$109 plus HST per month) reimbursing a Board member for home phone, fax and internet services. Government policy does not provide for such payments.
- CFNL spent \$1,320 including taxes (2009- \$450, 2010 - \$386 and 2011 - \$484) for an Air Canada lounge pass for its employee.

Background

Overview

The *Natural Products Marketing Act* (the *Act*) allows the Minister of Natural Resources to establish schemes (plans) for the promotion, control, regulation or prohibition of the production and marketing of a natural product. Under the authority of the *Act*, the Minister established three schemes which provided for the establishment of commodity boards and also provided for powers, functions, and duties of each commodity board for the application and enforcement of the scheme.

In accordance with the *Act*, the Minister established three respective commodity boards - the Dairy Farmers of Newfoundland and Labrador (DFNL), the Egg Producers of Newfoundland and Labrador (EPNL), and the Chicken Farmers of Newfoundland and Labrador (CFNL). Furthermore, under the *Act*, the Minister has the power to amend or appeal each scheme and therefore, the power to amend or terminate the powers delegated to each commodity board established under each scheme.

Farm Industry Review Board

To supervise the commodity boards the Minister established the Farm Industry Review Board (FIRB) under the *Natural Products Marketing Act*. This *Act* provides FIRB with the power and authority to control and direct the operations of the provincial commodity boards. In addition, under the *Farm Practices Protection Act*, FIRB is to provide farmers, who operate in an acceptable manner, with protection against nuisance suits. Under the *Farm Practices Protection Act*, FIRB is empowered to review agriculture related nuisance cases and determine if a farm is operating according to acceptable farm practices.

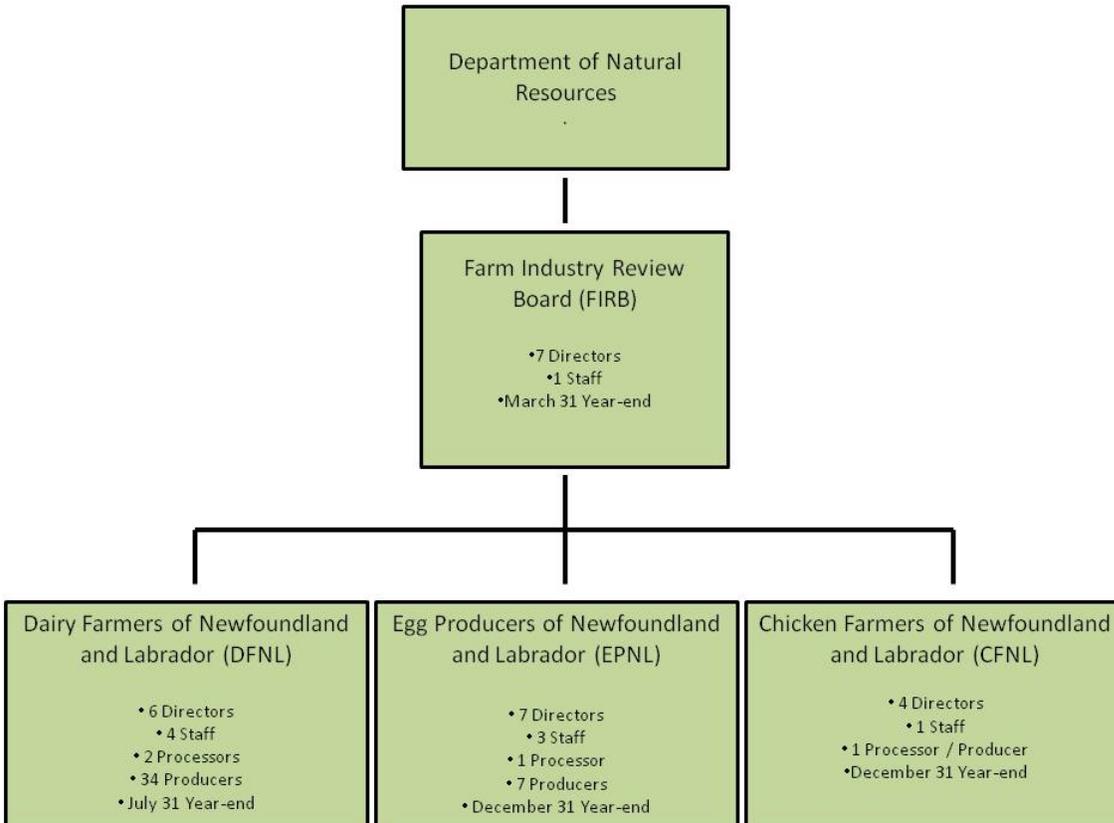
Regulations established under each scheme

Regulations were established under each scheme which applied to all producers and processors engaged in the production and marketing of their respective natural product (i.e. milk, eggs and chicken). The regulations governed such things as licensing, production quotas, production levies, production pricing and inspections.

Figure 1 provides an overview of the Province's commodity board structure.

Figure 1

Overview of Commodity Boards



Audit Objectives and Scope

Audit objectives

The objectives of our review were to determine whether:

- the Farm Industry Review Board was monitoring and reporting on the operations of the commodity boards; and
- the commodity boards' expenditures were adequately supported and approved, and were in accordance with board policies and consistent with Government policies.

Provincial Commodity Boards

Audit scope Our review was completed in November 2011 and covered the 2009 fiscal year through to the 2011 fiscal year. Our review included an examination of each board's financial information and file documentation, and interviews with staff.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Farm Industry Review Board
 2. Dairy Farmers of Newfoundland and Labrador
 3. Egg Producers of Newfoundland and Labrador
 4. Chicken Farmers of Newfoundland and Labrador
-

1. Farm Industry Review Board

Overview The Farm Industry Review Board (FIRB) serves as the supervisory board with the power and authority under the *Natural Products Marketing Act* to control and direct the operations of the provincial commodity boards. FIRB has delegated much of its powers to each of the commodity boards through the establishment of schemes. However, in its supervisory role, FIRB requires commodity boards to submit annual audited financial statements and annual reports, and requires levies charged to producers to be approved by FIRB. In addition, commodity boards provide updates which are tabled at FIRB meetings.

Supervisory role of FIRB inadequate As a supervisory board of the Province's commodity boards, FIRB has not had an active role in monitoring and inspecting the operations of the commodity boards and in informing commodity boards of Government policy.

Without adequate monitoring and supervision, the commodity boards may not be aware of Government policies and the risk of financial loss within a commodity board may increase. For example, in September 2008, the Department of Natural Resources, as a result of financial inconsistencies at CFNL, requested that the Office of the Comptroller General perform a financial review for the 2006 fiscal year; which was reported in March 2009. This review was followed up with a forensic assessment by an external accounting firm of CFNL's 2005 fiscal year and was reported in May 2010.

Provincial Commodity Boards

This review identified a number of issues including: a serious lack of oversight by the CFNL's board of directors, an overall lack of effective controls including untimely deposits, cheques with only one signature and no support or inadequate support for certain expenses, personal items charged to the board, excess mileage claims, and various payroll, leave and overtime issues. No further legal action was taken as it was determined that the issues identified had been *"the result of poor internal controls and policies as opposed to intent to commit an offence."*

Representation at commodity board meetings

A FIRB employee indicated that, although not required, a FIRB representative may attend the annual meetings and regular board meetings of commodity boards when deemed necessary. However, a review of each commodity board's meeting minutes indicated that a FIRB representative rarely attended regular board meetings. Regular attendance at meetings would increase the level of FIRB's involvement in the financial and operational affairs of the commodity boards.

Inconsistent reporting requirements for boards

Our review of the reporting requirements for each commodity board to Government identified that they were inconsistent. In accordance with the *Transparency and Accountability Act*, CFNL was deemed to be a public body. It was defined as a category 3 entity and was required to submit a three-year activity plan and an annual report to the Minister of Natural Resources to be tabled in the House of Assembly – which it did. However, as DFNL and EPNL have not been categorized as public bodies by the Lieutenant-Governor in Council, no such reporting is required.

Inconsistent operational policies

Although the commodity boards have similar objectives (i.e. the regulation and promotion of respective commodities) and operational activities, and are part of the Government reporting entity, the financial policies for each of the commodity boards were not consistent amongst the boards and were not consistent with Government policy.

Our review identified that in most instances, expenditures by the three commodity boards for such things as board remuneration, employee compensation and leave entitlements, travel and entertainment, and other discretionary expenses were inconsistent between the three boards; above the amounts provided for in Government policy; and in our opinion, in some cases, were not an appropriate use of board funds. These inconsistencies are reported separately under each commodity board's section within this report.

Provincial Commodity Boards

No periodic inspection of financial records

Although commodity boards submit annual audited financial statements to FIRB for review, FIRB officials did not periodically perform financial reviews or inspections of commodity boards to determine if adequate controls were in place or that financial transactions were appropriate.

Recommendation

FIRB should take a more active supervisory role in controlling and directing the affairs of each commodity board. Specifically FIRB should:

- attend commodity board meetings or request minutes of all meetings, if it is unable to attend;
- review each board's financial policies for consistency with Government policy;
- regularly assess the internal controls and financial records of each commodity board; and
- in consultation with the Department of Natural Resources seek regulatory changes to the *Natural Products Marketing Act* and each scheme to clarify the reporting and accountability responsibilities of each commodity board.

FIRB's Response

In general terms, we acknowledge the report's overall recommendations with respect to the Farm Industry Review Board (FIRB). The Board will be discussing the recommendations with the Department of Natural Resources and the commodity boards. However, there are a number of specific observations in your report that we would like to address:

1. Supervisory role of FIRB inadequate

As a supervisory board, FIRB is responsible for the general supervision of the operations of commodity boards created under the Natural Products Marketing Act. Each commodity board operates under respective legislation (Schemes) through which the Minister delegates powers and authority to the boards to operate within a supply managed system. As part of FIRB's

responsibility it monitors existing and emerging issues with respect to the administration of the Schemes and examines policies and orders of the commodity boards to ensure that they fall within the statutory authority of the board and do not unfairly impact individual producers, processors or consumers.

The example cited with respect to financial inconsistencies at CFNL in 2005/2006 was unfortunate and since that time, the Department of Natural Resources and FIRB have worked closely with CFNL to address the issues raised by the Office of the Comptroller General and to establish policies and procedures to prevent any further occurrences of this nature. It is important to note that the inconsistencies at CFNL at that time were the result of poor internal controls of day to day administrative operations which are normally identified by annual independent third party audits.

2. Representation at commodity board meetings

It is acknowledged by FIRB that a FIRB representative may not be in attendance at regular commodity board meetings. However, for clarification purposes it is important to note that a FIRB representative attends most board meetings of EPNL and in all cases receives complete minutes and information packaged from all EPNL board meetings.

While not required under legislation, FIRB is working towards establishing similar supervisory relationships with CFNL and DFNL. FIRB is committed to this and other improvements as outlined in the FIRB Activity Plan 2011-2014. FIRB always has a representative(s) at the annual general meetings of all commodity boards.

3. Inconsistent reporting requirements for boards

FIRB operates within the powers delegated to it under the Natural Products Marketing Act and recognizes the inconsistent reporting requirements for commodity boards under the Transparency and Accountability Act. It is important to note that under the existing legislation the constitution of each board varies in terms of how it's membership is elected or appointed. In the case of CFNL, all board members are appointed by the Minister whereas within EPNL and DFNL the majority of board members are elected from and by registered producers.

4. Inconsistent operational policies

Under existing legislation, all three commodity boards have been delegated powers (to prescribe the terms and conditions of employment including wages, salaries and remuneration) under their respective Schemes pursuant to section 9(2) of the Natural Products Marketing Act (NPMA). Furthermore, section 11(3) of the NPMA provides that “A commodity board, constituted under a scheme, shall be an independent corporation and it and the members of it shall be considered to have the powers and privileges set out in section 19 of the Interpretation Act”. It is also important to note that there are no public funds going into the operation of these boards - all three boards operate on funds collected from registered producers in the form of an administrative levy on each unit of production. Therefore, it is the opinion of FIRB that commodity boards are not obligated to follow government policies under the current legislative framework.

5. No periodic inspection of financial records

Under existing legislation, FIRB does not have specific delegated powers, nor the human resources to conduct periodic financial reviews or inspections of the day to day operation of commodity boards. FIRB recognizes the need for stronger collaboration, accountability and transparency with all boards and has made this a priority in the 2011-2014 Activity Plan for FIRB.

2. Dairy Farmers of Newfoundland and Labrador

Overview

The Dairy Farmers of Newfoundland and Labrador (DFNL) is the regulatory body for the production and marketing of milk in the Province. DFNL regulates the operations of 34 registered milk producers and two registered milk processors. During fiscal 2011, approximately 48.7 million litres of milk was produced in the Province. As at October 2011, DFNL charged producers a \$0.024 administration levy for every litre of milk produced to fund its operations.

DFNL financial position and operations

Figure 2 provides an overview of DFNL’s financial position and Figure 3 provides an overview of its financial operations for fiscal years ending 2009 and 2010.

Figure 2

**Dairy Farmers of Newfoundland and Labrador
Financial Position
Years Ended as at 31 July
\$(000's)**

	2009	2010
Cash	\$ 462	\$ 250
Accounts receivable	1,150	1,768
Prepaid expenses	11	7
Capital assets	7	6
	\$ 1,630	\$ 2,031
Accounts payable/Accruals	\$ 861	\$ 1,267
Deferred revenue	59	51
Accrued severance pay	32	34
Net assets	671	673
Investment in capital assets	7	6
	\$ 1,630	\$ 2,031

Source: Audited Financial Statements

Figure 3

**Dairy Farmers of Newfoundland and Labrador
Financial Operations
For the Years Ending 31 July
\$(000's)**

	2009	2010
Revenues		
Industrial milk sales	\$14,787	\$14,819
Farmer levies	990	1,015
Government funding-special projects	421	1,052
Other	21	10
Total revenue	16,219	16,896
Expenditures		
Industrial milk purchases	14,787	14,819
Special project costs	455	1,057
Dairy Farmers of Canada promotions	101	168
Operating	858	850
Total expenditures	16,201	16,894
Excess of revenue over expenditure	18	2
Payments to producers	(251)	
Net change to equity	\$ (233)	\$ 2

Source: Audited Financial Statements

Our review identified the following matters:

- A. Board Accountability
- B. Compensation and Leave
- C. Travel and Meeting Expenses
- D. Other Expenditures

Details are as follows:

2A. Board Accountability

Introduction

The *Milk Scheme, 1998* states that the Board shall consist of not more than 6 members either appointed or elected. DFNL Board's powers, functions and duties have been delegated and conferred by the Minister of Natural Resources under section 9(2) and section 12 of the *Natural Products Marketing Act*. Our review of the Board's structure, remuneration and reporting identified the following matters.

Government representation not present

The *Milk Scheme, 1998* requires that of the maximum of six directors, five are to be elected by the registered producers and one is to be appointed by the Minister. A review of the Board's structure, since January 2010, identified that the Board consisted of six members; however, no member was appointed by the Minister as required by the *Scheme*.

Board per diems inconsistent with Government policy

DFNL paid \$59,140 in Board per diems for the fiscal years 2010 to 2012 (up to October 2011). DFNL's policy states that Board members shall be paid a per diem of \$115 per half day or \$230 for a full day or \$50 for conference calls. Government's policy provides various per diem rates based upon the position of the board member and the qualifications required of a board member. Based upon Government's policy, the per diems that would have been used by DFNL were \$70 for half-day and \$145 for full-day for board members and \$95 for half-day and \$190 for full-day for the board chairperson.

Board chair honourarium

DFNL pays an \$800 per month honorarium (\$9,600 annually) to the Board's chairperson in addition to the per diem rates paid for their attendance at Board meetings. Government policy does not provide for such payments.

Provincial Commodity Boards

Reporting to the House of Assembly

DFNL prepared a 10 year strategic plan in 2010 and prepared an annual report for each fiscal year reviewed. However, as DFNL was not deemed to be a public body under the *Transparency and Accountability Act*, it was not required and therefore did not submit its annual report or its strategic plan to the House of Assembly.

2B. Compensation and Leave

Introduction

Section 8 of the *Milk Scheme, 1998* provides DFNL with the power to prescribe the terms and conditions of employment of its officers and employees and establish and fix the wages, salaries and remuneration of its directors and employees. DFNL operations are administered by four employees and are governed by six Board members. DFNL has employment contracts in place for its four employees and DFNL's Policy Manual deals with Board member remuneration and employee leave. Our review of DFNL's compensation and leave practices identified the following matters.

Position descriptions not established

DFNL does not have position descriptions for its four employees. Although compensation matters are documented in the employment contracts, the duties and responsibilities for each position are not documented. Without approved job descriptions, it is not possible for current or future employees to determine their job duties, what is expected of them or at what salary base the position should be paid.

Salary increases not consistent

Salary increases paid to employees were inconsistent between Board employees and inconsistent with Government salary increases. For each of the years reviewed, the Board approved salary increases for its employees. For the 2009 calendar year, two employees received increases of 3% while one employee received 5%. For the 2010 calendar year, two employees received a salary increase of 3.5%, one employee received a \$1 per hour increase to a wage rate of \$15 per hour (approximately 7%) and one employee received an increase of 24%. A DFNL official indicated that presentations were made to the Board each year to support the increases; however, the Board minutes did not include documentation of these discussions nor was documentation filed in the employee personnel file for future reference.

Provincial Commodity Boards

Compensation benefits not in line with Government policy

Our review identified a number of instances where the salary and benefits paid or provided to employees were different from Government policy. Specifically:

- DFNL paid a Christmas bonus of \$800 each to three employees in December 2009 and \$800 each to three employees and \$400 each to two employees (position replacement) in December 2010. Although these bonuses were approved by the Board, Government policy does not provide for such payments.
- Employees are entitled up to 20 weeks of severance pay after five years of service. Government policy requires nine years of service before severance entitlement.
- Employees are entitled to annual leave of two weeks after one year of service, three weeks after four years of service and four weeks after 10 years of service. Although Government policy varies, unionized and non-management staff are normally entitled to three weeks of annual leave up to 10 years of service, four weeks of annual leave after 10 years of service and five weeks of annual leave after 25 years of service, while management staff are placed on Government's paid leave policy.
- Employees are entitled to two days of sick leave per month up to a maximum of 90 days. Although Government policy varies, unionized and non-management staff are normally allowed one day of sick leave per month up to a maximum of 240 days (or if hired before 4 May 2004 - two days of sick leave per month up to a maximum of 480 days) while management staff are placed on Government's paid leave program.
- One employee's employment contract did not provide for any sick leave entitlement; however, a DFNL official indicated that the employee's sick leave was being accrued at two days per month with no maximum provision. In light of this, in February 2010 the Board approved that the employee's sick leave balance would be capped as of 31 July 2008 at 510.5 days; with any further sick leave entitlement to be in accordance with Board policy. However, the Board also approved that medical certificates or any further documentation for sick leave usage from the 510.5 days balance would be waived. Discussions with the DFNL official indicated that this would mean that upon termination the employee would be entitled to payment of this leave balance. We note that DFNL's 2010 audited financial statements reported a contingent liability of \$103,861 for the 510.5 days of accumulated sick leave. Government policy provides that medical certificates are required after sick leave usage is in excess of three consecutive days and does not allow unused sick leave days to be paid out upon termination.

Provincial Commodity Boards

- Employees are provided with health insurance coverage under which DFNL pays 70% of the health plan costs. Government's policy has premium costs shared 50-50 between the employer and employee.

Compensation incorrectly calculated

The employment contracts provide each employee with an annual RRSP contribution of 6% of their annual salary. Our review of DFNL's RRSP plan identified the following:

- Based upon the annual salary of four employees for the 2009 and 2010 calendar years, the RRSP contribution would have been \$23,352. However, our review identified that for the two years, DFNL paid \$25,435 in RRSP contributions to the four employees as the contributions were calculated not only using the employee's annual salary but also included the employee's Christmas bonus and the previous year's RRSP contribution paid to the employee. As a result of including these amounts, DFNL's RRSP contributions were \$2,083 more than if just the annual salary was used in the calculation.
- We also note that, in accordance with the employment contracts, the RRSP contributions were to be paid directly to the employee and not a financial institution, and for only one contract was the employee required to provide documentation to support that the money was contributed to a RRSP. Our review identified that this employee did not provide such documentation. Furthermore, although not required, in our opinion, all employees should have provided documentation that the money received was actually invested into a RRSP.
- One employee was required to match DFNL's 6% RRSP contribution; however, our review identified that \$75 per pay period or approximately 3.7% was being deducted from the employee's salary. We note that the \$75 deductions were paid back to the employee and there was no documentation to support that the contributions were made to a RRSP.

Leave not monitored properly

DFNL uses a leave request form for recording and approving leave requests. Our review identified the following matters with the monitoring of leave:

- Two employees regularly submitted leave forms for leave taken. However, the leave request form did not provide for the recording of the date of the request or the date of the approval. Without this information, it is not possible to determine if leave requests were being submitted within a reasonable time frame or annual leave was being approved prior to leave taken.

- One employee had reported leave taken of 12 days for the 2011 calendar year as of 19 October 2011; however, the employee's vacation leave entitlement was only two weeks (10 days) as the employee was hired on 14 February 2011.
- One employee submitted a leave form at the end of each of the 2009, 2010 and 2011 calendar years for the employee's entire 34 leave days taken. No leave forms were submitted for the specific 10 vacation and 24 sick leave days taken during the year. In addition, one employee did not submit leave forms for their leave entitlement of 39 leave days (15 vacation and 24 sick leave). Discussions with DFNL staff indicated that the employees' hours were flexible and it was assumed that the employee's leave was used with no carry over provided.

2C. Travel and Meeting Expenses

Introduction

For the period August 2009 to October 2011, DFNL spent \$191,634 on travel and meeting expenses. Travel and meeting expenses included both local and out-of-Province travel expenses incurred for regular Board business, Board meetings, semi-annual meetings, annual general meetings, national conferences, and various trade shows, social events and other meetings.

DFNL has documented its travel expense policies in its Policy Manual. Our review of DFNL travel policies and travel and meeting expenses identified the following matters.

Travel claims not used to support travel

DFNL policy states that expense claims are required to be submitted on a DFNL expense form. Our review identified that the majority of travel expenses were charged either to one of DFNL's three corporate credit cards or were directly billed by the vendor. Travel claims were rarely submitted (13 for employees and 22 for Board members) and were mainly for items such as mileage claims, meal per diems or meeting per diems. Our review identified that of the \$191,634 in travel and meeting expenses, approximately \$148,895 (or 78%) was charged to the corporate credit cards without the preparation of a travel claim to support travel expenses and allow for the documentation of approval of the travel.

Provincial Commodity Boards

Meal rates not used for claiming meals

DFNL policy states that meals for employees on travel status will be paid an allowance at the rate of \$35 per day in the Province or \$55 per day out-of-Province and receipts were not required. DFNL's policy also states that reasonable meal charges with receipts may be paid in excess of the established meal rates. Our review identified that:

- DFNL did not use the established meal rates for reimbursing employees or Board members while on travel status. Instead, meal receipts were either claimed on expense claims (very minor - 4 claims for employees and 10 for Board members), charged to the corporate credit cards, or directly billed from the vendor (i.e. hotel or restaurant). Our review identified approximately \$13,340 in meals that were charged to the corporate credit cards and \$1,249 in meals that were included on hotel bills which were directly billed to DFNL.
- Of the \$13,340 meals charged to the corporate credit cards, \$7,995 was supported with restaurant receipts, \$3,748 were charged to a hotel bill with no further detail provided, and \$1,597 did not have any receipts attached to support the credit card charge.
- The meal rates that were established were not consistent with Government policy. Government travel rules allow \$36.50 per day for meals within the Province or \$43 per day for meals outside the Province and within Canada/United States for non-executive employees, and \$44 per day for meals within the Province or \$49 per day for meals outside the Province and within Canada/United States for executive employees and board members.

Mileage rates not consistent with Government rates

DFNL policy states that mileage will be reimbursed at the rate of \$0.44 per kilometre. Government's policy allows automobile reimbursement rates to be claimed using a two-tier system based upon whether an employee is required to use their personal vehicle for business purposes and whether or not an employee travels 9,000 kilometres per year while on Government business. These reimbursement rates are updated on a quarterly basis. During the period reviewed, the highest basic automobile reimbursement rate allowed under Government's policy was \$0.37 per kilometre.

Insufficient documentation to support meeting and entertainment expenses

DFNL policy requires entertainment details to be identified on the credit card slip or meal receipt. This is similar to Government's policy as it documents the purpose and identification of attendees in order to determine that the expense is a legitimate entertainment expense from business conducted with non-Government employees. Our review identified the following:

- Our review of meals and other restaurant charges totalling \$7,995 that were charged to the corporate credit cards and supported with receipts, indicated that 66 charges were for meals for more than one person. Of these 66 charges, only 5 provided details on the receipt or hotel bill of the purpose for the meal or who was in attendance. As a result, we were unable to determine if the charges related to employee meals (which should have been charged at per diems rates) or for entertainment purposes (maximum of \$200 per day). For example, in July 2011, one employee charged \$319 to their credit card for a restaurant charge for three people in Ottawa; however, the receipt did not provide any details. Of the remaining 61 meals, in some cases, the meal charged coincided with a Board meeting; however, no documentation was provided on the receipt to document the purpose for the meal.
- Our review identified meals totalling \$5,345 charged to the corporate credit cards which were not adequately supported. Specifically, some meal charges did not have receipts attached; while other charges were supported with credit card slips or were included with a hotel bill with no details provided. For these charges, it was not possible to determine the number of attendees or the purpose of the meal. For example, in September 2009 one employee charged \$355 to a corporate credit card for a restaurant charge in St. John's; however, there was no credit card slip or receipt attached to the credit card statement.
- Government's entertainment policy limits the daily entertainment expenses to \$200 for employees. Our review identified that five meals totalling \$1,421 were charged to the corporate credit card. The cost of the meals range from \$217 to \$355.
- Each year DFNL holds a semi-annual meeting and an annual general meeting in which employees, Board members, producers, processors and other industry groups are invited to attend. Over two fiscal years, DFNL spent \$38,262 net of tax for these meetings. Specifically, for the fiscal year 2010 DFNL spent \$5,435 on its 2010 semi-annual meeting and \$16,072 on its 2009 annual general meeting. For the fiscal year 2011, DFNL spent \$5,162 on its 2011 semi-annual meeting and \$11,593 on its 2010 annual general meeting. A review of these meeting expenditures identified the following:

Provincial Commodity Boards

- The annual general meetings included dinner receptions costing \$8,426 for the 2009 annual general meeting and \$3,808 for the 2010 annual general meeting. Government policy restricts such events to \$2,500.
 - Employees and Board members in attendance at these meetings charged meals and other amounts to their hotel bills or their corporate credit cards that were either in excess of the meal rates for one person or were for more than one individual. No details were provided as to who was in attendance at these meals. For example, one meal costing \$259 for six people was charged to a hotel bill (2010 semi-annual meeting) and one employee purchased \$211 in liquor on their corporate credit card (2010 annual general meeting) while two employees purchased \$199 for liquor (2011 semi-annual meeting).
-

Christmas socials

Each year, DFNL and the School Milk Foundation host a Christmas social for its employees, Board members, spouses and guests. DFNL pays for the social and recovers 50% of the costs from the School Milk Foundation. The 2009 social was attended by 62 people (based upon meals charged) and cost \$2,360 of which \$1,179 was recovered. The 2010 social was attended by 54 people (based upon meals charged) and cost \$3,792 of which \$1,896 was recovered. Government policy does not provide for such expenditures.

Alcohol purchases

Our review identified a number of instances where DFNL provided or purchased liquor for meeting and social purposes. For example:

- Five purchases totalling \$567 for liquor and beer purchases were charged to the corporate credit cards. The transactions were posted to semi-annual and annual general meeting expenses.
 - Liquor was also charged to hotel bills directly billed to DFNL for various meetings. For example, \$369 was billed to a hotel bill for liquor purchases (2010 semi-annual meeting) and \$303 was billed to a hotel bill for liquor purchases (2011 semi-annual meeting). We note that the liquor purchases provided for the banquet functions, that were hosted by a national organization for both the 2010 and 2011 annual general meetings, totalling \$1,969 (2010 - \$712 and 2011 - \$1,257) were subsequently recovered.
 - \$1,102 in liquor was purchased for the 2010 Christmas social.
-

Provincial Commodity Boards

- A review of corporate credit card transactions identified 45 instances totalling \$1,046 where alcohol was included with meals charged to the corporate credit cards.

Although Government policy does not prohibit the provision or purchase of alcohol in its entertainment policy, in our opinion, given the number and extent of these purchases by DFNL, these expenditures were not an appropriate use of DFNL funds.

Personal charges to credit cards

Our review identified that DFNL allows personal travel expenses to be paid by DFNL, with any charges to be subsequently recovered. Our review identified the following:

- \$13,739 in personal travel and other expenses for two employees and one Board member were charged to DFNL. Specifically, one Board member charged five flights for his spouse and one hotel night totalling \$4,872, one employee charged seven flights for his spouse and himself, one flight change fee and one restaurant charge totalling \$8,741 and one employee charged \$127 at a shoe store. Although these expenses were recovered by DFNL, this practice is not consistent with Government policy.
- In some cases the amounts were not recovered on a timely basis. For example, one employee repaid \$201 in March 2010 for a meal charged in December 2009, while two flights costing \$2,311 for November 2010 were not repaid until October 2011.
- DFNL periodically purchased flight passes for the purposes of air travel. Since 1 August 2009, DFNL paid \$89,805 for five flight passes (30 flight credits each). Depending upon the flight destination, the number of credits required varied; however, if travel was within the purchased region, two flight credits were required for a round trip. As DFNL did not use travel claims to support employee and Board member travel, it was difficult to readily determine if any personal travel was being charged against the flight passes. We do note that DFNL did subsequently obtain a listing of all flights credited against each flight pass from the air carrier.

2D. Other Expenditures

Introduction

Our review identified instances where DFNL's controls over certain expenditures were inadequate and needed improvement as follows.

School Milk Foundation

The School Milk Foundation (the Foundation), an independent not-for-profit organization, promotes the consumption of milk in schools. DFNL provides the Foundation with a monthly levy payment of \$28,305 (\$339,660 annually). The Foundation shares office space with DFNL and reimburses DFNL for its share of certain administrative expenses (i.e. rent, telephone, utilities, janitorial, etc) paid by DFNL.

In addition to these shared administrative costs, DFNL also paid for other Foundation expenditures upfront and subsequently recovered these expenses. Our review identified that since 1 August 2009, DFNL paid \$9,130 on behalf of the Foundation for expenses that were 100% Foundation expenses. Discussion with staff indicated that the purchases were made by DFNL as a matter of convenience for the Foundation. Although these expenses were fully recovered by DFNL, expenditures that relate solely to the administration of the Foundation should be made by the Foundation.

Cell phones not adequately monitored

DFNL had two employees who had been assigned cell phones. Our review of cell phone expenses and usage for the fiscal year 2011 identified cell phone expenses totalling \$3,375. We identified the following issues:

- Both employees have different cell phone providers and therefore, were not eligible to share minutes. We identified that one employee used a cell phone an average of 700 minutes per month at an average cost of \$169 per month. This resulted in a total of \$259 during fiscal 2011 for excess local minutes. If both employees used the same provider, then any excess minutes may have been covered by a shared plan.
- In February 2011, one employee purchased a new mobile phone and in April 2011 purchased a new cell phone plan which included a combined plan with the employee's spouse's personal cell phone plan. A DFNL employee indicated that a shared plan was established in place of the employee claiming phone calls while on DFNL business. From April 2011 to July 2011 the spouse's plan cost DFNL \$331 or approximately \$83 per month for the plan rates and usage charges. We note that as of October 2011 the phone plan was still being paid for by DFNL.

Provincial Commodity Boards

There was no documentation that the Board approved this personal benefit to the employee, and the provision of such a benefit is not consistent with Government policy.

Gifts not consistent with Government policy

DFNL provided retirement and other gifts that were not consistent with Government policy. For example:

- DFNL paid \$638 towards 50% of the cost of a retirement gift for a former employee of a milk processing company who was also a former board member of the School Milk Foundation. Government policy does not provide for retirement gifts for non-Government employees.
- DFNL paid \$113 towards 50% of the cost of a lunch and gift for an employee of the School Milk Foundation who was going on maternity leave. Government policy does not provide for such expenditures.

Recommendation

DFNL should consult with the Farm Industry Review Board and the Department of Natural Resources to determine whether policies and procedures should be developed and implemented that are consistent with those of Government.

DFNL's Response

Board Compensation, Employee Compensation, Travel and Expense Policies:

Dairy Farmers of Newfoundland and Labrador is an independent corporation established under the Natural Products Marketing Act. Under the authority of the Act, the Minister established The Milk Scheme, which details the powers, functions and duties granted to DFNL.

The Milk Scheme states:

8. Under the authority of subsection 9(2) of the Act, the Dairy Farmers of Newfoundland and Labrador may

(a) establish offices for the purposes of carrying out this Scheme and appoint those officers, inspectors and other employees that may be necessary for the administration of this Scheme;

- (b) prescribe the terms and conditions of employment of the officers, inspectors and employees appointed under paragraph (a);*
- (c) establish and fix the wages, salaries and remuneration of the directors and employees of the DFNL, including travelling expenses;*

There is no legislative requirement for DFNL to follow “Government Policy” related to the wages, salaries and remuneration of the directors and employees of DFNL, including travelling expenses. DFNL Policies are within the discretion authorized under the Milk Scheme and Milk Regulations, and are fully compliant with the requirements of the Natural Products Marketing Act.

DFNL is confident that the wages, salaries and remuneration of the directors and employees of the DFNL, including benefits, travelling expenses, and leave policy, are appropriate and are generally consistent with industry standards. DFNL will review the items identified by the AG with the Farm Industry Review Board and the Department of Natural Resources and make any appropriate changes.

Travel Expenses:

Information is available to demonstrate that all of the expenses incurred were for legitimate DFNL business. DFNL is confident that travel expenses are well managed and appropriate.

However, we acknowledge that these expenses were not documented according to the standards required by the Auditor General. We have made changes to our record keeping procedures that will provide the necessary documentation in the future.

Personal Charges on Credit Cards/Flight Passes:

Personal use of credit cards and flight passes by staff and board members is infrequent, invoiced as used, and DFNL is fully reimbursed. We have made changes to our record keeping procedures to ensure appropriate documentation.

Alcohol Expenses:

DFNL acknowledges that alcohol purchases for social events may be considered an inappropriate use of DFNL funds. However, there are some occasions where the DFNL Board has decided that moderate provision of alcohol is appropriate. For example, wine and cheese socials are common across the country for events sponsored by the dairy industry. DFNL will review this decision.

AG Recommendation:

DFNL should consult with the Farm Industry Review Board and the Department of Natural Resources to determine whether policies and procedures should be developed and implemented that are consistent with those of Government.

DFNL respectfully agrees with the recommendation of the AG. We will begin consultations with the Farm Industry Review Board and the Department of Natural Resources as soon as possible.

3. Egg Producers of Newfoundland and Labrador

Overview

The Egg Producers of Newfoundland and Labrador is the regulatory body for the production and marketing of eggs in the Province. EPNL regulates the operations of seven registered egg producers and one registered egg processor. For the 2010 calendar year, approximately 9.2 million dozen eggs were produced in the Province. As at October 2011, EPNL charged an administration levy of \$0.035 per dozen eggs produced to fund its operations.

EPNL financial position and operations

Figure 4 provides an overview of EPNL's financial position and Figure 5 provides an overview of its financial operations for fiscal years ending 2009 and 2010.

Figure 4

**Egg Producers of Newfoundland and Labrador
Financial Position
Years Ended as at 31 December
\$(000's)**

	2009	2010
Cash	\$ 254	\$ 193
Accounts receivable	507	461
Short term investment	-	82
Prepaid expenses	18	9
Capital assets	21	16
	\$ 800	\$ 761
Accounts payable/accruals	\$ 651	\$ 605
Deferred Government assistance	15	-
Deferred Capital contributions	14	10
Levy Funds	100	121
Equity	20	25
	\$ 800	\$ 761

Source: Audited Financial Statements

Figure 5

**Egg Producers of Newfoundland and Labrador
Financial Operations
For the Years Ending 31 December
\$(000's)**

	2009	2010
Revenues		
Assessments	\$2,046	\$2,901
Government-funded projects	69	28
Other revenue	53	55
Total revenue	2,168	2,984
Expenditures		
Egg Farmers of Canada Levy	1,782	2,607
Costs of Government funded projects	69	28
Operating expenses	392	344
Total expenditures	2,243	2,979
Excess of revenue over expenditure (expenditure over revenue)	\$ (75)	\$ 5

Source: Audited Financial Statements

Our review identified the following matters:

- A. Board Accountability
- B. Compensation and Leave
- C. Travel and Meeting Expenses
- D. Other Expenditures

Details are as follows:

3A. Board Accountability

Introduction

The *Egg Scheme, 2000* states that the Board shall consist of not more than seven members either appointed or elected. EPNL Board's powers, functions and duties have been delegated and conferred by the Minister of Natural Resources under section 9(2) and section 12 of the *Natural Products Marketing Act*. Our review of the Board's structure, remuneration and reporting identified the following matters.

Government representation not present

The *Egg Scheme, 2000* requires that of the maximum of seven directors, six are to be elected by the registered producers and one to be appointed by the Minister. A review of the Board's structure since January 2009 identified that the Board consisted of seven members; however, no member was appointed by the Minister as required by the *Scheme*.

Strategic plan not prepared

As EPNL was not deemed to be a public body under the *Transparency and Accountability Act*, it was not required and therefore did not prepare and submit a strategic plan to the House of Assembly.

Notwithstanding this legislative requirement, without a strategic plan, it is unclear as to what EPNL's objectives or priorities are and how they are to be accomplished, measured or reported.

Board per diems inconsistent with Government policy

EPNL paid \$29,150 in Board per diems for the fiscal years 2009 to 2011 (up to October 2011). EPNL's policy states that Board members shall be paid a per diem of \$150 (\$75 applied to one half-day sessions and conference calls). Government policy provides various per diem rates based upon the position of the board member and the qualifications required of a board member. Based upon Government policy, the per diems that should have been used by EPNL were \$70 for half-day and \$145 for full-day for board members and \$95 for half-day and \$190 for full-day for the board chairperson.

Provincial Commodity Boards

**Board chair
honourarium**

EPNL paid a \$1,000 per month honorarium (\$12,000 annually) to the Board's chairperson in addition to the per diem rates paid for their attendance at Board meetings. Government policy does not provide for such payments.

**Reporting to
the House of
Assembly**

EPNL prepared an annual report for each fiscal year; however, as EPNL was not deemed to be a public body under the *Transparency and Accountability Act*, it was not required and therefore, did not submit its annual report to the House of Assembly.

3B. Compensation and Leave

Introduction

Section 8 of the *Egg Scheme, 2000* provides EPNL with the power to prescribe the terms and conditions of employment of its officers and employees and establish and fix the wages, salaries and remuneration of its directors and employees. EPNL operations are administered by two full-time office employees and one part-time inspector and are governed by seven Board members. EPNL has a policy manual that deals with Board member remuneration and employee leave. Our review of EPNL's compensation and leave practices identified the following matters.

**Employment
contracts not in
place for all
employees**

EPNL had employment contracts in place for only one of its three employees. Without employment contracts for all employees, the terms and conditions of employment as prescribed by the Board are not being documented.

**Position
descriptions not
established**

EPNL does not have position descriptions for its three employees. The responsibilities for one employee are documented in the employment contract; however, without approved job descriptions for all positions, it is not possible for current or future employees to determine their job duties, what is expected of them or at what salary base the position should be paid.

Provincial Commodity Boards

Salary increases not consistent

Salary increases paid to employees were inconsistent between Board employees and inconsistent with Government salary increases. For each of the fiscal years reviewed, the Board approved salary increases for two employees. For the 2009 fiscal year, one employee received an increase of 11.8% while one employee received 3%. For the 2010 fiscal year, one employee received a 3.8% salary increase and one employee received a 3% increase. For the 2011 fiscal year both employees received a 2.5% increase. An EPNL official indicated that the Board reviews past increases and discusses the employees' performance over the past year in rendering its decision; however, these discussions were held during In-Camera sessions of Board meetings and therefore, no minutes were recorded.

Compensation benefits not in line with Government policy

Our review identified a number of instances where the salary and benefits paid or provided to employees were different from Government policy. Specifically:

- EPNL paid Christmas bonuses totalling \$1,450 to four employees in December 2009 and bonuses totalling \$1,100 to two employees in December 2010. Although these bonuses were approved by the Board, Government policy does not provide for such payments.
- EPNL did not have a severance policy for its employees. Government policy provides severance pay to employees equal to one week of salary for every year of service upon reaching nine years of service to a maximum of 20 years.
- EPNL policy entitles employees to vacation leave of two weeks after completion of one year of service, three weeks after five years of service and four weeks after 10 years of service. The employment contract for one employee provided three weeks of vacation, with no increase. Although Government policy varies, unionized and non-management staff are normally entitled to three weeks of annual leave up to 10 years of service, four weeks of annual leave after 10 years of service and five weeks of annual leave after 25 years of service, while management staff are placed on Government's paid leave policy.

We also identified that EPNL employees are required to use all vacation days each year with no carryover of leave. Government policy allows for the carryover of annual and paid leave.

Provincial Commodity Boards

- Employees are entitled to one and one-half days per month of sick leave up to a maximum of 85 days. Although Government policy varies, unionized and non-management staff are normally allowed one day of sick leave per month up to a maximum of 240 days (or if hired before 4 May 2004 - two days of sick leave per month up to a maximum of 480 days), while management staff are placed on Government's paid leave program.
- Employees are provided with health insurance coverage under which EPNL pays 100% of the health plan costs. Government's policy has premium costs shared 50-50 between the employer and employee.

Leave not adequately recorded

A review of controls over vacation and sick leave identified the following:

- Leave forms were not used to document the request and approval of annual or sick leave. EPNL staff indicated that given the limited number of staff, leave was requested and approved verbally.
- Employee leave was recorded on a Staff Time Sheet for each employee. A review of one employee's time sheet identified four days of consecutive sick leave without a doctor's note as required by EPNL policy.

3C. Travel and Meeting Expenses

Introduction

For the period January 2009 to October 2011, EPNL spent \$135,204 on travel and meeting expenses of which \$15,222 was refunded under cost-sharing arrangements. Travel and meeting expenses included both local and out-of-Province travel incurred for regular Board business, Board meetings, annual general meetings, national conferences, and various trade shows, social events and other meetings.

EPNL has documented its travel expense policies in its Expense Policy and uses a travel claim for claim purposes. Our review of EPNL travel policies and travel expenses identified the following matters.

Provincial Commodity Boards

Travel claims do not record times of travel

EPNL policy states that expense claims are required to be submitted on an EPNL expense form. Our review identified that EPNL's travel claim does not provide for the recording of departure or arrival times. Without this information it is difficult to determine whether meal per diems were properly claimed.

Executive Director's travel claims not always approved by Chairperson

EPNL's Expense Policy requires the Manager's (Executive Director's) travel claims to be approved by the Chairperson. Our review of the Executive Director's travel claims since 1 January 2009 indicated that for the 2009 and 2010 fiscal years, the travel claims were generally approved by the Chairperson; however, for 2011 none of the 11 travel claims we examined up to October 2011 were approved by the Chairperson.

Meal rates inconsistent with Government policy

EPNL policy states that employees on travel status are entitled to a meal allowance at the rate of \$60 per day and receipts are not required. Government travel rules allow \$36.50 per day for meals within the Province or \$43 per day for meals outside the Province and within Canada/United States for non-executive employees, and \$44 per day for meals within the Province or \$49 per day for meals outside the Province and within Canada/United States for executive employees and board members.

A review of Board member and employee travel claims identified meal rates claimed as follows:

- Per diem meal rates were being claimed when an employee and Board members were not on travel status. Our review identified 26 instances where, according to flight boarding passes, one employee claimed the \$60 per diem for full day travel; however, the employee had not departed two hours prior to the work day beginning or returned two hours after the working day ended. By applying Government per diems meal rates to these meals, the total excess meal claims would have totalled \$332.
 - Board members claimed the \$60 meal per diem a total of 62 times while attending eight Board meetings even though EPNL paid for nine luncheons and one dinner on behalf of the Board members in attendance at these meetings. Using Government's meal rates for executive and board members, these 62 meals which totalled \$880 and were paid for by EPNL, should not have been claimed.
-

Provincial Commodity Boards

Private accommodation rate in excess of Government policy

EPNL's policy allows employees and Board members to claim \$50 per night for private accommodations while on travel status. Although our review did not identify any claims for private accommodations, Government policy provides \$25 per night for non-executive employees and \$53 for executive employees.

Mileage rates in excess of Government rates

EPNL policy states that mileage will be reimbursed at the rate of \$0.53 per kilometre. Government policy allows automobile reimbursement rates to be claimed using a two-tier system based upon whether an employee is required to use their personal vehicle for business purposes and whether or not an employee travels 9,000 kilometres while on Government business. These reimbursement rates are updated on a quarterly basis. During the period reviewed, the highest basic automobile reimbursement rate allowed under Government policy was \$0.37 per kilometre.

Claims for local mileage not adequately supported or documented

Our review of employee travel claims identified instances where mileage claims for local travel lacked sufficient details of locations travelled to support the mileage claimed. Given the high mileage rate and the high amount of travel claimed for local travel, it is important that the specific details of kilometres travelled be documented to support the claims.

For example, in July 2011, an employee claimed \$723 for 1,364 kilometres over six days for local travel related to a conference, ranging from 150 to 352 kilometres per day. The travel claims identified the location of travel as "Mount Pearl/St. John's". In addition, we identified 83 instances where one employee regularly travelled to pick up supplies and other items; however, the specific destinations of the travel were not provided on the travel claim.

Without the mileage details being provided on the travel claim, it was not possible to verify the appropriateness of the kilometres recorded and claimed.

Corporate vehicle usage not adequately monitored

In March 2008, EPNL entered into a vehicle lease for \$371 plus HST per month for use by its field inspector. The vehicle is currently kept by the field inspector at the employee's residence in Grand Falls-Windsor. Our review of expenditures related to this vehicle identified the following:

- A log book was not maintained by the employee to record mileage when the vehicle was being used. Government policy requires the use of a vehicle log book for recording mileage for Government-owned vehicles. Although staff indicated the vehicle was only to be used for business purposes, without the recording of mileage in a log book, we were unable to determine if the vehicle was being used only for business purposes.

Provincial Commodity Boards

- An employee claimed one gas receipt for \$67 on his travel claim while also charging the gas purchase to the employee's corporate credit card.

Christmas socials

For 2009 and 2010, EPNL cost-shared Christmas socials for its employees, Board members, spouses and guests with three other agriculture organizations. For 2009, EPNL paid \$609 plus HST for its share of the Christmas social and for 2010 EPNL paid \$1,207. Government policy does not provide for such expenditures.

3D. Other Expenditures

Other expenses not consistent with Government policy

Our review also identified other expenditures that were not provided for under Government policy as follows:

- For 2009 and 2010, EPNL spent a total of \$220 on turkeys as Christmas gifts for its employees.
- EPNL policy provides a \$25 per month communication allowance to Board members in lieu of claiming telephone and other communication expenses while on Board business. EPNL paid its Board members \$2,100 in 2009, \$1,750 in 2010 and \$1,500 up to October 2011 for a total of \$5,350 since 1 January 2009 related to this allowance.

Government policy does not provide for such expenditures.

Recommendation

EPNL should consult with the Farm Industry Review Board and the Department of Natural Resources to determine whether policies and procedures should be developed and implemented that are consistent with those of Government.

EPNL's Response

The Egg Farmers of Newfoundland and Labrador (EPNL) is constituted as a commodity board under the Egg Scheme, 2000 made pursuant to the Natural Products Marketing Act (NPMA). While the Farm Industry Review Board constituted by the NPMA is a Crown agent pursuant to the NPMA, EPNL is an independent corporation pursuant to s. 4(16) of the Egg Scheme, 2000 and s. 11(3) of the NPMA which provides as follows:

(3) A commodity board, constituted under a scheme, shall be an independent corporation, and it and the members of it shall be considered to have the powers and privileges set out in section 19 of the Interpretation Act.

As an independent corporation the commodity board, absent legislative or regulatory requirements, is not subject to government policy, but rather to its own policies made within the authority granted to it.

Furthermore, by virtue of the Egg Scheme, 2000 the Minister conferred on EPNL, through the authority under s. 9(2) of the NPMA certain powers "...that may be considered necessary or desirable for the proper application and enforcement of a scheme under which a commodity board is constituted and may terminate the delegation of power". In addition the Minister has conferred upon the commodity board certain other powers authorized by Section 12 of the NPMA. The Egg Scheme 2000 specifically allows EPNL to:

- Establish offices, and to appoint officers, inspectors and other employees that may be necessary. (Section 8(a)).*
- Prescribe the terms and conditions of employment. (Section 8(b)).*
- Establish and fix the wages, salaries and remuneration, including travelling expenses. (Section 8(c)).*

Further, the Egg Scheme generally allows EPNL do what is necessary to enforce the Scheme or an order or regulation made pursuant to it. (Section 8(u)).

There are no legislative or regulatory provisions of which we are aware which impose "Government Policy" on the EPNL which is, by virtue of the NPMA, an independent corporation.

Accordingly in each place where cited in the Report that “This practice is not consistent with Government Policy” it is our position that the EPNL is not required to follow Government Policy. The EPNL is following its own, Board approved policies and/or acting within its discretion granted by the Egg Scheme, 2000 and Egg Regulations. Expenses and claims are made in accordance with the EPNL Board policies.

Unless otherwise indicated below, the EPNL has no comments at this time on the factual assertions outlined in the Report.

Expense policies and meeting per diems are set by the EPNL Board and reviewed regularly to ensure the rates are appropriate with current standards. We obtain information on policy and rates from industry, National and Provincial boards, review Government policies and consult with our financial auditors before policy is approved.

- **EXECUTIVE SUMMARY**
“...inconsistent with and above the amount provided for in Government policy, and in our opinion, in some cases, were not an appropriate use of EPNL funds.”
These payments were made in accordance with EPNL Policy and/or within the Board’s discretion.
- *“EPNL paid Board members per diems at a rate of \$75 for half-day, \$150 for full-day, or \$75 for conference calls. These amounts were inconsistent with Government per diem rates of \$70 per half-day and \$145 for full-day for board members and \$95 per half-day and \$190 for full-day for the board chairperson.”*
These payments were made in accordance with EPNL Policy and/or within the Board’s discretion.
- *These figures [salary increases] are correct however it should be noted that the 11.8% increase was an approved increase as written in the employment contract in accordance with the discretion allowed by Section 8(b) and/or Section 8(c) of the Egg Scheme, 2000.*
- *“Employees on travel status are entitled to a meal allowance... “*
This is permitted within EPNL Board policy.
- **Strategic plan not prepared**
The EPNL has initiated the development of a strategic plan and acknowledges that the existing strategic plan has not been finalized. At a meeting on December 8, 2011 the EPNL Board of Directors approved to move forward with updating the existing Strategic Plan.

- **“Salary increases not consistent”**
Salary increases are made at the discretion of the EPNL Board.
- **3C. Travel and Meeting Expenses**
Throughout the years of EPNL, many Directors have never claimed for their mileage or accommodation expenses when attending Board meetings. This has been a tremendous cost savings to Board operational costs. During the 2011 fiscal year, EPNL saved \$6,750.00 in accommodations costs and \$1,900.00 in mileage expenses for four regular Board meetings because Board members chose not to submit travel claims.
- **3C. Travel and Meeting Expenses**
EPNL travel claims do not require to record times of travel, therefore meal per diems were properly claimed in accordance with EPNL Board policies.
- **Executive Director’s travel claims not always approved by Chairperson**
The Chairperson acknowledges that travel claims were not approved at the time of the review and procedures will be adjusted to ensure a more timely process.
- **Meal rates inconsistent with Government policy**
All meal rates were paid in accordance to EPNL Board policy.
- **Claims for local mileage not adequately supported or documented**
The mileage for July 2011 was during the National Egg Producer Conference that was hosted by the EPNL and is rotated among the provinces, occurring for the EPNL and Newfoundland every 10 years. This is not a normal mileage claim and is validated for the National Egg Producer Conference in the approved format of the EPNL travel claim.
- **Corporate vehicle usage not adequately monitored**
“A log book was not maintained...”
The EPNL does not require a vehicle log book to be maintained. The vehicle is kept at the Field Inspectors residence in Grand Falls-Windsor. EPNL does not have a mileage log book policy as the vehicle is only used for field operations and EPNL business. The Inspector has a personal vehicle to use for personal usage.

Provincial Commodity Boards

- *The employee claim for the gas receipt was an error and Management has addressed the error. The employee has been charged back for the expense error.*
- **3D. Other Expenditures**
It is correct that Government policy does not provide for such expenses however these expenses are at the discretion of the EPNL Board.
- **Recommendation**
The EPNL is following Board approved policies and procedures and/or was acting within its discretion under the Egg Scheme, 2000 and the Egg Regulations. The wording of the recommendation suggests that it is the responsibility of the EPNL to initiate discussion with the FIRB and DNR on Board policies. The EPNL is operating within the policies that have been set by the Board and/or within its discretion, under the powers granted by the Egg Scheme, 2000. We acknowledge that the Minister and /or the FIRB have authority under the NPMA to impose or remove requirements upon the EPNL as a commodity board. We would be pleased to meet with the Minister and/or the FIRB to discuss any potential amendments to the Egg Scheme, 2000 at their request.

4. Chicken Farmers of Newfoundland and Labrador

Overview The Chicken Farmers of Newfoundland and Labrador (CFNL) is the regulatory body for the production and marketing of chickens in the Province. The Province has only one registered producer which is also the only processor. This company contracts out chicken production to seven farmers (contract growers) throughout the Province. Each year, approximately 18 million kilograms of chicken (live weight) is marketed in the Province. As at October 2011, CFNL imposed a levy of \$0.015 per kilogram of chickens (live weight) marketed to fund its operations.

CFNL financial position and operations Figure 6 provides an overview of CFNL's financial position and Figure 7 provides an overview of its financial operations for fiscal years ending 2009 and 2010.

Figure 6

**Chicken Farmers of Newfoundland and Labrador
Financial Position
Years Ended as at 31 December
\$(000's)**

	2009	2010
Cash	\$ 61	\$ 86
Accounts receivable	23	34
Prepaid expenses	2	3
Long-term receivable	-	34
Long-term investment	15	15
Equipment	4	5
	\$ 105	\$ 177
Accounts payable/accruals	\$ 22	\$ 27
Deferred grant revenue	12	26
Accrued severance pay	2	4
Contributed surplus	14	14
Net assets	55	106
	\$ 105	\$ 177

Source: Audited Financial Statements

Figure 7

**Chicken Farmers of Newfoundland and Labrador
Financial Operations
For the Years Ending 31 December
\$(000's)**

	2009	2010
Revenues		
Levies	\$ 268	\$ 281
Over-marketing levy assessment	-	51
Government funded projects	27	34
Workshop revenue	2	-
Interest and miscellaneous	2	1
Total revenue	299	367
Expenditures		
Government funded projects	29	34
Levy - Chicken Farmers of Canada	79	83
Operating expenses	211	199
Total expenditures	319	316
Excess of revenue over expenditure (expenditure over revenue)	\$ (20)	\$ 51

Source: Audited Financial Statements

Our review identified the following matters:

- A. Board Accountability
- B. Compensation and Leave
- C. Travel and Meeting Expenses
- D. Other Expenditures

Details are as follows:

4A. Board Accountability

Introduction

The *Newfoundland and Labrador Chicken Marketing Scheme* states that the Board shall consist of not less than three and no more than five members appointed by the Minister of Natural Resources. The CFNL Board's powers, functions and duties have been delegated and conferred by the Minister of Natural Resources under section 9(2) and section 12 of the *Natural Products Marketing Act*. Our review of the Board's remuneration identified the following matters.

Board per diems inconsistent with Government policy

CFNL paid \$20,000 in Board per diems for the fiscal years 2009 to 2011 (up to October 2011). CFNL's policy states that the chairperson shall be paid \$250 per diem and other Board members shall be paid \$150 while attending Board meetings. In addition, all members shall be paid \$75 for conference calls. Government's policy provides various per diem rates based upon the position of the board member and the qualifications required of a board member. Based upon Government's policy, the per diems that should have been used by CFNL were \$70 for half-day and \$145 for full-day for board members and \$95 for half-day and \$190 for full-day for the board chairperson.

Board chair honourarium

CFNL paid a \$1,000 per month honorarium (\$12,000 annually) to the Board's chairperson in addition to the per diem rates paid for their attendance at Board meetings. Government policy does not provide for such payments.

4B. Compensation and Leave

Introduction

Section 5(3) of the *Newfoundland and Labrador Chicken Marketing Scheme* provides CFNL the power to prescribe the terms and conditions of employment of its officers and employees and establish and fix the wages, salaries and remuneration of its directors and employees. In addition, the *Chicken Farmers of Newfoundland and Labrador Regulations* provides additional direction on employee remuneration and leave.

CFNL's operations are administered by one full-time employee and are governed by four Board members. CFNL has an employment contract in place for its one employee and its policy manual deals with Board member remuneration. Our review identified the following matters.

Position description not established

Section 2 of the employment contract makes reference to a job description. Although the *Chicken Farmers of Newfoundland and Labrador Regulations* list the duties of the Secretary-Manager, discussions with the employee indicated that a job description has not been documented. Without an approved job description, it is not possible for current or future employees to determine their job duties, what is expected of them or at what salary base the position should be paid.

Salary increases not consistent

Salary increases paid to CFNL's employee were inconsistent with Government salary increases. CFNL entered into its employment contract with its employee on 22 January 2008 at an annual salary of \$48,897. The employee's salary increased to \$55,000 (12.5% increase) in January 2009, to \$60,000 in January 2010 (9.1% increase) and \$61,800 (3% increase) in January 2011.

Compensation benefits not consistent with Government policy

Our review of the employment contract identified a number of instances where the salary and benefits paid or provided on behalf of the employee were different from Government policy. Specifically:

- The employee was eligible for severance pay for each year of service up to a maximum of 20 years, with no minimum established years of service. As at 31 December 2010, CFNL accrued \$3,462 for three years of severance pay for the employee. Government policy provides severance pay to employees equal to one week of salary for every year of service upon reaching nine years of service to a maximum of 20 years.

- The employee was entitled to annual vacation leave of three weeks after completion of one year of service, four weeks of annual vacation after five years of service and five weeks of annual vacation after 10 years of service. Although Government policy varies, unionized and non-management staff are normally entitled to three weeks of annual leave up to 10 years of service, four weeks of annual leave after 10 years of service and five weeks of annual leave after 25 years of service, while management staff are placed on Government's paid leave policy.
- The employee was entitled to one day per month of sick leave up to a maximum of 90 days. Although Government policy varies, unionized and non-management staff are normally allowed one day of sick leave per month up to a maximum of 240 days (or if hired before 4 May 2004 - two days of sick leave per month up to a maximum of 480 days), while management staff are placed on Government's paid leave program.
- The employee was provided with a car allowance of \$5,000 annually for the use of the employee's personal vehicle. Government policy does not provide for the payment of car allowances; instead, a higher mileage rate is provided for travel up to 9,000 kilometres to employees using their personal vehicles for Government business purposes.
- The employee was provided with health insurance coverage under which CFNL paid 100% of the health plan costs. In addition, coverage provided included 100% coverage of basic healthcare and dental expenses and included coverage for long-term disability benefits. Government's insurance coverage has premium costs for basic health and life insurance shared 50-50 between the employer and employee.

Leave not adequately approved or reviewed

CFNL requires leave forms to be completed for leave taken and maintains an annual attendance record which documents employee leave. The leave form and attendance record were approved by the Chairperson. Our review of leave identified the following:

- Leave forms were not used to document the request and approval of sick leave. Our review identified that the employee took a total of 10 sick leave days during 2010 and 2011 without a leave form being completed.
- A review of the 2010 attendance record identified one annual leave day which did not have a leave form submitted. This leave day was not deducted from the employee's leave balance.

- Each leave form provides the unused leave available for future use. A review of the latest 2011 leave form identified five days remaining; however, the actual leave days available were only two days, as three days of leave had not been properly deducted. Although these three days had been correctly recorded on the attendance record, the inaccurate recording of leave on the leave form may cause leave to be overdrawn.
-

4C. Travel and Meeting Expenses

Introduction

For the period January 2009 to October 2011, CFNL spent \$75,209 on travel and meeting expenses. Travel and meeting expenses included both local and out-of-Province travel expenses incurred for regular Board business, Board meetings, annual general meetings, national conferences, and various trade shows, social events and other meetings.

CFNL has documented its travel expense policies in its Expense Policy manual. Our review of CFNL travel policies and travel and meeting expenses identified the following matters.

Meal rates not consistent with Government policy

Our review identified instances where meal rates were not consistent with Government policy as follows:

- CFNL policy states that employees on travel status are entitled to a meal allowance at a flat rate of \$60 per day and receipts are not required and is not dependent on the employee's or Board members' departure or arrival time. Government travel rules allow \$36.50 per day for meals within the Province or \$43 per day for meals outside the Province and within Canada/United States for non-executive employees and \$44 per day for meals within the Province or \$49 per day for meals outside the Province and within Canada/United States for executive employees and board members.
- In order to claim meals, Government policy requires employees to be on travel status, i.e. depart two hours prior to the work day beginning or return two hours after the work day ended to claim full meal per diems. Our review identified 32 instances where, according to flight boarding passes, one employee and two Board members claimed the full meal per diem; however, an employee and Board members were not on travel status.

Provincial Commodity Boards

In addition, given that CFNL's travel claim did not provide for the documentation of the time of departure or arrival times, it was difficult to determine if other meal rates claimed were consistent with Government policy.

- CFNL policy states that meal rates are set at the rate of one day travel to a meeting and one day travel from a meeting for out-of-Province travel; at the existing per diem rates and is not dependent upon the actual travel dates and times. Government policy requires employees to be on travel status in order to claim meals. We identified 22 instances where one employee and one Board member claimed an additional meal per diem that was not consistent with Government policy while on out-of-Province travel (i.e. claimed five days meals while on travel status for four days).

We do note that travel expenses identified above were often reimbursed by a national body to CFNL. However, although CFNL did not incur any expenses, the employee benefited from the additional claimed expenses.

- We identified three instances on two days where Board members claimed the full daily meal allowance although the lunch meal was paid and claimed directly by an employee or a Board member. In addition, we identified one instance where one employee and two Board members, while attending a national conference, claimed full meal per diems for two days when a meal was provided during those two days.

Mileage rates in excess of Government rates

CFNL policy states that mileage will be reimbursed at the rate of \$0.525 per kilometre. Government's policy allows automobile reimbursement rates to be claimed using a two-tier system based upon whether an employee is required to use their personal vehicle for business purposes and whether or not an employee travels 9,000 kilometres while on Government business. These reimbursement rates are updated on a quarterly basis. During the period reviewed, the highest basic automobile reimbursement rate allowed under Government's policy was \$0.37 per kilometre.

Christmas socials

For 2009 and 2010, CFNL cost-shared Christmas socials for its employee, Board members, spouses and guests with three other agriculture organizations. For 2009, CFNL paid \$675 plus HST for its share of the Christmas social and for 2010 CFNL paid \$864. Government policy does not provide for such expenditures.

4D. Other Expenditures

Introduction

Our review also identified other expenditures that were not provided for under Government policy or which were inadequately monitored.

Cell phone expenses

From January 2009 to September 2011, CFNL spent \$7,863 (\$245 per month) for cell phones. Since May 2009, CFNL has had five cell phones with three spare cell phones which were not directly assigned to an individual. Discussions with the CFNL employee indicated the three phones were purchased to obtain usage savings for all five phones. Furthermore, the employee indicated that one spare cell phone costing \$22 plus HST per month, when not in use, was provided to a contracted worker for the period March 2010 to April 2011. A review of payments made to the worker only identified two payments totalling \$750 - one in August 2010 and one in December 2010. For the period March 2010 to December 2010, the cell phone was used 1,031 minutes and cost CFNL \$466 plus HST (\$58 per month). CFNL did not monitor the use of the cell phone to determine if all charges were related to the contract.

Other expenses

Our review identified the following expenses which were not provided for under Government policy:

- Since January 2009, CFNL spent \$3,819 (approximately \$109 plus HST per month) reimbursing a Board member for home phone, fax and internet services. Government policy does not provide for such payments.
- CFNL spent \$1,320 including taxes (2009- \$450, 2010 - \$386 and 2011- \$484) for an Air Canada lounge pass for its employee.
- For 2009 and 2010, the employee was reimbursed \$500 towards the purchase of a Christmas gift each year. The \$500 was reimbursed for clothing purchased by the employee up to the value of \$500. Government policy does not provide for such expenses.
- CFNL spent \$600 in 2009 and \$670 in 2010 for Christmas gift cards provided to chicken farmers and a Board member and as door prizes at the Christmas social.

In our opinion, these expenses were either excessive or would not be provided for under Government policy.

Recommendation

CFNL should consult with the Farm Industry Review Board and the Department of Natural Resources to determine whether policies and procedures should be developed and implemented that are consistent with those of Government.

CFNL's Response

As an independent corporation, CFNL, absent legislative or regulatory requirements, is not subject to "Government Policy", but rather to its own policies made by the CFNL board within the authority granted to it.

To summarize CFNL is a commodity board constituted under Newfoundland and Labrador Chicken Marketing Scheme (Chicken Scheme) made pursuant to the Natural Products Marketing Act (NPMA). Under the referenced legislation CFNL is an independent corporation as set out in Section 11(3) of the NPMA and section 4(19) of the Chicken Scheme with powers under the scheme to: (i) establish offices, and to appoint officers, inspectors and other employees that may be necessary (Section 5(3)(a)); (ii) prescribe the terms and conditions of employment (Section 5(3)(b)); and (iii) establish and fix the wages, salaries and remuneration, including travel expenses (Section 5(3)(c)).

The following is a detailed analysis of the legislation under which CFNL operates:

The CFNL is a commodity board constituted under Chicken Scheme made pursuant to the NPMA. While the FILB constituted by the NPMA is a Crown agent pursuant to the NPMA, a commodity board is an independent corporation pursuant to s. 4(19) of the Chicken Scheme and to s. 11(3) of the NPMA which provides as follows:

(3) A commodity board, constituted under a scheme, shall be an independent corporation and it and the members of it shall be considered to have the powers and privileges set out in section 19 of the Interpretation Act.

Furthermore, by virtue of the Chicken Scheme the Minister conferred on CFNL, through his authority under s. 9(2) of the NPMA certain powers “...that may be considered necessary or desirable for the proper application and enforcement of a Scheme under which a commodity board is constituted and may terminate the delegation of power”. In addition the Minister has conferred upon CFNL certain other powers authorized by Section 12 of the NPMA. The Chicken Scheme specifically allows CFNL to:

- *Establish offices, and to appoint officers, inspectors and other employees that may be necessary. (Section 5(3)(a)).*
- *Prescribe the terms and conditions of employment. (Section 5(3)(b)).*
- *Establish and fix the wages, salaries and remuneration, including travelling expenses. (Section 5(3)(c)).*

Further, the Chicken Scheme generally allows CFNL to do what is necessary to enforce the Scheme or an order or regulation made pursuant to it (Section 6(1)). We take this to include setting of other operational policies for the administration of the CFNL.

There is no legislative or regulatory provisions of which we are aware which impose “Government Policy” on the CFNL which is, by virtue of the NPMA and the Chicken Scheme, an independent corporation. We acknowledge that Government has authority under the NPMA to impose or remove requirements upon the CFNL as a commodity board. CFNL is continually making efforts to improve management and industry practices and remain committed to achieving the best management practices for the board and the chicken industry; which provide for transparency and accountability. We would be pleased to meet with Government to discuss any potential amendments to the Chicken Scheme.

PART 2.10

SERVICE NL

PROVINCIAL LOTTERY LICENSING

Executive Summary

The Consumer Affairs Division (the Division) within the Consumer and Commercial Affairs Branch of Service NL (the Department) is responsible for administering consumer affairs legislation to: ensure a fair and equitable marketplace; protect the interests of consumers; mediate and adjudicate disputes between residential landlords and tenants; and regulate charitable and non-profit organizations' lottery fundraising activities. It also licenses and regulates collection agencies, private investigations and security guard industries. These services are provided throughout the Province through offices in St. John's, Gander and Corner Brook. The Division has a total staff of 18, with Division expenditures of \$0.9 million for the year ended 31 March 2011 accounting for 21% of the total of \$4.2 million in expenditures for the Department's Commercial and Consumer Affairs Branch.

Specific to lottery fundraising activities, the Division is responsible for issuing lottery licences to applicants for fundraising purposes, and for monitoring those lotteries. These activities are guided by the *Lottery Licensing Regulations* (the *Regulations*) under Canada's *Criminal Code*. The *Regulations* contain the terms and conditions for applying for a lottery licence, the general rules that govern the issuance and monitoring of licences, and the specific rules for each of the different types of lotteries.

In 2009-10, the Division issued a total of 3,249 licences, with gross proceeds generated by those resulting lotteries of \$54.1 million, and net proceeds, after prize payouts and expenditures, of \$11.2 million. Licences issued include: 242 bingo events; 68 breakopen ticket events; 167 bingo/breakopen ticket events; 2,335 ticket events; 377 games of chance events; 13 monte carlo events; and 47 sports events.

Our review identified concerns with the application approval process within the Division. We found that: licence applications were not being approved by the appropriate people; applications with incomplete or outdated information were approved; licences with unapproved intended uses of proceeds were approved; and required business plans were not received with applications.

In addition, we found that licence monitoring was inadequate in that: required financial reports were being submitted late or not at all; licensee reporting requirements did not fully address legislation; the licensing auditor position was vacant for more than four years, and, therefore, financial reports were not being properly reviewed and financial audits were not occurring; on-site inspections were not being performed; the Division has not made a determination of in what circumstances audited financial statements should be required; and there were instances where lotteries had operated without a licence.

Furthermore, performance measurement and reporting was inadequate, policies and procedures were not well defined, and improvements were required in the use of the Division's database system and the administration of the Division's lottery files.

Application Approval and Processing

The Division is responsible for the approval and processing of lottery licence applications. Applications are submitted by organizations wishing to conduct a lottery for fundraising purposes. The *Regulations* outline requirements pertaining to such things as: the purpose of the lottery; intended use of proceeds; signing officers; and the location of the lottery. Applications are accepted at six Service NL locations in the Province. Once received, applications are reviewed for completeness by one of nine lottery staff members in these locations.

Our review of the application approval and processing for a sample of 55 licences approved by the Division indicated the following:

Approval of licence applications by those not designated

- There were nine employees who review and approve licence applications; however, these employees were not designated by the Minister to approve licences. Such designation is required under the *Regulations*.

Incomplete and outdated information on applications

- An application that had been approved for licensing contained outdated information that had been included with an application for a sports lottery.

Licences approved with unapproved intended uses of proceeds

- Three applicants had unapproved uses of proceeds noted on their applications. The unapproved uses were: operational expenses of the applicant in two instances; and maintenance of the applicant's service club in the third instance.

Business plans not received

- Two of three applicants who were required under the *Regulations* to submit business plans with their applications, did not provide the required business plans.

Licence Monitoring

The *Regulations* have a number of requirements regarding lotteries which require monitoring by the Division to ensure that the *Regulations* are being followed.

Monitoring by the Division to ensure licensees are following the *Regulations* would include such things as: the tracking and reviewing of required financial reports from licensees; the inspection of licensees' premises; and the audit of the financial records and trust accounts of the licensees.

Our review indicated the following issues with licence monitoring:

Financial reports submitted late or not at all

- Of 1,709 total licences that required financial reports to be submitted within the fiscal year ended 31 March 2011, 349, or 20.4%, had not been received by their due date. Of these 349 financial reports, 85, or 24.4%, were not received by the Division as at 30 November 2011. Delays in receiving the financial reports resulted in delays in the Division's assessment of completed lotteries, and in the collection of fees associated with the lotteries.

Of the sample of 55 licences reviewed and requiring financial reports to be submitted within the fiscal year ended 31 March 2011, financial reports were not received by their due dates for four of the licences. One licensee who had an overdue financial report had not yet submitted it as of 30 November 2011, at which time it was 13 months overdue. During these 13 months, the Division had issued 10 new licences to this licensee.

Licensee reporting requirements do not fully address legislation

- The required financial report from licensees addresses the financial aspect of the lottery. However, the *Regulations* include a number of other requirements that must be followed during the lottery process, including: a separate designated lotteries trust account must be opened and maintained at a financial institution; a licence number must be shown on all advertising; and a media bingo must be conducted in the presence of two witnesses who will then sign a confirmation of their presence. These requirements were not included in required licensee reporting to the Division at the time of our audit and were, therefore, not being monitored by the Division.

Licensing auditor position vacant

- The Division has a Licensing Auditor position within its organizational structure. However, this position is currently vacant and has been vacant for more than four years. The Licensing Auditor position is responsible for reviewing submitted financial reports of licensees, as well as performing financial audits of licensees. In the absence of a Licensing Auditor, the Division has been significantly behind in its review of financial reports and has periodically used the help of a work-term student to review some of the submitted financial reports. Also, there were no financial audits performed pertaining to the year we reviewed.

On-site inspections not performed

- On-site inspections are not a requirement of the *Regulations*; however they would assist the Division in ensuring that licensees were following the *Regulations*. There was no evidence on file of inspection visits performed for any of the 55 lotteries reviewed, and Divisional officials indicated such inspections had not been performed since 2002.

No audited statements required of licensees

- The Division indicated that they did not have established guidelines as to under what circumstances a licensee would be required to provide audited statements. The Division also indicated that they did not require any licensees to submit audited financial statements. The lotteries licensed by the Division range significantly in terms of gross and net proceeds, tickets sold and volume of events. For those larger lotteries, established guidelines would ensure that audited financial statements would be required in appropriate circumstances.

Lotteries operating without a licence

- Of the 55 licences reviewed, three lotteries operated during the year ended 31 March 2011 without a licence - one bingo lottery and two bingo/ breakopen lotteries. These instances of operating without a licence are offences under Canada's *Criminal Code*. However, rather than treating them as such, the Division, instead, issued back-dated licences to each of the organizations to cover the periods of unlicensed activity.

Performance Measurement and Monitoring

No performance measures or reporting requirements

The Department had not established performance measures or reporting requirements for lottery licensing, and for the Division in general. There were no performance reports for the Division in 2010-11. The annual report of the Department for 2010-11, tabled in the House of Assembly, did not include any information on lottery licensing activities of the Division. There was also no operating plan in place for the Division to enable the Division to focus its activities towards achieving strategic goals and objectives.

Information Management

The Division tracks lottery licensing information through its database system, AMANDA (the System). The System tracks licensing information such as: organizations applying for licences; lottery licence applications; financial information and other details pertaining to licensee financial reports received; and lottery fees receivable. The System tracks organizations and licences issued by assigning reference numbers to them.

The Division uses information from the System to compile statistics relating to the lottery licensing process. These statistics are reported on the Department's website.

During our review, Departmental officials advised of significant errors in prior years' charitable gaming statistics presented on the Department's website. Statistics reported for each year prior to 2009-10 contained errors. Errors in the 2008-09 statistics were as follows:

- Gross proceeds: understatement of \$16.2 million, or 30.9% of total actual gross proceeds of \$52.5 million for that year;

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- Expenses and prize payouts: understatement of \$34.5 million, or 85.4% of total actual expenses and prize payouts of \$40.4 million for that year; and
- Net proceeds: understatement of \$2.8 million, or 22.9% of total actual net proceeds of \$12.2 million for that year.

Statistics are currently being re-compiled for years earlier.

Other Findings

Policies and procedures not well defined

The Department does not have any written policies and procedures to help ensure compliance with the *Regulations*.

File Completeness

During our review, we found that applicant/licensee files were incomplete. For example, we noted one file of the 55 reviewed did not contain a copy of the issued licence. Our review also found three documents that were not date stamped to indicate the date of receipt; and a licensee file which contained numerous completed applications that did not note the assigned application reference numbers.

Background

Department overview

Service NL (the Department) provides a variety of services to the public including licensing and inspections related to public health, public safety, environmental protection, the provision of vital documents, and safeguarding consumer interests.

The Department is comprised of three branches:

- Government Services;
- Occupational Health and Safety; and
- Consumer and Commercial Affairs.

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The Consumer and Commercial Affairs Branch consists of three divisions:

- Financial Services Regulation;
- Commercial Registrations; and
- Consumer Affairs.

Expenditure

In the year ended 31 March 2011, the Consumer and Commercial Affairs Branch had a total staff of 63. Total expenditures for the Branch in 2010-11 were \$4.2 million with a total cost for the Consumer Affairs Division of \$895,000, as shown in Figure 1.

Figure 1

**Service NL
Consumer and Commercial Affairs Branch
For the Year Ending 31 March 2011
(\$000's)**

Expenditure	Financial Services Regulation	Consumer Affairs	Commercial Registrations	Total
Salaries and Benefits	\$1,161	\$840	\$1,230	\$3,231
Transportation & Communications	40	31	84	155
Supplies	8	9	27	44
Professional Services	7	-	-	7
Purchased Services	63	13	618	694
Property Furnishings and Equipment	3	1	34	38
Total Expenditure	\$1,282	\$894	\$1,993	\$4,169

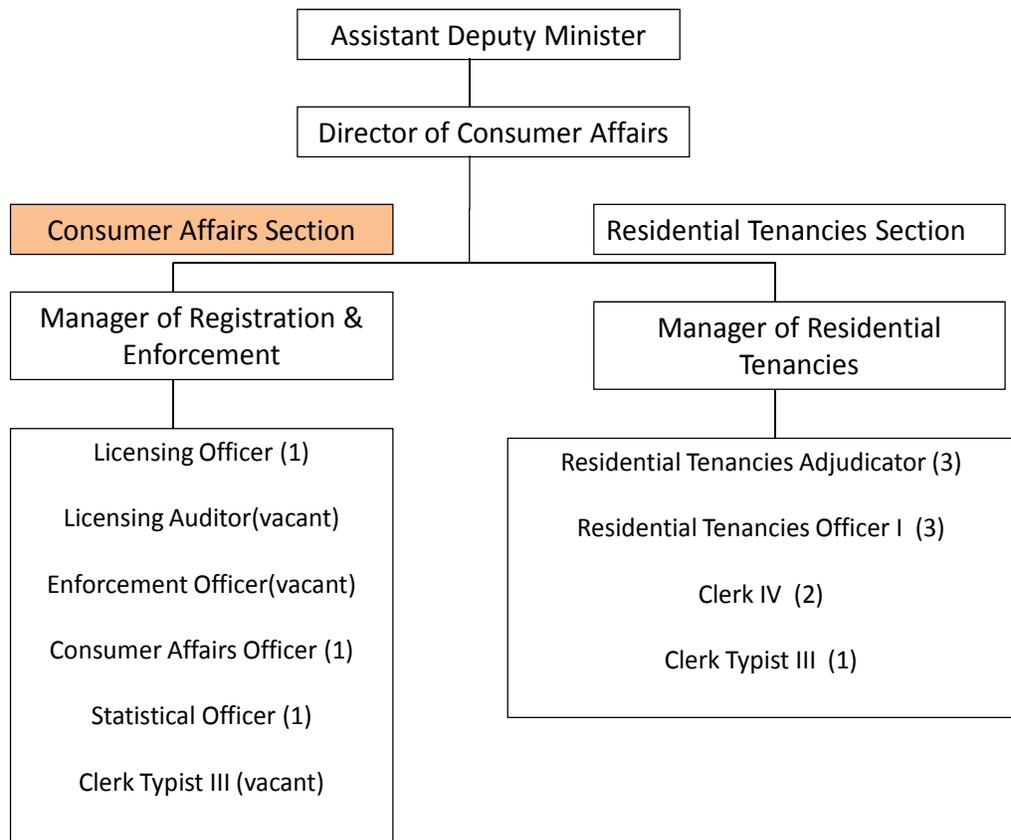
Source: Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund

Division The Consumer Affairs Division within the Consumer and Commercial Affairs Branch of Service NL is responsible for administering consumer affairs legislation to: ensure a fair and equitable marketplace; protect the interests of consumers; mediate and adjudicate disputes between residential landlords and tenants; and regulate charitable and non-profit organizations' lottery fundraising activities. It also licenses and regulates collection agencies, private investigations and security guard industries. These services are provided throughout the Province through offices in St. John's, Gander and Corner Brook.

Organization The Consumer Affairs Division (the Division) has a total staff of 18. Figure 2 shows the organizational structure of the Division.

Figure 2

**Service NL
Consumer Affairs Division
Organizational Structure**



Source: Service NL

Lottery Licensing

The Division is responsible for issuing lottery licences to applicants for fundraising purposes, and for monitoring those lotteries. The issuing of lottery licences is regulated by the *Lottery Licensing Regulations* (the *Regulations*) under Canada's *Criminal Code*.

Section 207(1) of the *Criminal Code* authorizes each provincial government to conduct and manage a lottery scheme in accordance with law enacted by the legislature of that province, and allows charitable or religious organizations to manage a lottery pursuant to a licence issued by the Lieutenant-Governor in Council of a province or a designate.

The *Regulations* contain the terms and conditions for applying for a lottery licence, the general rules that govern the issuing and monitoring of licences, and the specific rules for each of the different types of lotteries.

The *Regulations* state that a lottery scheme includes the following:

- bingo events;
- breakopen ticket lottery events;
- bingo/breakopen ticket lottery events;
- ticket lottery events;
- sports lottery events;
- games of chance events; and
- monte carlo events.

Figure 3 shows the charitable gaming statistics for Newfoundland and Labrador for the year ended 31 March 2010.

Figure 3

**Service NL
Charitable Gaming Statistics
For the Year Ended 31 March 2010 (1)**

Lottery Type	Licences Issued	Gross Proceeds (\$000's)	Net Proceeds (\$000's)
Bingo	242	\$6,565	\$1,945
Breakopen	68	666	114
Bingo/Breakopen	167	26,270	3,017
Ticket	2,335	18,727	5,397
Games of Chance	377	1,477	608
Monte Carlo	13	48	24
Sports	47	344	112
Total	3,249	\$54,097	\$11,217

Source: Service NL

(1) Statistics not yet compiled for the year ended 31 March 2011.

The *Regulations* outline the calculation of applicable licensing fees for lottery licensing schemes. For example, bingo, ticket and sports lottery licensing fees are calculated as “1% of the total amount of the retail value of prizes and cash given as prizes”, while breakopen lottery licensing fees are calculated as “\$10 a box/unit or part box/unit of breakopens sold”. Total licensing fees for the year ended 31 March 2010 were approximately \$350,000.

Audit Objectives and Scope

Audit objectives The objective of this audit was to review the issuing and monitoring of lottery licences within the Consumer Affairs Division of Service NL. Our review included:

- application approval and processing;
 - licence monitoring;
 - performance measurement and monitoring; and
 - information management.
-

Audit scope Our review covered, primarily, the fiscal year ending 31 March 2011, and included: interviews with key personnel within the Department; an examination of relevant legislation; and compliance testing in various areas.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Application Approval and Processing
2. Licence Monitoring
3. Performance Measurement and Monitoring
4. Information Management
5. Other Findings

1. Application Approval and Processing

Overview

The Division is responsible for the approval and processing of lottery licence applications. Applications are submitted by organizations wishing to conduct a lottery for fundraising purposes.

The *Regulations* outline the terms and conditions for issuing a licence and, thus, serve as a guideline to the Division in evaluating whether or not a licence should be issued. The *Regulations* outline requirements pertaining to such things as: the purpose of the lottery; intended use of proceeds; signing officers; and the location of the lottery. These requirements are covered within the sections of the application. The rules for each specific type of lottery are also included in the schedules to the *Regulations*. In addition to the *Regulations*, the Division provides additional guidelines to applicants on the Department's website.

Applications are accepted at six Departmental locations in the Province. Once received, applications are reviewed for completeness by one of nine lottery staff in these locations.

Our review indicated the following issues with lottery licensing application approval and processing.

Approval of licence applications by those not designated

Section 6(1) of the *Regulations* states that “*The director, the manager or another official designated by the minister has signing authority for issuing licences.*” Our review indicated that lottery licences generated by the Division had the Director's signature automatically inserted. The Division's lottery staff review lottery license applications, print the licences and issue the licences to the applicants, without the Director being involved or documenting their approval of the application. According to Departmental officials, these employees had not been designated by the Minister to issue licences.

As a result, the Division was not in compliance with the *Regulations* with regards to the issuing of licences.

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Incomplete and outdated information on applications

Lottery licence applications are reviewed to ensure the application is complete and to confirm that all relevant information provided is accurate and up to date.

During our review of a sample of 55 license applications, we identified two applications approved for licences that contained incomplete or outdated information:

- In the first instance, the application for a ticket lottery did not have the event date noted. The application was approved based on a date on the attached sample ticket. According to Departmental officials, this was not in line with Divisional practice for application approval and processing. The standard practice would be to consider the application incomplete and to notify the applicant.
- Another instance pertained to outdated information included with an application for a sports lottery. During our review of this application, we determined that the hockey pool players list attached to the licence was outdated. We would have expected the hockey pool details in the attached document to be up to date before approval was granted.

As a result, the Division was not ensuring that application forms were properly completed with accurate and current information.

Licences approved with unapproved intended uses of proceeds

The lottery licence application form requires organizations to state their intended use of proceeds earned from the lottery. Rules on the use of proceeds are included in the guidelines on the Department's website. The rules outline what is considered to be unapproved uses of proceeds. Examples include: upkeep or maintenance of service clubs; expenses of political parties; salaries of support staff; and operational expenses of groups.

During our review, we found that three of 55 applications reviewed contained intended uses of proceeds that matched the unapproved use of proceeds in the guidelines. The unapproved uses were: operational expenses of the applicant in two instances, and the maintenance of the applicant's service club in the third instance. Departmental officials advised that each of these applications had been approved and licences had been issued.

As a result, the Division was issuing licences to applicants who intended to use lottery proceeds for unapproved uses.

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Business plans not received

Section 3 of Schedule D of the *Regulations* states that “*For a ticket lottery with a potential prize payout of \$100,000 or more a detailed business plan shall be submitted with the application ...*”

Our review included three ticket licence applications with potential prize payouts noted of \$100,000 or more. Two of the three applications did not include a business plan.

As a result, the Division was not in compliance with the *Regulations* with regards to ticket lotteries with a potential prize payout of \$100,000 or more.

Recommendations

The Department should ensure that:

- only those staff designated by the Minister approve licences, as required by the *Regulations*;
- information included in applications is complete and up to date before applications are considered for approval;
- the intended uses of proceeds noted on applications are in compliance with the guidelines on the Department’s website; and
- applications for ticket lotteries with a potential prize payout of \$100,000 or more include an attached detailed business plan, as required by the *Regulations*.

2. Licence Monitoring

Overview

Once a lottery licence has been granted, the licensee is able to commence the lottery. The *Regulations* have a number of requirements regarding lotteries which need monitoring by the Division to ensure that the *Regulations* are being followed.

Monitoring by the Division to ensure licensees are following the *Regulations* would include such things as: the tracking and reviewing of required financial reports from licensees; the inspection of licensees’ premises; and the audit of the financial records and trust accounts of the licensees.

Our review indicated the following issues with licence monitoring.

Financial reports submitted late or not at all

Section 38(1) of the *Regulations* states that “...a financial report shall be submitted to the division within 60 days after the expiry date of the licence or as demanded.”

During our review of a sample of 55 licences that had financial report due dates within the fiscal year ended 31 March 2011, we identified that four had not been received by their due date.

Further investigation indicated that of a total of 1,709 lottery licences that had financial report due dates within the fiscal year ended 31 March 2011, 349, or 20.4%, did not have financial reports submitted by their due dates. Figure 4 provides details on the number of months these overdue reports remained outstanding.

Figure 4

**Service NL
Financial Reports Submitted Late
Due During the Year Ending 31 March 2011**

# of Months Outstanding	Financial Reports Submitted Late	
	#	% of total
< 1-2	153	43.8%
3-6	74	21.2%
7-12	36	10.3%
12+	1	0.3%
Not Received as at 30 November 2011	85	24.4%
Total	349	100%

Source: Service NL

During our review of the four late financial reports noted in our testing, we identified one licensee who received new licences while its financial report pertaining to a previous lottery was overdue. The licensee’s report was due in August 2010. The financial report remained outstanding as at 30 November 2011. The Division issued 10 new licences to that licensee between August 2010 and 30 November 2011.

Licensees are required to submit fees to the Division following the completion of the lottery. These fees are calculated and reported within the financial report and are due to be paid upon submission of the report. Delays in financial reports result in delays in the collection of lottery fees by the Division.

Financial reports were not being received on a timely basis by the Division. As a result, there was a delay in the Division's assessment of completed lotteries and a delay in the collection of fees associated with the lotteries.

Licensee reporting requirements do not fully address legislation

In addition to financial reporting requirements outlined in the *Regulations*, the *Regulations* have a number of other requirements that must be adhered to during the lottery process. Monitoring of licensee adherence to these requirements is critical to ensuring lotteries are operating as required by the *Regulations*.

Examples of these requirements are:

- Section 13: "...licensees shall open and maintain a separate designated lotteries trust account in a financial institution..."
- Section 31: "The licence number shall be shown on all advertising."
- Section 28 of Schedule A: "The person who conducts a media bingo shall do so before 2 witnesses who sign a confirmation of their presence for each lottery event."

Currently, licensee reporting requirements include information just of a financial nature. We would expect a more complete licensee reporting process to be in place to allow the Division to ensure that *Regulations* such as those noted above were being followed by licensees.

Licensing auditor position vacant for four years

As already noted, Section 38(1) of the *Regulations* outlines the requirement for licensees to submit a financial report within 60 days following the completion of the lottery.

Section 20(1) and (4) of the *Regulations* state that "The licensee shall maintain the division's financial records that relate to the licensed lottery, or a similar version that is approved by the division" and "These records shall be kept up to date and be retained for no less than 6 years from the expiry date of the licence".

The Division has a Licensing Auditor position within its organizational structure. However, this position is currently vacant and has been vacant since 2007. Our review of the current Licensing Auditor position description indicated that his/her duties would include "Perform[ing] financial audits of lottery licensees by examining their financial and internal control procedures and verifying their submitted Financial Reports of income, expenses, and

disbursements to charitable aims. This is executed through an in depth examination of the licensees' accounts, financial records, and financial statements pertaining to their lotteries conducted".

As a result of this position vacancy, the Division has been significantly behind in its review of financial reports submitted by licensees. Departmental officials indicated that as at 31 March 2011, there were approximately 1,100 financial reports that had not yet been reviewed. Departmental officials also advised that during the four years that the Licensing Auditor position has been vacant, they had hired summer work-term students to perform the review of the submitted financial reports. We question whether this approach provides the appropriate level of review of the financial reports.

Also, during our review we noted that the Division had not performed financial audits of any licensees that held licenses during the year we reviewed. Departmental officials indicated that financial audits had not been completed during the past four years.

As a result, financial reports of licensees were not being reviewed to assess the results of lotteries. Also, the financial records of licensees were not being audited. The Department was not ensuring that licensees were maintaining proper financial records relating to the licensed lotteries.

On-site inspections not performed

While on-site inspections are not a requirement of the *Regulations*, they would assist the Division in ensuring the following *Regulations* are met:

Section 12: *"The following shall be posted in a conspicuous place in the premises designated for the conduct and operation of a lottery event:*

- a) a copy of the current licence authorizing the lottery and any amendments for the licence;*
- b) related schedules;*
- c) house rules; and*
- d) notices and posters, as required by the division";*

Section 24: *"A lottery event shall be conducted in a suitable premises as approved by the division";and*

Section 25: *"All equipment used in the conduct of a lottery shall be located in an area visible to the players [and] equipment shall be maintained in good working condition and shall be made available for inspection, upon request".*

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There was no evidence on file that an inspection visit had been performed for any of the 55 lotteries reviewed, and Departmental officials indicated such inspections have not been performed since 2002. As a result, the Division was not assessing whether licensees were in compliance with the *Regulations*.

No audited statements required of licensees

Section 23 of the *Regulations* states that: “*The division may require the licensee to provide audited statements in accordance with guidelines established by the division*”.

The Division indicated that they did not have established guidelines as to under what circumstances a licensee would be required to provide audited statements. The Division also indicated that they did not require any licensees to submit audited financial statements. The lotteries licensed by the Division range significantly in terms of gross and net proceeds, tickets sold and volume of events. For those larger lotteries, established guidelines would ensure that audited financial statements would be required in the appropriate circumstances. Audited financial statements would provide reasonable assurance that the financial information submitted by a licensee was presented fairly in all material respects.

Lotteries operating without a licence

During our review of 55 sample licences, we identified three lotteries that had operated without a licence for a period of time during the year we reviewed. One was a bingo lottery, the other two were bingo/ breakopen lotteries.

In the case of the bingo lottery that had operated without a licence, the organization had applied for a licence, but was denied one by the Division because the organization was not incorporated. The Division later learned that the organization went ahead with an unlicensed bingo lottery.

In the cases of the two bingo/breakopen lotteries that had operated without a licence, both organizations were notified by the Division that they required a licence and to cease operations until the license was issued. In one of these instances, the organization had been operating without a licence for a year.

The *Criminal Code* and the *Regulations* require that all lottery activity be licensed. The *Criminal Code* outlines that anything done for purposes of a lottery scheme that is not authorized is an offence and is punishable according to Section 207 of the *Criminal Code*.

The Division did not treat these instances of unlicensed activity as offenses, but rather, issued back-dated licences to each of the organizations to cover the periods of unlicensed activity.

As a result, the *Criminal Code* and the *Regulations* were not being followed with regards to licensing of lottery operations and the treatment of punishable offences.

Recommendations

The Department should:

- ensure that required financial reports are received from licensees within the established deadlines;
- develop a licensee reporting process that addresses all relevant legislation;
- ensure financial reports of licensees are properly reviewed, and on a timely basis, and that the financial records of licensees are being audited;
- consider conducting on-site inspections as provided for in the *Regulations*;
- create guidelines that outline the circumstances under which a licensee would be required to provide audited statements; and
- ensure that the *Criminal Code* and the *Regulations* are followed, in that all lottery activities are licensed and unlicensed lottery activity is treated as a punishable offence.

3. Performance Measurement and Monitoring

Overview

Performance measurement and monitoring are important in evaluating the effectiveness of programs and taking corrective action when necessary. We expected that the Division would measure and report on the effectiveness of its monitoring of lottery licensing activities. We also expected to find well defined performance measures relating to lottery licensing within the Division. These performance measures would form part of a Divisional operating plan. For example, performance measures may include: expected licence application processing time, inspections requested and/or completed, and frequency and content of management reports.

Provincial Lottery Licensing

A Divisional operating plan should contain information specific to the Division. This plan should include goals, objectives, measures, indicators for the goals and objectives, actions necessary and reporting requirements.

A Divisional operating plan would enable the Division to focus its activities towards achieving strategic goals and objectives. The plan would be necessary to determine whether the Department's Strategic Plan objectives were being met and are a necessary part of a good system of accountability.

Our review indicated the following issues with performance measurement and monitoring of lottery licensing within the Division.

No performance measures or reporting requirements

The Department had not established performance measures or reporting requirements for lottery licensing, and for the Division in general. There were no performance reports for the Division in 2010-11. We also noted that the annual report of the Department for 2010-11, tabled in the House of Assembly, did not include any information on lottery licensing activities of the Division.

Furthermore, there was no operating plan in place for the Division to enable the Division to focus its activities towards achieving strategic goals and objectives.

Recommendations

The Department should:

- ensure performance measures and reporting requirements are established for the Division;
- ensure that there is an adequate system of accountability by addressing the lottery licensing activities of the Division in the Department's annual report; and
- develop and implement an operating plan for the Division.

4. Information Management

Overview The Division tracks lottery licensing information through its database system, AMANDA (the System). The System tracks licensing information such as: organizations applying for licences; lottery licence applications; financial information and other details pertaining to licensee financial reports received; and lottery fees receivable. The System tracks organizations and licences issued by assigning reference numbers to them.

The Division uses information from the System to compile statistics relating to the lottery licensing process. These statistics are reported on the Department's website. Information reported includes a year over year variance analysis of the:

- number of licences issued;
- gross proceeds;
- expenses and prize payouts; and
- net proceeds.

Also included is the following detailed information pertaining to licences issued during the year:

- licences issued;
 - gross proceeds;
 - prize payouts, and prize payouts as a percentage of gross proceeds;
 - expenses, and expenses as a percentage of gross proceeds;
 - net proceeds; and
 - profit as a percentage of gross proceeds.
-

Provincial Lottery Licensing

Incorrect tracking of licence applications in System

Our review of files pertaining to a sample of 55 licenses indicated an inaccuracy with the inputting of applications into the System. In one of the files we reviewed, we noted an application that was issued multiple reference numbers.

In this instance, a licence application was received and entered into the System, generating a reference number for the application. The application was determined by a lottery staff member to be incomplete. Therefore, the application was classified as “withdrawn” in the System and was sent back to the applicant to be resubmitted. Upon subsequent receipt of the completed application, the Division’s practice is to reopen and complete the original application in the System. However, in this case, a new reference number was set up for the application, while the original application remained in “withdrawn” status. This resulted in two reference numbers relating to the same application, resulting in a duplication in the system. Any system-generated statistics with respect to the number of lottery applications that had been received by the Division would, therefore, be incorrect.

As a result, inaccuracies with the tracking of licence application reference numbers may result in errors in system generated statistics.

Error in statistics reported on website

During our review, Departmental officials advised of significant errors in prior years’ charitable gaming statistics presented on the Department’s website. Departmental officials advised these errors were discovered by the Division while recently compiling the statistics for the 2009-2010 fiscal year reporting.

We were advised that the errors were partially a result of the Division’s delays in processing licensee’s submitted financial reports. Statistical information was compiled based on data reports from the System. The data reports were apparently generated each year before all licensee financial reports had been reviewed and processed through the System. Therefore, licensee financial reports submitted and/or reviewed subsequent to the data reports being printed, had been excluded from the reported statistical information. Departmental officials had also noted a presentation error in certain of the prior years’ net proceeds amounts, including that of 2008-09. Gross proceeds less expenses and prize payouts did not equal net proceeds, as it should.

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Assessment of the 2008-09 statistics has been completed by the Division. The 2008-09 errors have been calculated by Departmental officials to be an understatement of \$16.2 million, or 30.9% of total actual gross proceeds of \$52.5 million for that year. Expenses and price payouts for the 2008-09 had been understated by \$34.5 million, or 85.4% of total actual expenses and price payouts of \$40.4 million. Net proceeds for 2008-09 had been understated by \$2.8 million, or 22.9% of total actual net proceeds of \$12.2 million. The Division is currently re-compiling the statistics for years prior to 2008-2009, and will determine the impact on those prior years once completed.

As a result, the Division's reporting of lottery statistics on the Department's website has been inaccurate.

Recommendations

The Department should ensure that:

- licence applications are properly tracked in the system; and
- statistical and financial information obtained from system generated reports is accurate and is accurately compiled and presented on its website.

5. Other Findings

Policies and procedures not well defined

We expected to see well defined policies and procedures within the Department to ensure compliance with the *Regulations*. Specifically, we would have expected to see well defined, documented policies and procedures relating to: application approval and processing; licence monitoring, including the tracking and review of financial reports and the auditing of the financial records of licensees; performance reporting on the lottery licensing operations; and information management.

Our review indicated that the Department does not have any written policies and procedures to help ensure compliance with the *Regulations*. The Department does have some information relating to several of these areas on its website. However, this information is intended for use by applicants and licensees and does not provide adequate guidance to staff of the Division.

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File Completeness

We would have expected applicant/licensee files to include all relevant information relating to a licence, including, at a minimum: the completed application; a copy of the associated licence; and the required financial report.

During our review, we found that applicant/licensee files were incomplete. For example, we noted a file that did not contain a copy of the issued licence. A copy of the licence would provide file information pertaining to the licence issuance date and financial report due date, and would allow cross referencing to the associated financial report.

We also expected all information contained in an applicant/licensee file to be properly documented and cross referenced. During our review of a sample of 55 files, we found:

- three documents (one completed application and two financial reports) that were not date stamped to indicate the date of receipt; and
- a licensee file containing numerous completed applications that did not note the assigned application reference numbers.

Recommendations

The Department should:

- develop and communicate well defined policies and procedures for the administration of lottery licensing; and
- ensure that applicant/licensee files are complete and that information within them is properly documented and cross-referenced.

Department's Response

1. Application Approval and Processing

Issue: Approval of license applications by those not designated

Response: The department is currently seeking advice from the Department of Justice on the issue of authority to approve licenses and will implement direction as deemed appropriate.

Issue: Incomplete and outdated information on applications

Response: The two identified errors were minor in nature and attributable to human error. It is noted that there are in excess of 3,000 applications received each year. The division does ensure to the best of its ability that all application forms are properly completed with accurate and current information.

Issue: Licences approved with unapproved use of proceeds

Response: Your review uncovered three incidents where applications were approved with unapproved use of proceeds. The staff involved has been advised to ensure they follow the guidelines as set out for eligible use of net proceeds which are documented and posted on the department's website.

Issue: Business plans not received

Response: There were two applications where required business plans were not received. On review, it has been determined that the same licensing officer approved both applications which were filed by the same organization. In both instances the prizes were fully guaranteed so ticket purchasers were completely protected.

All staff have been instructed to ensure that this requirement is complied with for all applications.

2. Licence Monitoring

Issue: Financial Reports submitted late or not at all

Response: The Charitable Gaming industry is, for the most part, run by volunteers through charitable or not-for-profit organizations. The division does its best to ensure that all Financial Reports are received on a timely basis. However, given the nature of the industry, there will be instances of late reports but rarely is a report not received.

Issue: Licensee reporting requirements do not fully address legislation

Response: The department is anticipating finalization of classification and recruitment of an Enforcement Officer for the Consumer Affairs Division. It is expected that monitoring, reporting and compliance within the Lottery Licensing Program will be enhanced once this position is filled.

Issue: Licensing auditor position vacant for four years

Response: The Licensing Auditor position is funded through the “Opening Doors” program and the department is restricted to filling this position from the available candidates within that program. The department is in regular contact with the Opening Doors Program however, a suitable candidate has not yet been available. Every effort is being made to fill the position.

Issue: On-site inspections not performed

Response: On-site inspections are not a requirement of the Regulations. However, the department agrees that on-site inspections may enhance compliance with the legislation.

The department will consider conducting on-site inspections as part of the responsibility of the Enforcement Officer position once it is filled. This function will also be enhanced by the Licensing Auditor should that position be filled.

Issue: No audited statements required of licencees

Response: Audited statements are not a requirement of the legislation.

Issue: Lotteries operating without a licence

Response: In the rare instance where an organization is operating a lottery without a license, it is usually a result of the organization being unaware of or not understanding the legislation. When this occurs, the department makes every attempt to work with the operators to ensure voluntary compliance with the legislation, which normally occurs or the matter may be referred to the police for investigation.

3. Performance Measurement and Monitoring

Issue: No performance measures or reporting requirements

Response: The department will review the need to develop performance measures for the Lottery Licensing Program.

4. Information Management

Issue: Incorrect tracking of licence applications in system

Response: Your sample revealed only one instance where an application was incorrectly tracked in the system. Given the large volume of applications tracked, in excess of 3,000 annually, we find this to be within an acceptable margin of error. The error had no negative impact on the licensee and has since been corrected.

Issue: Error in statistics reported on website

Response: This error was discovered by licensing staff prior to the commencement of your review and action had already commenced to correct the error.

5. Other Findings

Issue: Policies and Procedures not well defined

Response: The administration of the Lottery Licensing Program is directed and guided by the requirements outlined in the legislation. Additionally, there are policies and procedures which all staff are aware of and any changes to these practices are communicated to all staff in a timely fashion.

Issue: File Completeness

Response: The sample of files reviewed revealed five incidents where files were incomplete. It is the department's opinion that the issues identified were minor in nature.

Provincial Lottery Licensing

PART 2.11

SERVICE NL

WORKPLACE HEALTH AND SAFETY INSPECTIONS

Executive Summary

Service NL (the Department) through its Occupational Health and Safety (OHS) Branch (the Branch) has a mandate to maintain and improve health and safety standards in the workplace through the administration of the *Occupational Health and Safety Act* and *Regulations* and related legislation. The Branch is responsible for, among other things, developing and enforcing occupational health and safety legislation, carrying out compliance inspections of Provincially regulated workplaces and investigating workplace accidents, incidents and complaints. As at 31 December 2010, there were approximately 217,000 workers employed at the workplaces of approximately 19,600 employers registered with the Workplace Health, Safety and Compensation Commission (WHSCC).

Inspection and investigation activities are carried out by 32 inspectors located throughout the Province in St. John's (19), Corner Brook (8), Grand Falls - Windsor (3) and Wabush (2). Inspection and other activities in connection with specific occupational areas such as radiation control, ergonomics and industrial hygiene are carried out by 8 other officers located in St. John's. During the five year period ending 31 December 2010, the Branch carried out an average of 3,990 inspections at the workplaces of an average of 1,296 employers per year.

An inspector may issue either a compliance order or a stop work order when a health and safety hazard or potential hazard has been identified at the employer workplace. A compliance order legally binds employers to eliminate or control identified hazards or potential hazards within the time frame that has been provided by the inspector. A stop work order must be issued by an inspector when a hazard identified at the workplace poses an immediate risk to the health and safety of workers. Inspectors issued a total of 36,694 orders during the five year period ending 31 December 2010 (33,611 compliance orders and 3,083 stop work orders).

Our review of the Branch's workplace inspection program identified issues with regard to: how the Branch identifies workplaces for planning and scheduling workplace inspection activity; how such inspection activity is planned and scheduled; how inspection activity is monitored by Branch management; and how orders issued by an inspector are enforced when a health and safety hazard or potential hazard has been identified.

Workplace Identification

At the time of our review, the Branch could not readily determine the number of workplaces that were included in the Branch's Central Information System (CIS). However, Branch officials estimated there were approximately 35,000 workplaces which were operating throughout the Province.

Workplace information contained in the CIS is obtained when the workplace is inspected by the Branch. The CIS does not contain workplace information that is available from the WHSCC as Branch officials indicated that the WHSCC workplace information was incomplete and inaccurate.

Without information identifying all workplaces in the Province, the Branch cannot adequately plan and schedule workplace inspection activity.

Inspections

Our review indicated that the work plan developed by the Branch to guide its inspection activity for 2010 did not include all industries in the Province and did not use a comprehensive risk based approach to determine inspection frequencies. In particular:

- The work plan did not include all of the industries in the Province. The work plan included only those industries with workplaces the Branch considered higher risk and/or had fewer inspections in previous years. Furthermore, inspectors were responsible for identifying workplaces in each of the industries that were listed in the work plan, and not all of those workplaces had been identified.
- Officials indicated that rather than base inspection activity on an identification and assessment of health and safety risk (risk assessment) at employer workplaces, inspection activity was based on the number of inspections that could be achieved given the number of inspectors that were available to the Branch, with inspectors identifying and scheduling workplaces for inspection activity.

Having inspectors schedule their own inspection activity may result in the inspection activity not being representative of the number and nature of workplaces in each inspector's geographic area. The use of a risk based approach to inspection planning would be expected in order to meet the Branch's mandate of maintaining and improving health and safety standards in the Province's workplaces. For example, it would be expected that an employer that has workplaces in a high risk industry, has a poor health and safety program, has a history of numerous injury claims paid by the WHSCC, and has a poor inspection history would be inspected more frequently.

- The Branch did not know whether the majority of employers in the Province had the required OHS policies and programs in place to reduce workplace health and safety risk, as there is no system in place to capture such information. Furthermore, workplace injury claims information available from the WHSCC was not used to assess risk for inspection planning purposes.
- During 2010, the Branch did not inspect 115 or 61.8% of the 186 employers with the highest WHSCC assessment rates. Furthermore, 92 or 80% of the 115 employers were also not inspected during 2009 or 2008. The 186 employers with the highest assessment rates were operating in industries such as nursing homes, roofing and sawmills.

The annual assessment paid to the WHSCC by employers is based on the size of the employers' payroll, the industry group in which the employer is conducting business, and the claims cost history for that industry. Higher assessments are associated with the increased risk that claims will be paid out as a result of injuries sustained in an industry.

- During 2010, the Branch did not inspect 160 or 47.9% of 334 employers that had ten or more lost time claims in the five year period ending 31 December 2010. Furthermore 73 or 45.6% of the 160 had one or more claims related to workers that were seriously injured at the workplace, and 96 or 60% of the 160 employers were also not inspected during 2009 or 2008.

Claims made as a result of injuries sustained at the workplace include costs associated with lost work time and medical treatment.

Inspection Monitoring

Branch Managers are not meeting their responsibilities for monitoring inspections scheduled and completed by inspectors to ensure that the targets established in the work plan are achieved. Furthermore, some of the targets contained in the 2010 work plan had not been achieved.

Our review also identified that 2,614 or 59.8% of the 4,371 inspections carried out in 2010 were not part of the 2010 work plan, but were conducted based on inspectors' knowledge.

Enforcement

Our review indicated that inspectors did not always carry out follow-up inspections when required to ensure that employers complied with orders that were issued. Furthermore, when follow-up inspections were carried out, orders were not effectively enforced. The health and safety risk to workers is increased when inspectors do not ensure that employers comply with the orders that have been issued within the required timeframe.

The Branch Central Information System indicated that as at 9 February 2011, 33,236 or 90.6% of the 36,694 orders issued in the five year period ending 31 December 2010, had been complied with, 2,722 or 7.4% of the 36,694 orders issued had not been complied with, and 736 or 2.0% of the 36,694 orders issued were rescinded or no longer relevant. We found that:

- For 16,409 or 49.4% of the 33,236 orders that had been complied with, the inspector did not ensure there was compliance with the order until after the date compliance was required.
 - For 3,744 or 22.8% of the 16,409 orders, the inspector did not ensure there was compliance by the employer until more than 3 months after the date compliance was required. For example, on 25 September 2006 an inspector ordered an electric power corporation to properly train and certify mine rescue teams in basic firefighting, standard first aid, and mines rescue. The inspector found the employer did not have sufficient personnel or equipment in place to adequately carry out a mines rescue operation. However, the inspector did not ensure that the employer complied with the order until 4 December 2008, more than 19 months after the required compliance date of 30 April 2007.
 - For 1,088 or 6.6% of the 16,409 orders, the inspector had extended the timeframe for compliance and still did not ensure there was compliance with the order until after the extended date of compliance. For example, on 15 March 2006, an inspector found that the workers at a post-secondary dining facility did not understand and had not implemented the fire escape plan that was in place. Fire drills were not being carried out and exit doors were blocked by snow. The inspector ordered the employer to train workers in fire evacuation procedures and in handling fire prevention materials by 30 April 2006. On 26 October 2009, following two inspections over a period of three and one half years, the employer still had not complied with the orders and the inspector extended the date for compliance to

6 November 2009. It was not until 17 December 2009 that the inspector ultimately determined the employer had complied with both orders.

- Branch officials indicated that, without first consulting with the inspectors, they could not readily provide an explanation as to why there were 2,722 open orders in the CIS that were not complied with. It took the Branch approximately 4 months to complete this process and provide the information we required. Branch officials indicated that:
 - 1,277 or 46.9% of the 2,722 open orders had in fact been complied with. In the majority of these cases, the inspector had failed to close the order in the CIS. For the remaining orders, inspectors carried out inspection activity as a result of our inquiry and determined that the orders had been complied with.
 - 803 or 29.5% of the 2,722 open orders had not been subject to a follow-up inspection to determine whether the employer had complied with the order issued. We found that 166 or 20.7% of the 803 orders had been outstanding for more than two years beyond the required compliance date established by the inspector. For example, on 26 February 2008 an inspector ordered an all grade school to repair or replace fire pull stations and emergency lighting by 5 March 2008 as numerous units throughout the school were not working properly. No evidence was provided to indicate that an inspector had carried out a follow-up inspection to determine whether this order had been complied with.
 - 488 or 17.9% of the 2,722 open orders had evidence that the inspector had performed one or more follow-up inspection(s) and determined that the employer had still not complied with the order issued. We found that 121 or 24.8% of the 488 orders had been outstanding for more than two years beyond the required compliance date established by the inspector. For example, the Branch carried out an inspection on 15 April 2008 in response to a complaint received regarding the poor condition of floors at a nursing home. During the inspection, the inspector obtained a consultant's report from the employer regarding the condition of the floors. The report, dated 3 July 2003, indicated that *"Cracks and irregularities in the flooring represent a tripping hazard for elderly residents and for busy staff members."* and that *"The cracks and irregularities impede efficient and proper cleaning, increasing the risk of infections."*

Workplace Health and Safety Inspections

On 26 February 2009, approximately 10 months after the 15 April 2008 inspection, and after receiving an update to the 2003 consultant's report, the inspector ordered the nursing home to repair the floors by 30 April 2009. At the time of our review, the inspector had carried out 14 follow-up inspections at the nursing home and found that the floor repairs did not commence until October 2010 and that the order was still not complied with as a number of floors had not been repaired.

- 154 or 5.7% of the 2,722 open orders were rescinded or were no longer relevant.
- The Branch has no documented procedures or tools to guide and support inspectors in enforcing orders when there are less serious violations of the legislation (no immediate health and safety risk), such as an employer's failure to establish an occupational health and safety program and/or policy at the workplace. We noted numerous instances where inspectors carried out multiple follow-up inspections in connection with these types of orders and were unable to enforce employer compliance.

Background

Service NL (the Department) through its Occupational Health and Safety Branch (the Branch) has a mandate to maintain and improve health and safety standards in the workplace through the administration of:

- the *Occupational Health and Safety Act and Regulations*;
- the *Mines Safety of Workers Regulations*;
- the *Radiation Health and Safety Act and Regulations*;
- the *Asbestos Abatement Regulations*;
- first aid; and
- the Workplace Hazardous Materials Information System.

The Branch is responsible for, among other things: developing and enforcing occupational health and safety legislation; carrying out compliance inspections of Provincially regulated workplaces; and investigating workplace accidents, incidents and complaints. Inspection and investigation activities are carried out by 32 inspectors located throughout the Province in St. John's (19), Corner Brook (8), Grand Falls-Windsor (3) and Wabush (2). Inspection and other activities in connection with specific occupational areas such as radiation control, ergonomics and industrial hygiene are carried out by 8 other officers located in St. John's.

Workplace Health and Safety Inspections

Workplace inspections are carried out to determine compliance with the provisions of the *Occupational Health and Safety Act and Regulations* and other related legislation. When violations of the legislation are identified through an inspection, a formal written compliance order is issued to the employer which identifies the violation and provides a timeframe by which the violation must be remedied. In cases where a more immediate health and safety risk is identified, the inspector may issue a stop work order.

Employers performing work in Newfoundland and Labrador are required to register with the Workplace Health, Safety and Compensation Commission (WHSCC) and most employers must participate in their no-fault work injury insurance program. As at 31 December 2010, there were approximately 217,000 workers employed at the workplaces of approximately 19,600 employers registered with the WHSCC.

During the five year period ending 31 December 2010, the Branch carried out an average of 3,990 inspections at the workplaces of an average of 1,296 employers per year.

Audit Objectives and Scope

Audit objectives

The objective of our review was to determine whether the Branch:

- was planning, scheduling, and monitoring workplace inspection activity to determine whether workplaces in the Province were complying with the *Occupational, Health and Safety Act and Regulations*, other related legislation and the Department's policies and procedures; and
- was enforcing the instances of legislative non-compliance that were identified when carrying out inspection activities.

Audit scope

Our review covered the period 1 April 2006 to 18 November 2011. Our review included an analysis of workplace health and safety inspection activity and data at the Department as well as related data at the WHSCC. In addition, we held discussions with officials of the Department and the WHSCC.

We completed our review in November 2011.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Workplace Identification and Information
 2. Inspections
 3. Enforcement
-

1. Workplace Identification and Information

Overview

The WHSCC maintains a database of information collected from employers which it shares with the Branch. The Branch inspection database or Central Information System (CIS) includes employer information obtained from the WHSCC and workplace inspection information obtained from inspectors.

We reviewed employer and workplace information collected and maintained by the WHSCC. We also reviewed employer and workplace information in the Branch CIS and we held discussions with Branch and WHSCC officials. We identified the following issues:

- A. WHSCC Workplace Information not Useful to the Branch
- B. Branch Inspection Database not Complete

Details are as follows:

1A. WHSCC Workplace Information not Useful to the Branch

Introduction

The WHSCC encourages employers to establish occupational health and safety (OHS) policies and programs in accordance with the *Occupational Health and Safety Act* and *Regulations* because effective occupational health and safety policies and programs increase worker health and safety in the workplace. Employers are entitled to a 5% refund of the annual assessment they pay to the WHSCC if they are found to have, among other things, the required OHS policies and programs in place. In this regard, workplace information is collected from most employers who are registered with the WHSCC and includes, among other things:

Workplace Health and Safety Inspections

- the number and location of employer workplaces;
- the number of workers at each workplace;
- the legislation under which the workplace is regulated;
- whether the employer has an OHS policy and program in place;
- whether the employer has trained OHS committees or designated health and safety representatives in place; and
- whether OHS committee meeting minutes are being kept.

As at 31 December 2010, the WHSCC maintained workplace information in connection with approximately 23,000 workplaces reported by the employers registered with them.

Our review indicated the following:

Workplace information not complete and accurate

The workplace information collected and maintained by the WHSCC is not complete and accurate because:

- Certain registered employers are not required to provide the WHSCC with workplace information. For example, employers such as Government are not required to provide workplace information as they are self insured and do not participate in the WHSCC no-fault work injury insurance program. Employers in the construction industry are not required to provide the WHSCC with workplace information if they meet external health and safety certification.
- Discussions with officials of the WHSCC indicated there are numerous instances where workplace information is not provided by employers when requested. In cases where the workplace information is not provided, the employer is not entitled to an assessment refund from the WHSCC.
- Discussions with officials of the WHSCC indicated that there are numerous instances where workplace information provided by employers is not accurate. However, the accuracy of information provided by employers that receive an assessment refund is greater because the information provided is subject to audit by the WHSCC.

As workplace information maintained by the WHSCC is not complete and accurate, it is less useful to the Branch for the purpose of identifying and obtaining information about employer workplaces.

1B. Branch Inspection Database not Complete

Introduction

The Branch Central Information System (CIS) includes employer information obtained from the WHSCC and workplace information obtained from inspections. Employer information maintained in the CIS is updated annually with new employer information from the WHSCC and includes employer names, addresses, contact information, and industry/rate classifications. Inspection information in the CIS is updated electronically on a daily basis when inspectors connect their laptops to the Branch's computer network and includes such things as employer workplace location, inspection type and date, health and safety hazards/deficiencies identified and orders written.

The Branch estimates there are approximately 35,000 workplaces operating throughout the Province and that most of these workplaces are subject to Provincial health and safety legislation.

Our review of the Branch CIS indicated the following:

Branch CIS is not complete

We asked the Branch to identify the number of employers and associated workplaces maintained in the CIS; however, the Branch indicated this information was not readily available in a cost-effective manner. Our review indicated that the CIS does not contain information associated with a significant number of the estimated 35,000 workplaces because:

- Some employers are under Federal jurisdiction and are not subject to Provincial health and safety legislation. In 2000, the Branch identified approximately 245 such employers including Air Canada and Canada Post.
- Information related to non-permanent workplaces reported to the Department in connection with construction and industrial projects that will last 30 days or more are not recorded in the CIS. This workplace information is passed along to the inspector responsible for the geographic area where the project will be undertaken.

Workplace Health and Safety Inspections

- Workplace information collected and maintained by the WHSCC is not captured by the CIS during the Branch's annual update of registered employers with the WHSCC. Branch officials indicated that the WHSCC workplace information was incomplete and inaccurate.
- Workplace information is only added to the CIS when a workplace has been identified and inspected by the Branch.

The Branch cannot adequately plan and schedule workplace inspection activity when it does not capture all of the workplace information.

Recommendations

The Department should consider:

- working with the WHSCC to ensure that the workplace information obtained from employers is useful to the Branch for the purpose of planning inspection activity; and
- updating the Central Information System with the employer workplace information obtained by the WHSCC.

2. Inspections

Overview

The Branch plans and regularly schedules inspections to determine whether employer workplaces operating in the Province are complying with the Provincial health and safety legislation that the Branch administers. In addition, the Branch may also carry out inspections in response to reports of accidents, complaints and incidents at workplaces.

Each year, senior inspectors prepare work plans for the inspection of workplaces within the industry sectors for which they are responsible. Branch management and senior inspectors then collaborate to prepare an annual Occupational Health and Safety Work Plan (work plan). The work plan identifies industry workplaces for increased inspection activity and provides for the orientation, guidance and training that each inspector will require to carry out the inspections in a consistent and comprehensive manner. Workplaces and industries may be targeted or "blitzed" because they have a poor health and safety record, are a higher health and safety risk, have not been inspected in previous years, or are subject to new health and safety legislation.

Workplace Health and Safety Inspections

Inspection activity is scheduled and carried out by individual inspectors based on the inspector's knowledge of employers and workplaces located within the geographical area of the Province which they have been assigned. Inspection schedules will include workplaces targeted for increased inspection activity under the annual work plan and other workplaces that are not included in the work plan. Each week inspectors must provide management with a weekly inspection schedule detailing which workplaces they plan to inspect.

Figure 1 shows the annual average number of inspections and orders issued by inspection type, the annual average number of employers inspected and the percentage of employers inspected during the 5 year period ending 31 December 2010.

Figure 1

**Service NL, Occupational Health and Safety Branch
Workplace Health and Safety Inspections
Annual Average Number of Inspections and Orders Issued by Inspection Type, the Annual
Average Number of Employers Inspected and the Percentage of Employers Inspected
5 Year Period ending 31 December 2010**

Type of Inspection	Average Number of Inspections Carried Out	Average Number of Orders Issued
Regular	1,969	5,466
Follow-up	1,217	382
Complaint	445	969
Accident	131	268
Radiation	82	22
Incident	59	101
Other	62	56
Hygiene	25	75
Total	3,990	7,339
Average Number of Employers Inspected	1,296	
Average Number of Employers	18,471	
Percentage of Employers Inspected	7%	

Source: Branch Central Information System, Service NL and the WHSCC

As Figure 1 indicates, the Branch carried out an average of 3,990 inspections annually and issued an average of 7,339 orders at the workplaces of an average of 1,296 employers during the 5 year period ending 31 December 2010.

We reviewed inspection data recorded in the Branch Central Information System and employer workplace, injury and claims information provided by the WHSCC for the five year period ending 31 December 2010. We also reviewed the Branch Occupational Health and Safety Policy Manual and held discussions with Branch and WHSCC officials. We identified the following issues:

- A. Inspection Planning and Scheduling Requires Improvement
- B. Inspection Monitoring Requires Improvement

Details are as follows:

2A. Inspection Planning and Scheduling Requires Improvement

Introduction

The goal of the inspection component of the 2010 work plan was to increase OHS awareness and enforcement activity in major industry sectors including construction, health care, the fishery, forestry and agriculture, mining, and retail and manufacturing. To achieve this goal the Branch, among other things, planned to increase workplace inspections within the major industry sectors. Figure 2 shows the number of, scope and rationale for inspections required at workplaces within the industry sectors identified in the 2010 work plan.

Workplace Health and Safety Inspections

Figure 2

**Service NL, Occupational Health and Safety Branch
Workplace Health and Safety Inspections
Number of, Scope and Rationale for Inspections Required at Workplaces within Industry
Sectors
Calendar Year 2010**

Workplaces within Industry Sectors	Inspections		Rationale
	Number Required	Scope	
1. Sawmills	3	Sawmills per inspector area (from list to be created)	Few OHS inspections in previous years.
2. Quarries	50	Total inspections	High non-compliance from previous inspections and accidents.
3. Institutional Health Care Facilities (IHCf)	20	Large IHCf's not inspected in 2008 and 2009	The four Regional Health Authorities account for 85% of workers in Health Care Sector.
4. Personal Care Homes (PCH)	8	Major Personal Care Homes	Increasing number of workers in PCHs, non-compliance from previous inspections.
5. Ambulance Bases	20	Ambulance Bases	Internationally recognized as high risk. Few OHS inspections in previous years.
6. Fish Processors	3	Fish Processors per inspector area (from list to be created)	Few OHS inspections in previous years.
7. Sea Urchin Wharf Sites	5	Wharf Sites	High risk workplace and heavy enforcement in the past.
8. Diving Operations	6	Diving Operations	High risk workplace and employer control measures are critical for diver safety.
9. Manufacturing Facilities	25	Facilities not inspected in 2009	To ensure a greater presence in this area.
10. Equipment Sale and Rental Shops	Increase Inspections	Various shops in inspector area	It was identified that businesses in this area did not understand OHS legislation.
11. Big Box Outlets	Increase Inspections	Various Outlets in inspector area	Increasing number of new business in this area.
12. Residential Construction	Increase Inspections	Blitz residential construction across the Province	Non-compliance from previous inspections and accidents.
13. Residential Construction	20	Identify and inspect the top repeat offenders	High non-compliance from previous inspections.
14. Cabinet Manufacturing Shops	Increase Inspections	Inspect shops (from list to be created)	Senior inspector had identified common issues among employers in this area.
15. Agriculture	10	Large agriculture operations	Few OHS inspections in previous years.

Source: OHS Branch, Service NL

As Figure 2 indicates, the Branch identified 15 areas within the major industry sectors for increased inspection activity. The rationale for the increasing inspection activity in the various areas included one or more of the following:

- The industry workplaces were known to be a health and safety risk.
- Previous inspections of the industry workplaces identified high instances of non-compliance.
- There were few inspections of the industry workplaces in previous years.
- There was an increase in the size or number of the industry workplaces.

In order for the Branch inspection program to be effective, the annual work plan for inspection activity should be the result of a comprehensive and systematic risk-based process whereby:

- all employer workplaces subject to Provincial health and safety legislation are identified;
- each employer workplace is assessed for health and safety risk; and
- inspection activity is scheduled based on the assessed risk.

Our review indicated the following:

Employer workplaces not identified

The 2010 work plan was not comprehensive in that it did not include all of the industries in the Province and it did not identify the number of workplaces in each industry that should have been considered for inspection. Our review indicated that:

- The work plan included only those industries with workplaces the Branch considered higher risk and/or had fewer inspections in previous years. The work plan failed to provide an inspection plan for a considerable number of other workplaces throughout the Province and any inspection of those workplaces was at the discretion of the inspector.

Workplace Health and Safety Inspections

- The Branch did not identify all of the workplaces that should have been considered for inspection in each of the industries that were listed in the work plan and we found that inspectors were responsible for identifying those workplaces. Because the Branch CIS was not complete, inspectors had to utilize their knowledge of the geographical areas they were assigned and had to contact various Government departments and industry associations in order to determine the workplaces that should have been considered for inspection.

The Branch could more effectively plan and schedule inspection activity if it were to identify all of the workplaces throughout the Province that should be considered for inspection.

No systematic assessment of employer health and safety risk

The Branch has no system in place to identify, assess and document the health and safety risk (risk assessment) at employer workplaces. Workplace risk assessments are necessary in order to determine inspection frequency and should include:

- whether the employer has an occupational health and safety policy and program in place to reduce workplace health and safety risk;
- the risk associated with the industry in which the employer operates;
- the extent to which the employer has had lost work time claims paid by the WHSCC due to injuries sustained by workers at the workplace; and
- the inspection history associated with the employer.

The use of a risk based approach to inspection planning would be expected in order to meet the Branch's mandate of maintaining and improving health and safety standards in the Province's workplaces. For example, it would be expected that an employer that has workplaces in a high risk industry, has a poor health and safety program, has a history of numerous injury claims paid by the WHSCC, and has a poor inspection history would be inspected more frequently. An employer that has workplaces in a low risk industry, that has a good health and safety program, has a history of few injury claims paid by the WHSCC, and has a good inspection history would be inspected less frequently.

Our review indicated the following:

- The *Occupational Health and Safety Act* requires that employers establish and maintain written occupational health and safety policies and programs at the workplace. OHS policies and programs increase workplace health and safety because they demonstrate employer commitment and specify employer and employee accountability and responsibility for workplace health and safety.

The inspector determines whether employers have effective OHS policies and programs in place when they carry out workplace inspections. However, as Figure 1 indicated, during the five year period ending 31 December 2010, the Branch only inspected on average 7% per year of the 18,471 employers in the Province and therefore did not know whether the majority of the 18,471 employers in the Province had the required OHS policies and programs in place.

Our review indicated that the Branch had no system in place to capture information with respect to whether employers had the required OHS policies and programs in place to reduce workplace health and safety risk. We found that the WHSCC captures such information from employers annually; however, the Branch does not use the information to plan and schedule inspection activity.

- The Branch has access to information regarding the risk that the WHSCC will have to pay injury claims to the workers of employers operating in the various industry groups throughout the Province. The Branch could not demonstrate that it effectively used this information to plan and schedule inspection activity. We found that while the 2010 work plan included some of the high risk industries identified by the WHSCC, it did not include all of the high risk industries and the work plan did not identify the number of workplaces each employer operated in those industries.
- The Branch has access to information regarding the number and nature of workplace injuries in relation to injury claims made to the WHSCC by workers. The information includes the extent of work time lost by workers as a result of the injuries. Such information is useful in identifying employers who may have poor workplace health and safety practices.

Workplace Health and Safety Inspections

Our review indicated that the Branch did not systematically use the workplace injury claims information that was available from the WHSCC. The Branch indicated that while it did review workplace injury claims information provided by the WHSCC in preparing the inspection work plan, the historical nature of the information was not always a good health and safety indicator.

The Branch could more effectively plan and schedule inspection activity if it systematically assessed the risk associated with employer workplaces throughout the Province.

High risk employers not always inspected

The annual assessment paid to the WHSCC by employers is based on the size of the employers' payroll, the industry group in which the employer is conducting business, and the claims cost history for that industry. Higher assessments are associated with the increased risk that claims will be paid out as a result of injuries sustained in an industry.

The WHSCC provided assessment rates for registered employers in the Province as at 31 December 2010. We identified 186 employers with the highest assessment rates and found they were operating in industries such as:

- concrete pouring and finishing;
- nursing homes;
- roofing;
- sawmills; and
- structural steel erection.

We found that during 2010, the Branch failed to inspect 115 or 61.8% of the 186 employers with the highest assessment rates. We asked the Branch to provide us with an explanation as to why these employers were not inspected in 2010. The Branch indicated that many of the 115 employers were inspected in previous years and that it is not possible to carry out inspections of all workplaces each year. However, we found that 92 or 80% of the 115 employers not inspected in 2010 were also not inspected in 2009 or in 2008.

Workplace Health and Safety Inspections

Employers with history of injury claims not always inspected

The WHSCC collects and maintains information with respect to injury claims that are made by workers each year. Claims made as a result of injuries sustained at the workplace include costs associated with lost work time and medical treatment. Workplace injuries are classified as either serious or non-serious. A serious injury includes injuries such as fatalities, burns, fractures, amputations and electrocutions where the claimant has incurred at least four weeks of lost work time or greater than \$2,000 in medical costs. Injuries that do not meet the serious injury criteria are classified as non-serious.

The WHSCC provided information on the number of claims made by workers during the five year period ending 31 December 2010. We identified 334 employers that had ten or more lost time claims in the five year period. We found that during 2010, the Branch failed to inspect 160 or 47.9% of these 334 employers during 2010. Furthermore, 73 or 45.6% of the 160 employers not inspected in 2010 had one or more claims related to workers that were seriously injured at the workplace.

We asked the Branch to provide us with an explanation as to why these employers were not inspected. The Branch indicated that many of the 160 employers were inspected in previous years and that it is not possible to carry out inspections of all workplaces each year. However, we found that 96 or 60% of the 160 employers not inspected in 2010 were also not inspected in 2009 or in 2008.

Inspection targets are weak

We could not determine whether the number of inspections the Branch required (inspection targets) for the industry workplaces identified in the 2010 work plan were sufficient and appropriate. For example, the Branch was unable to provide us with the number and location of all quarries in the Province and indicated that the 50 inspections required in Figure 2 was a general target. Therefore, there was no regard to the number of quarries that should be inspected given the risk associated with the industry and the quarry workplaces. Furthermore, no inspection targets were established for industry workplaces such as equipment sales and rental shops, big box outlets, residential construction and cabinet manufacturing shops.

The Branch indicated that the inspection targets in the work plan were established based upon the number of inspections that could be achieved given the number of inspectors that were available to the Branch. This is not an effective approach to planning the level of inspection activity required to reduce the health and safety risk identified.

Inspection schedules inadequate

The 2010 work plan was not the result of a comprehensive and systematic risk-based process and the Branch relied on the inspector to identify and schedule the appropriate workplaces for inspection activity.

We reviewed the weekly inspection schedules submitted by inspectors and could not determine whether they were sufficient and appropriate. When inspectors schedule their own inspection activity, there is a risk that the inspection schedule may be biased and not representative of the number and nature of workplaces operating in the inspector's geographic area. Furthermore, should an inspector leave the Branch, their knowledge of the number and nature of workplaces in their geographic area would be lost.

2B. Inspection Monitoring Requires Improvement

Introduction

Branch Managers are responsible for monitoring inspections scheduled by inspectors to ensure that the targets established in the work plan are achieved and that inspections scheduled for workplaces outside of the work plan are appropriate and carried out. Managers review completed inspection reports once a month and are provided with a weekly and a monthly CIS inspection activity report for each inspector.

Branch management meets once a week to discuss among other things, the general level of inspection activity and any related compliance and prosecution issues. Branch management meets twice a year with senior inspectors to discuss whether the inspection targets established in the work plan are being achieved.

Our review indicated the following:

Inspection activity not effectively monitored

The Branch provided us with the number and location of the inspections that had been carried out in accordance with the work plan. Figure 3 shows the number of inspections required and carried out at employer workplaces within the industry sectors identified in the 2010 work plan.

Workplace Health and Safety Inspections

Figure 3

**Service NL, Occupational Health and Safety Branch
Workplace Health and Safety Inspections
Number of Inspections Required and Carried Out at Employer Workplaces within
Industry Sectors
Calendar Year 2010**

Workplaces within Industry Sectors	Inspections			
	Number Required	Number Carried Out	Number of Employers	Number of Workplaces
Sawmills	15	10	7	7
Quarries	50	92	42	52
Institutional Health Care Facilities	20	38	2	19
Personal Care Homes	8	15	8	8
Ambulance Bases	20	41	17	17
Fish Processors	30	46	21	27
Sea Urchin Wharf Sites	5	0	0	0
Diving Operations	6	9	5	8
Manufacturing Facilities	25	47	26	28
Residential Construction	20	391	23	n/a
Agriculture	10	11	11	11
Sub Total	209	700	162	177
Equipment Sale and Rental Shops	Increase inspections	28	13	16
Big Box Outlets	Increase inspections	125	17	39
Residential Construction Blitz	Increase inspections	154	72	122
Cabinet Manufacturing Shops	Increase inspections	13	6	6
Sub Total	-	320	108	183
Total	209	1,020	270	360

Source: OHS Branch, Service NL

As Figure 3 indicates, the Branch carried out 1,020 inspections at the workplaces of 270 employers in connection with the industries identified in the 2010 work plan. Our review indicated that Branch Managers are not meeting their responsibilities for monitoring inspections scheduled and completed by inspectors to ensure that the targets established in the work plan are achieved. For example:

- It took the Branch approximately one week to provide us with the support we required to determine whether the 1,020 inspections carried out under the work plan were accurate. Furthermore, as Figure 3 shows, the Branch could not readily provide us with the number of workplaces that were inspected in the residential construction industry. Branch Managers cannot effectively monitor inspections when this information is not readily available.

Workplace Health and Safety Inspections

- The Branch could not demonstrate whether the work plan target to increase inspections of Equipment Sale and Rental Shops, Big Box Outlets, Residential Construction and Cabinet Manufacturing Shops was achieved. While the Branch provided information indicating that the number of inspections in these areas had increased in 2010 when compared with 2009, we were unable to determine whether the increase was sufficient as no target number of inspections had been set by the Branch.
- While the Branch achieved a number of the inspection targets established in the work plan, the Branch could not demonstrate whether the inspections carried out were sufficient and appropriate because the targets were not established in a comprehensive and systematic manner.

Furthermore, the Branch did not meet the inspection targets for sawmills, institutional health care facilities, ambulance bases, fish processors and sea urchin wharf sites. As Figure 3 indicates the Branch only inspected:

- 7 or 46.7% of the 15 sawmills that required inspection;
- 19 or 95% of the 20 institutional health care facilities that required inspection;
- 17 or 85% of the 20 ambulance bases that required inspection;
- 27 or 90% of the 30 fish processors that required inspection; and
- none of the 5 sea urchin wharf sites were inspected as required.

Most inspections carried out are not planned

The Branch places too much reliance on the inspector in identifying and determining which workplaces will be inspected. Most of the inspections carried out in 2010 were not part of the work plan. Figure 4 shows the nature, number and percentage of inspections that were carried out in the calendar year 2010.

Workplace Health and Safety Inspections

Figure 4

**Service NL, Occupational Health and Safety Branch
Workplace Health and Safety Inspections
Nature, Number and Percentage of Inspections Carried Out
Calendar Year 2010**

Nature of Inspections Carried Out	Number of Inspections Carried Out	Percentage of Total Inspections Carried Out
Scheduled by inspector (not part of work plan)	2,614	59.8%
In accordance with the work plan	1,020	23.3%
In response to Accident, Complaint, Incident	737	16.9%
Total Number of Inspections Carried Out	4,371	100%

Source: OHS Branch, Service NL

As Figure 4 indicates, only 1,020 or 23.3% of the 4,371 inspections carried out in 2010 were planned while 737 or 16.9% of the 4,371 inspections carried out were in response to reports of accidents, complaints and incidents at workplaces.

The remaining 2,614 or 59.8% of the 4,371 inspections carried out in 2010 were not part of any work plan as they were scheduled and carried out by individual inspectors based on their knowledge of the workplaces in the geographical area for which they are responsible. The Branch could not effectively monitor this inspection activity because it was not planned and scheduled in a comprehensive and systematic manner and no targets were established.

Recommendations

The Department should:

- identify and consider all industries and workplaces within the Province when planning inspections;
- systematically assess the health and safety risk associated with the workplaces identified when planning inspections;
- schedule inspection activity based on the assessed health and safety risk; and
- consider whether there are sufficient inspectors to carry out the inspections that are scheduled.

3. Enforcement

Overview

An order may be issued by an inspector when a health and safety hazard or potential hazard has been identified at the employer workplace. A compliance order legally binds employers to eliminate or control identified hazards or potential hazards within the time frame that has been provided by the inspector. A stop work order must be issued by an inspector when a hazard identified at the workplace poses an immediate risk to the health and safety of workers. Non-compliance with a stop work order is a serious offense and may result in prosecution.

The type of orders issued by inspectors is generally consistent from year to year. Figure 5 shows the type and number of orders issued and the percentage of total orders issued by type during 2010.

Figure 5

**Service NL, Occupational Health and Safety Branch
Workplace Health and Safety Inspections
Type and Number of Orders Issued and Percentage of Total Orders Issued by Type
Calendar Year 2010**

Type of Order	Number of Orders Issued	Percentage of Total Orders Issued by Type
Health requirements - hazardous substances, emergency washing facilities, ventilation, etc.	927	10.8%
Fall protection, scaffolds, stages and work platforms, etc.	879	10.3%
Equipment - safe operation, maintenance, etc.	877	10.2%
General - general duties, guardrails, lighting, etc.	864	10.1%
Stop Work Orders - excavation, scaffolding, fall protection, etc.	777	9.1%
Personal Protective Equipment - eye protection, headgear, high visibility apparel, etc.	731	8.5%
First Aid, Asbestos Abatement, Workplace Hazardous Materials	686	8.0%
Electrical - repairs, space around equipment, service rooms, etc.	631	7.4%
Occupational Health and Safety - workplace policies, programs, committees, representatives, etc.	415	4.8%
Other - fire protection, safe movement in work area, gas cylinders, etc.	1,778	20.8%
Total	8,565	100%

Source: OHS Branch Central Information System, Service NL

Figure 5 shows that inspectors issued 8,565 orders in connection with various types of hazards or potential hazards identified during workplace inspections carried out in 2010.

We reviewed the inspection and order data recorded in the Branch CIS for the five year period ending 31 December 2010. We reviewed the Branch Occupational Health and Safety Policy Manual and held discussions with Branch officials. We identified the following issues:

- A. Compliance not Always Within Required Timeframe
- B. Orders Indicated as not Complied With
- C. Orders not Always Enforced

Details are as follows:

3A. Compliance not Always Within Required Timeframe

Introduction

When issuing a compliance order the inspector must provide the employer with a date by which the identified hazard or potential hazard must be corrected. The period of time allowed between the inspection date and the compliance date is left to the discretion of the inspector, who must consider the risk associated with the hazard and whether the measures required to correct the hazard can be accomplished by the employer within the required timeframe. For example, an inspector may require an employer to install a machine guard within a few hours, but allow several weeks for an employer to develop an occupational health and safety policy and program. The timeframe provided by an inspector may be extended in circumstances where it is reasonable and necessary to do so.

Employers are required to notify the inspector when orders have been complied with and the inspector is required to carry out a follow-up inspection to ensure the employer has complied with the order within the timeframe provided. For orders where documentation is required, such as an order to develop an occupational health and safety policy and program, the inspector may obtain and review the documentation instead of carrying out a follow-up inspection at the workplace.

Workplace Health and Safety Inspections

When issuing a stop work order, the inspector may only remove the order when they determine that the identified hazard has been eliminated by the employer. For example, an inspector would issue a stop work order where workers are observed to be working at an elevation of 3.1 meters or greater and do not have adequate fall protection. The inspector may remove the stop work order only when they determine that the workers have adequate fall protection in place.

Figure 6 shows the number of orders issued by inspectors during the calendar years 2006 through 2010, the order status (complied, not complied, other) and the percentage of orders that were complied with as at 9 February 2011.

Figure 6

**Service NL, Occupational Health and Safety Branch
Workplace Health and Safety Inspections
Number of Orders issued during the Calendar Years 2006 through 2010, Order Status and
Percentage of Orders Complied With
As at 9 February 2011**

Year	Orders Issued			Order Status			Percentage of Orders Complied With
	Compliance	Stop Work	Total	Complied	Not Complied	Other *	
2006	6,101	385	6,486	6,273	85	128	96.7%
2007	5,897	529	6,426	6,170	141	115	96.0%
2008	7,243	763	8,006	7,486	315	205	93.5%
2009	6,582	629	7,211	6,448	537	226	89.4%
2010	7,788	777	8,565	6,859	1,644	62	80.1%
Total	33,611	3,083	36,694	33,236	2,722	736	90.6%
Average	6,722	617	7,339	6,647	545	147	90.6%

Source: OHS Branch Central Information System, Service NL

*Order rescinded or no longer relevant

As Figure 6 indicates, inspectors issued 36,694 orders during the five year period ending 31 December 2010 (33,611 compliance orders and 3,083 stop work orders). As at 9 February 2011, the Branch Central Information System indicated that:

- 33,236 or 90.6% of the 36,694 orders issued had been complied with;
- 2,722 or 7.4% of the 36,694 orders issued had not been complied with; and

Workplace Health and Safety Inspections

- 736 or 2.0% of the 36,694 orders issued were rescinded or no longer relevant.

Our review indicated the following:

Inspectors did not always ensure there was compliance with orders until after the date compliance was required

As at 9 February 2011, employers had complied with 33,236 or 90.6% of the 36,694 orders issued by inspectors during the five year period ending 31 December 2010. We found that for 16,409 or 49.4% of the 33,236 orders, the inspector did not ensure there was compliance with the order until after the date compliance was required. Furthermore:

- For 3,744 or 22.8% of the 16,409 orders, the inspector did not ensure there was compliance by the employer until more than 3 months after the date compliance was required.

For example, on 25 September 2006 an inspector ordered an electric power corporation to properly train and certify mine rescue teams in basic firefighting, standard first aid, and mines rescue as the inspector found the employer did not have sufficient personnel or equipment in place to adequately carry out a mines rescue operation. The inspector did not ensure that the employer complied with the order until 4 December 2008, more than 19 months after the required compliance date of 30 April 2007.

- For 1,088 or 6.6% of the 16,409 orders, the inspector had extended the timeframe for compliance and still did not ensure there was compliance with the order until after the extended date of compliance. In 60 instances, the timeframe for compliance was extended by a year or more.

For example, on 15 March 2006, an inspector found that the workers at a post-secondary dining facility did not understand and had not implemented the fire escape plan that was in place. Fire drills were not being carried out and exit doors were blocked by snow. The inspector ordered the employer to train workers in fire evacuation procedures and in handling fire prevention materials by 30 April 2006. On 26 October 2009, following two inspections over a period of three and one half years, the employer still had not complied with the orders and the inspector extended the date for compliance to 6 November 2009. It was not until 17 December 2009 that the inspector ultimately determined the employer had complied with both orders.

The health and safety risk to workers is increased when inspectors do not ensure that employers comply with the orders that have been issued within the timeframe that is required.

3B. Orders Indicated as not Complied With

Introduction

Inspectors input inspection results into standardized pre-numbered inspection reports and order forms stored on laptop computers which have been assigned to them by the Branch. Inspection results recorded by inspectors in the inspection report and order form are uploaded each day to the CIS through the Branch computer network. Updated inspection information from the CIS is provided to each inspector during this process.

Inspection reports and orders remain “open” in the CIS until the inspector carries out the required follow-up inspection activity to determine whether the order(s) have been complied with. When the inspector determines that an order has been complied with, they are required to change the status of the order from “no” to “yes”. The inspection report must be “closed” when all orders issued in connection with the report are complied with and have been “closed”.

We asked the Branch to review and explain why there were 2,722 open orders in the CIS that were not complied with as of 9 February 2011. Our review of information provided by the Branch indicated the following:

Status of open orders not readily determinable

The Branch indicated it could not readily provide an explanation as to why there were so many open orders without first consulting with the inspectors that issued them. It took the Branch approximately 4 months to complete this process and provide the information we required.

46.9% of open orders were actually complied with

The Branch indicated that 1,277 or 46.9% of the 2,722 open orders were actually complied with. We found that :

- 786 or 61.6% of the 1,277 orders were complied with prior to our inquiry; however, the inspector failed to close the order in the CIS. As a result, the CIS was not accurate.
 - Inspectors carried out inspection activity as a result of our inquiry and determined that 491 or 38.5% of the 1,277 orders were complied with.
-

Workplace Health and Safety Inspections

29.5% of open orders not followed up

The Branch indicated that for 803 or 29.5% of the 2,722 open orders, the inspector did not perform a follow-up inspection to determine whether the employer had complied with the order issued. We found that 166 or 20.7% of the 803 orders had been outstanding for more than two years beyond the required compliance date established by the inspector.

For example, on 26 February 2008 an inspector ordered an all grade school to repair or replace fire pull stations and emergency lighting by 5 March 2008 as numerous units throughout the school were not working properly. The Branch provided no evidence to indicate that an inspector carried out a follow-up inspection to determine whether this order had been complied with.

17.9% of open orders still not complied with

The Branch indicated that for 488 or 17.9% of the 2,722 open orders the inspector had performed one or more follow-up inspection(s) and determined that the employer had still not complied with the order issued. We found that 121 or 24.8% of the 488 orders had been outstanding for more than two years beyond the required compliance date established by the inspector.

For example, the Branch carried out an inspection on 15 April 2008 in response to a complaint received regarding the poor condition of floors at a nursing home. During the inspection, the inspector obtained a consultant's report from the employer regarding the condition of the floors. The report, dated 3 July 2003, indicated that the flooring was deficient as follows:

- *“Cracks and irregularities in the flooring represent a tripping hazard for elderly residents and for busy staff members.”*
- *“The cracks and irregularities impede efficient and proper cleaning, increasing the risk of infections.”*

Approximately 10 months later, on 26 February 2009, after receiving an update to the 2003 consultant's report, the inspector ordered the nursing home to repair the floors by 30 April 2009. At the time of our review, the inspector had carried out 14 follow-up inspections at the nursing home and found that the floor repairs did not commence until October 2010 and that the order was still not complied with as a number of floors had not been repaired.

5.7% of open orders were rescinded or are no longer relevant

The Branch indicated that the remaining 154 or 5.7% of the 2,722 open orders were rescinded or were no longer relevant because among other things, the employer had either closed or moved, the equipment had been taken out of service, or another order had been subsequently issued.

In 31 or 20.1% of the 154 orders that were rescinded or were no longer relevant, we found that the inspector re-issued the order during a follow-up inspection. Inspectors should not be issuing orders to replace orders that were previously issued and not complied with as the time period that the order had been outstanding was incorrectly shortened in the CIS.

3C. Orders not Always Enforced

Introduction

Inspectors enforce health and safety legislation by issuing orders to employers when health and safety hazards or potential hazards are identified. An employer that contravenes the *Occupational Health and Safety Act* and *Regulations* or fails to comply with an order made under the *Act* and *Regulations*, is guilty of an offence and may be fined or imprisoned if prosecuted and convicted.

The Branch prosecuted 21 employers during the five year period ending 31 December 2010 for contravening legislation and/or failing to comply with orders issued in regard to, for example, fall protection, blasting operations, and ventilation issues. In 14 or 66.7% of the 21 cases, the employer was found guilty and fines were imposed by the Court. In the remaining 7 cases, prosecution is ongoing, charges were withdrawn or the employer was found not guilty.

A significant amount of investigation, documentation and report preparation is required to support the prosecution of an employer and the Branch generally proceeds in this direction only when there are serious violations of the *Occupational Health and Safety Act* and *Regulations* and it is likely that employer prosecution will result in a conviction and fine. Serious violations would include, among other things:

- violating a stop work order;
- repeatedly failing to comply with compliance orders; and
- instances where the violation caused an injury or accident.

Workplace Health and Safety Inspections

The Branch has documented standard operating procedures to guide and support inspectors through the investigation, documentation and report writing process in such circumstances.

Our review indicated the following:

No guidance or tools to support inspector enforcement

The Branch has no documented procedures or tools to guide and support inspectors in enforcing orders when there are less serious violations of the legislation (no immediate health and safety risk), such as an employer's failure to establish an OHS program and/or policy at the workplace. We noted numerous instances where inspectors carried out multiple follow-up inspections in connection with these types of orders and were unable to enforce employer compliance.

As at 9 February 2011, 114 orders issued to 72 employers for legislative violations in connection with OHS policy and program requirements had not been complied with, even though the inspector had carried out follow-up inspection(s) to determine compliance. Furthermore, in 41 or 36.0% of the 114 orders, the inspector had extended the compliance timeframe by up to 1,249 days. The majority of the 114 orders had been outstanding for more than a year beyond the required compliance date established by the inspector.

The Branch policy states that inspectors may grant extensions to compliance dates for orders issued where it is reasonable and necessary to do so. The decision as to whether an extension is reasonable is at the discretion of the inspector. However, our review indicates that further guidance should be provided to the inspectors as some of the extensions granted were excessive.

Recommendations

The Department should:

- close orders when employers are found to have complied with the orders issued;
- carry out follow-up inspections by the compliance date to ensure employers comply with the orders that are issued;
- carry out follow-up inspections to ensure employers have complied with the 803 orders that were still open at the time of our review; and
- develop procedures and tools to guide and support inspectors in the effective enforcement of orders.

Department's Response

1. WORKPLACE IDENTIFICATION AND INFORMATION

Issue: 1A. WHSCC Workplace Information not Useful to the Branch

Response: *The Branch recognizes the limitations of the information maintained by the WHSCC and takes it into consideration when utilizing it for enforcement activity. This is not a criticism of WHSCC data; however it is not always directly relevant for OHS enforcement purposes. The Branch will however continue to work with WHSCC to identify opportunities to improve the collection and exchange of information to further enhance the OHS enforcement program.*

Issue: 1B. Branch Inspection Database not Complete

Response: *Much of the work activity in this province is sporadic, seasonal and transient in nature, especially in the broad category of construction and related activity. It is not possible to maintain a database of every workplace location that is 100 per cent accurate all of the time. For this reason, the Branch tracks enforcement activity based on the employer and maintains a database centered on an employer identifier, such as the WHSCC employer number. When an inspection is completed, the actual physical location of the inspection site forms part of the officer's inspection report.*

The Branch will continue to work with WHSCC and obtain information from WHSCC on an annual basis to ensure the database is kept as accurate as possible. While this is done on an annual basis, OHS officers have the ability to add new employers to the Branch's Central Inspection System (CIS) as necessary, should they identify a new employer or an employer that does not have a WHSCC number, in the course of conducting an inspection.

2. INSPECTIONS

Issue: 2A. Inspection Planning and Scheduling Requires Improvement

Response: *Over the past several years the Branch has implemented work planning processes to better target and prioritize inspection activity. As noted by the audit report, work plans are developed on an annual basis, with a focus on all industrial sectors in the province.*

The process of prioritization and selection of work plan targets and activities is developed based on multiple variables. Such variables include: historical records of injuries and incidents, outcomes of previous years enforcement activity, activities that pose a higher potential of injury and/or loss, officers' enforcement experiences, employer and sector injury rates, injury trend analysis, recognized hazards in a given sector, stakeholder expectations and new regulatory and/or standards requirements.

To use just one variable such as injury claims or assessment rates would be ineffective and too narrow in scope. By way of example, the auditor identified that the Branch failed to inspect 115 of the employers with the highest assessment rates. However, approximately 75% of the employers not inspected on this list had a payroll of less than \$50,000, indicating that they only had one or two employees in the previous year. While not to diminish the importance of ensuring OHS is enforced in all workplaces, the Branch must ensure it maximizes enforcement effort within its resources to cover the largest population of workers possible, relative to risk. This does not mean that an employer with only one or two employees would not be inspected; however, assessment rate would be only one factor that would be taken into consideration.

While the targets and activities outlined in these work plans account for a large percentage of the Branch's planned inspection activity, the Branch must also allow for a percentage of enforcement activity to respond to accident investigations, complaints and follow-up inspections. The Branch also allocates a percentage of inspection time for employers who have not been previously inspected. Ultimately, in order to adequately assess risk an officer would need to inspect the workplace and determine the level of risk based on observations, experience and training.

In the process of developing its work plans, the Branch attempts to determine the appropriate balance among of all these factors in any given year.

Notwithstanding these challenges, the inspection rate per 100 employees for NL ranks 4th highest in comparison with other jurisdictions in Canada having conducted a record 4,371 inspections resulting in 8,565 compliance orders in 2010.

In response to the auditor's recommendations, the Branch will develop a written policy to reflect the prioritization and selection process and better document how its inspection activity is scheduled.

Issue: 2B. Inspection Monitoring Requires Improvement

Response: *The Branch recognizes the importance of inspection monitoring and currently has an inspection monitoring system in place. Inspection activity reports are generated and reviewed by management on a weekly basis, and compliance reports are generated and reviewed by management each month. In addition, managers review all detailed inspection reports on a monthly basis. The Branch is committed to continuous improvement of these monitoring systems.*

As identified in the audit report, the Branch has been very successful in the area of performance management. Targeted inspection activity for 2010 surpassed its targets by a factor of five. Success is further demonstrated by the fact that over the five year period of the audit, the Branch has achieved 90.6% compliance on 36,694 orders.

The report has identified that some inspection targets were not met for the 2010 work plan. These are industry sectors that are not in continuous operation; operating intermittently and for short durations. These sectors pose challenges to the scheduling of inspections. For example, small sawmills which are located throughout the province, and in remote locations, often operate for only a few days at a time. Inspections of these workplaces are only effective if the facilities are in operation and employees are on-site, therefore the Branch's ability to inspect is difficult given the nature of the industry.

Sea urchin operations pose different challenges and are particularly difficult to locate for inspection purposes. A decrease in the market for the product resulted in fewer operations and those in operation work from small boats traveling large areas to harvest product. Even after obtaining details about harvesting locations, once on site, the officers often find that the activity has moved to another location and thus planned inspections cannot be carried out.

3. ENFORCEMENT

Issue: 3A. Compliance not Always Within Required Timeframes

Response: *Officers use various enforcement techniques to deal with risks and ensure compliance with the law ranging from the provision of advice to the issuance of enforcement orders. Making decisions about appropriate enforcement is a fundamental role of an officer. Enforcement decisions must be impartial, justifiable and procedurally correct, making enforcement decisions very complex. Each situation is unique and officers must have a thorough understanding of the hazard control measures associated with the*

employer's activities. It is vital that officers have the ability to exercise discretion and use professional judgment so that the enforcement action taken is appropriate to each situation encountered.

Many factors can affect the employer's ability to fully comply with orders within the timeframe specified when the order is issued. For example:

- *Physical location of the workplace in relation to the availability of external resources, such as, consultants, trainers, and engineering expertise*
- *Complexity of the required control measures*
- *Availability of contractors to affect the necessary repairs or modifications*
- *Ability to implement temporary control measures or alter the work*

The Branch considers noncompliance of orders a serious offense. However, it recognizes that in some instances it may be the result of events outside the control of the employer. For example: scheduling of contractors to do repairs, availability of replacement parts, the scheduling of training, engineering design work and hiring of consultants, etc. all involve third parties and resources that may require additional time to complete. The Branch has general guidelines for compliance which factor severity of risk. Officers also make a general determination at the time the order is issued, on compliance timeframes. In some cases the appropriate amount of time to comply may be difficult to predict. Finding the balance between not enough and too much time is an everyday challenge. In cases where there are reasonable requests to have a compliance date extended, prior to granting the extension, officers must confirm that the employer has implemented interim or temporary measures to ensure that workers are not endangered. For instance, a temporarily measure requiring workers to wear respiratory protection while a ventilation system is being repaired or replaced could be acceptable.

Issue: 3B. Orders indicated as not Complied with

Response: *The Branch recognizes the importance of ensuring its orders are complied with and that the inspection database is updated accordingly. Maintaining up-to-date inspection and compliance data is an important component of the Branch's operations. The Branch is committed to working towards improvement of the monitoring systems to this end.*

As identified in the audit report, the Branch has been very successful in its performance management approach. In fact, over the five year period of the audit, the Branch has achieved 90.6% compliance on 36,694 orders.

Issue: 3C. Orders not Always Enforced

Response: As outlined in the audit report, the Branch has many policies and procedures in place including standard operating procedures; an enforcement management guide; an officer competency model; an education and training program and a general policy manual. These tools guide the officers in the performance of their duties to ensure professional and consistent application of the legislation. New policies and procedures are developed and implemented as the need is identified.

PART 2.12

DEPARTMENT OF TOURISM, CULTURE AND RECREATION

MARBLE MOUNTAIN DEVELOPMENT CORPORATION

Executive Summary

The Marble Mountain Development Corporation (the Corporation) was established in April 1988 to develop the Marble Mountain ski facility into a year-round resort. The Corporation is a 100% Provincially-owned corporation incorporated as a “Non-Profit Development Corporation” under the *Corporations Act* of Newfoundland and Labrador.

The Corporation’s office is located in Steady Brook. Its affairs are managed by a Board of Directors appointed by the Lieutenant-Governor in Council. The Corporation employs 6 management staff (4 full-time and 2 part-time) and approximately 140 staff on a full or part-time basis.

Our review identified issues with: the Corporation’s financial position; compensation; tendering of goods and services; travel, cell phones and other issues; and control over capital assets.

Financial Position

For each of the last five years, the Corporation has had an operating deficit before applying the Provincial operating grant. These deficits ranged from \$126,587 in 2008 to \$563,059 in 2011. To help finance its operations, the Corporation received an annual operating grant of approximately \$400,000 from the Province and had an approved line of credit of \$2.1 million guaranteed by the Province. At 30 April 2011, the Corporation had drawn down \$1.9 million of the maximum \$2.1 million line of credit available.

The Corporation’s bank indebtedness has resulted in interest expenses and bank charges totalling \$164,115 for the three years ended 30 April 2011. In addition to the interest charges related to the Corporation’s bank indebtedness, the Corporation paid substantial finance charges related to other items as well. For example, the obligations under capital leases have been in excess of \$100,000 for the past number of years resulting in interest costs of \$75,484 for the three years ended 30 April 2011. In 2010-11, the Corporation financed the purchase of two snowmobiles costing \$22,469, with interest costs of \$10,236 over a three-year period. In addition, for the year ended 30 April 2011, the Corporation paid \$4,200 to finance payment of its \$100,000 insurance premiums and was re-assessed \$27,000 for failing to remit all of its Health and Post Secondary Tax to the Province for the period 2005 to 2009. As of April 2011, this amount totalled \$47,000 due to accumulated interest and penalties of \$20,000.

The Corporation's ski lift operations incurred a deficit in each the last three years, with a total deficit over the three years of \$1,359,224. A major expense related to the ski lift and other outside operations has been a contract for the management of these services. Our review of this contract identified the following:

- The management contract was first awarded in September 2000, for a five-year period, based on a request for expressions of interest. Since the contract expired in 2005, it was replaced with a new three-year contract and then subsequently renewed for three two-year periods which will expire in September 2014. From September 2005 to October 2011, \$658,600 has been paid in management contract fees without any further request for proposals or public tender. As a result, the Corporation could not demonstrate whether this continues to be the most economical means of providing this service.
- No weekly invoices were submitted as required by the contract. The contract provides for weekly payments to the contractor based on a minimum of 16 weeks. In May 2005, the Board Chairperson stipulated that normal winter operations required operation management services for 32 weeks. However, for each of the last six years, the contractor was paid in excess of normal winter operations; in 2010-11 for 40 weeks and in 2009-10 for 39 weeks.
- In addition to the base contract fee, from May 2010 to October 2011 the Corporation also paid other expenses of the contractor including vehicle repairs (\$2,808), cell phone charges (\$2,481), automobile insurance (\$856), vehicle rental (\$7,232), ATV rental (\$3,164), snow gun rental (\$5,650), flood lights (12) purchased (\$3,390) and excavator rental (\$3,390). These expenses were not covered by the contract and there was no assessment to determine whether the Corporation was getting the best value for the funds being spent.
- From May 2010 to October 2011, the Corporation contravened the *Public Tender Act* when it paid two companies related to the contractor a total of \$36,829 for excavation and other maintenance services without any request for quotes or a call for a public tender as required under the *Public Tender Act*. As well, for the fiscal years ended 30 April 2006 and 2007, the Corporation rented a tube park lift from another company owned by the same contractor at a cost of \$40,000 plus HST, again without a call for a public tender.

In each of these cases, there were no tenders, quotes obtained or other means to demonstrate that a fair and reasonable price was obtained for these services.

- The contract states that the main employee of the contractor named in the contract “... shall perform the services outlined in the Management Contract as amended herein and (Name) does hereby covenant and agree to do all things necessary to cause the Contractor to comply with the provisions.” However, for the period 26 April 2010 to 1 May 2010, the Corporation paid the contractor the weekly rate of \$3,164 including HST, although documentation indicated that the main employee and owner of the contracted company was on vacation and did not perform the services as required under the contract.

The Corporation purchases diesel fuel for its three snow groomers in bulk; however, it did not monitor usage of this fuel. As a result, the Corporation could not determine if the fuel was being used by vehicles other than the snow groomers. Diesel fuel cost a total of \$51,000 for the fiscal year ended 30 April 2011. In addition, costs to operate Corporation vehicles such as snowmobiles and all-terrain vehicles were not recorded and monitored separately for each vehicle.

In 1999, the Corporation constructed 31 condominiums at a cost of \$3.1 million. Initially these condominiums were marketed for sale; however, no units were sold and the units were rented, beginning in July 2000. Although overall, the condominiums were profitable in each of the last five years, the occupancy rate for the condominiums ranged from just 17% in 2007 to 25% in 2009.

Compensation Practices

For the year ended 30 April 2011, the Corporation incurred a total cost of approximately \$1,090,000 for salary and employee benefits related to its 6 management staff (4 full-time and 2 seasonal) and approximately 140 other full or part-time staff. Our review of the Corporation’s Compensation Policies identified the following:

- The Corporation paid severance amounts to resigning employees during the period of our review; however, we found that the basis for severance was inconsistent and in some cases the amount paid was either calculated incorrectly or there was no requirement for the Corporation to make the payment. In addition, although in November 2007, the Board directed that a severance policy be developed, no policy was in place at the time of our review. It was noted that the amounts paid were inconsistent with Government’s severance policy.

- Leave was not adequately monitored and controlled. As well, our review identified errors in the recording of leave and also in the payment of leave balances on retirement or resignation.
- The Corporation pays an amount to the employees for contribution to an RRSP; however, the amount paid was not always calculated correctly.
- A total of \$1,135 was paid to four management employees for statutory holidays to which they were not entitled. The four employees had not worked the 20 days prior to the holiday as required by Corporation policy.
- In three instances, vacation pay was not calculated correctly resulting in underpayments, and in one instance, salary was not calculated correctly resulting in an overpayment.
- There was no “Certificate of Conduct” found in personnel files for seven of the eight management staff reviewed, and only one of the four employees working at the Children’s Centre provided the required “Certificate of Conduct”.

Tendering of Goods and Services

Our review identified that six purchases totalling \$119,295 were not tendered as required by the *Public Tender Act*. These included two snowmobiles costing \$32,705 and ski rental equipment costing \$15,491.

In addition, one sole source purchase for a touch screen costing \$18,744 did not have the required Form B completed. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed of this instance.

Our review identified 14 other purchases totalling \$65,906 where the Corporation did not obtain the required three quotes or provide other documentation to demonstrate that a fair and reasonable price was obtained.

We also found that 9 of the 34 purchases reviewed did not have receiving reports or an indication on the invoices or purchase orders that goods or services were received. Furthermore, 17 of the 34 purchases did not have a purchase order issued. Approvals were not evidenced for 16 of the 17 purchase orders that were issued.

Travel, Cell Phones and Other Issues

Travel

Our review of travel policies, corporate credit card statements and travel claims identified the following:

- Claims submitted and paid were not always supported by official receipts and amounts claimed were not consistent with Government rates.
- The Corporation did not use journey authorizations or other forms of approval for travel outside the Province.
- Instances were noted where travel expenses were charged directly to a Corporation credit card with no travel claims or other support for why the expenses were incurred.
- The Corporation reimbursed staff for ineligible expenses, including instances where hotel charges were claimed and paid twice, and meals claimed and paid for travel within the headquarters area.
- Although the Corporation paid \$21,900 for relocation expenses for a new management employee, there was no return of service agreement signed which would be typical of Government relocation situations.

Cell phones

Our review identified that the Corporation did not adequately monitor the usage and costs of cell phones. For example; there was no documentation that cell phone invoices were reviewed monthly by those to whom a phone was issued. In addition, the Corporation had not analyzed its cell phone services to determine if cell phones were being properly utilized. Our review of 4 of 14 cell phones identified instances where cell phone plans were either exceeded or not warranted, or usage was not appropriate.

Other issues

Our review identified a number of other issues as follows:

- The Corporation spent \$1,200 on a staff function in April 2011; however, there was no Board approval for the expenditure.

- The Board minutes were not signed as approved and the terms of appointment for eight Board members had expired. These members continued to serve on the Board without the required approval of the Lieutenant-Governor in Council to extend their terms.

Control over Capital Assets

The Corporation had not documented all of its procedures for the control of capital assets, including proper recognition for financial statement purposes, safeguarding, and write-downs.

The Corporation did not maintain an accurate and up-to-date capital asset ledger. There were still assets listed that were no longer in use at the Corporation but were still recorded as assets on the financial statements. For example, disposed of snowmobiles costing \$31,448 and obsolete/damaged ski rental equipment dating back to 2002 were not removed from the listing of capital assets. As well, the Corporation had recorded a tube park lift costing \$9,582 that it did not own.

There was no physical examination of capital asset items within the base lodge buildings since May 2009 to verify the existence of all furniture, equipment and computers.

Background

Overview

The Marble Mountain Development Corporation (the Corporation) was established in April 1988 to develop the Marble Mountain ski facility into a year-round resort. The mandate of the Corporation is to develop the facility into a four-season anchor attraction to serve as a catalyst for tourism development both locally and in the Province.

The Corporation is a 100% Provincially-owned corporation incorporated as a “Non-Profit Development Corporation” under the *Corporations Act* of Newfoundland and Labrador. The Corporation’s office is located in Steady Brook. Its affairs are managed by a Board of Directors (the Board) appointed by the Lieutenant-Governor in Council. The Corporation employs 6 managers (4 full-time and 2 seasonal) and approximately 140 staff on a full or part-time basis. Figure 1 shows the base lodge and head office of the Corporation.

Figure 1

**Marble Mountain Development Corporation
Marble Mountain Base Lodge**



Source: Marble Mountain Development Corporation

In 1995, the base lodge was constructed and a detachable high-speed chair lift was installed. In 1999, Marble Villa, the resort's condominium-style hotel was opened.

**Financial
Position**

Figure 2 shows the financial position of the Corporation for years ended 30 April 2009 to 2011. As of 30 April 2011, the Corporation reported a bank indebtedness of \$1.9 million and an accumulated operating deficit of \$15.9 million.

Figure 2

**Marble Mountain Development Corporation
Financial Position
As at 30 April**

	2009	2010	2011
Cash	\$ 7,139	\$ 6,636	\$ 7,140
Accounts receivable	92,217	95,116	68,828
Inventory	48,220	38,899	57,617
Prepaid expenses	79,779	40,598	18,754
Capital assets	17,466,031	16,477,697	15,708,338
Deferred charges	24,497	-	14,506
Total Assets	\$ 17,717,883	\$ 16,658,946	\$ 15,875,183
Bank indebtedness	\$ 1,890,789	\$ 1,269,879	\$ 1,889,203
Accounts payable/accrued liabilities	354,584	215,654	631,388
Obligations under lease (current)	143,300	100,621	74,431
Deferred revenue	13,000	22,741	21,630
Deferred grant	-	800,000	-
Long-term debt (current)	13,967	13,967	-
Long-term debt	286,033	286,033	300,000
Obligations under capital lease	273,426	181,531	127,926
Deferred government assistance	5,791,833	5,498,056	5,595,903
Contributed surplus	22,730,703	23,130,703	23,130,703
Deficit	(13,779,752)	(14,860,239)	(15,896,001)
Total Liabilities and Equity	\$ 17,717,883	\$ 16,658,946	\$ 15,875,183

Source: Audited Financial Statements

Operating Results

Figure 3 shows the annual operating results for the years ended 30 April 2009 to 2011. For each of the last two years, the Corporation received operating grants of approximately \$400,000 from the Province and incurred operating deficits of \$146,028 and \$163,059.

Marble Mountain Development Corporation

Figure 3

**Marble Mountain Development Corporation
Revenue and Expenditures
For the Years Ending 30 April**

	2009	2010	2011
Income (loss) from operating			
Lift operations	\$ (322,571)	\$(522,489)	\$(514,164)
Rental & repair shop	165,161	157,849	141,740
Cafeteria	60,204	7,147	9,271
Bar	73,583	25,647	41,276
Ski school	28,679	(1,441)	13,879
Events	41,735	83,533	42,803
Marketing	(127,408)	(65,448)	(82,178)
Marble Villa	192,253	131,057	135,437
Operating grant	400,000	401,247	400,000
Interest income	712	-	-
	512,348	217,102	188,064
Expenses			
Administration	12,809	18,612	18,110
Advertising	578	2,285	2,672
Bad debts	2,732	-	6,390
Board & committee meetings	3,627	1,273	5,117
Communications	7,288	11,187	11,311
Directors fees	3,940	5,715	5,480
Interest & bank charges	54,383	34,324	75,404
Interest on capital leases	25,979	28,181	21,324
Labor services	184,306	244,049	186,030
Miscellaneous	1,358	1,384	1,381
Professional fees	7,981	9,188	7,000
Travel & conference	7,855	6,932	10,904
	312,836	363,130	351,123
Surplus/(Deficit)	\$ 199,512	\$(146,028)	\$ (163,059)

Source: Audited Financial Statements

Audit Objectives and Scope

Audit objectives

The objectives of our review were to assess whether:

- the financial position and operations were adequately monitored;
 - compensation was in accordance with Corporation policy;
 - purchases of goods and services complied with the *Public Tender Act* and *Regulations*;
 - expenditures were monitored; and
 - capital assets were properly monitored and controlled.
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Audit scope

Our review was completed in December 2011 and covered the period 1 May 2010 to 31 October 2011. Our review included the examination of the Corporation's financial information and file documentation, as well as interviews with staff.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Financial Position
2. Compensation
3. Tendering of Goods and Services
4. Monitoring of Expenditures
5. Buildings, Furniture and Equipment

1. Financial Position

Overview

For each of the last five years, the Corporation had an operating deficit ranging from \$126,587 in 2008 to \$563,059 in 2011 before applying the Provincial operating grant. To help finance its operations, the Corporation received an annual operating grant of approximately \$400,000 from the Province and had an approved line of credit of \$2.1 million guaranteed by the Province. At 30 April 2011, the Corporation had drawn down \$1.9 million of the maximum \$2.1 million available on the line of credit.

Our review of the Corporation's financial information identified issues in the following areas:

- A. Bank Indebtedness
 - B. Lift Operations
 - C. Condominiums
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1A. Bank Indebtedness

Introduction

The Corporation's approved line of credit has increased from \$300,000 in 1999 to \$2.1 million as at 30 April 2011. The line of credit is guaranteed by the Province and as at 30 April 2011 had an outstanding balance of \$1.9 million. The Corporation's bank indebtedness has been above \$1.7 million since 30 April 2006 except for the year ending 30 April 2010. During the fiscal year 2010, payments of \$620,000 were made to reduce the bank indebtedness as a result of receiving an advance payment on the next fiscal year's operating and capital grants totalling \$800,000.

Increasing finance charges

As a result of the Corporation's annual operating deficits, it has financed its operation through its line of credit and other sources resulting in additional finance charges as follows:

- The Corporation's bank indebtedness resulted in interest expenses and bank charges totalling \$164,115 for the three years ended 30 April 2011 as follows: 2009 - \$54,387; 2010 - \$34,324; and 2011 - \$75,404.

- In addition to the interest charges related to the Corporation's bank indebtedness, the Corporation paid substantial finance charges related to other items such as insurance, corporate credit cards and supplier invoices. For example: for the year ended 30 April 2011 the Corporation paid \$4,200 to finance payment of its \$100,000 insurance premiums.
 - The Corporation continues to lease capital items instead of purchasing because of insufficient cash flow. The obligations under capital leases have been in excess of \$100,000 for the past number of years resulting in interest costs of \$75,484 for the three years ended 30 April 2011. For the year ended 30 April 2011, the Corporation financed the purchase of two snowmobiles costing \$22,469 and will pay interest costs of \$10,236 over the three-year financing contract.
 - In November 2010, the Corporation was reassessed \$27,000 for failure to remit the proper Health and Post Secondary Tax covering the period 2005 to 2009 to the Province. As of April 2011, this amount totalled \$47,000 due to accumulated interest and penalties of \$20,000.
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1B. Lift Operations

Lift operations deficit

The main contributor to the Corporation's annual deficit has been its ski lift operations. This is the Corporation's main line of business and the revenues in this area are dependent on the number of skier visits. The ski lift operations incurred a deficit in each the last three years, with a total deficit over the three years of \$1,359,224. Figure 4 shows information on the operations of the ski lift.

Figure 4

**Marble Mountain Development Corporation
Lift operations
For the years ending 30 April**

	2007	2008	2009	2010	2011
Revenue					
Lift tickets	\$ 599,244	\$ 703,024	\$ 571,076	\$ 524,662	\$ 524,524
Season passes	377,089	525,500	581,611	560,428	488,047
Other	33,848	32,612	31,452	13,688	12,232
Total	1,010,181	1,261,136	1,184,139	1,098,778	1,024,803
Expenses					
Labour	369,789	420,610	395,499	363,539	406,873
Management contract	100,803	103,575	92,400	109,564	112,000
Snowmaking	208,080	197,327	191,950	274,207	201,244
Vehicle operations	91,420	137,402	106,023	103,976	132,540
Repairs and maintenance	256,077	258,214	214,658	262,410	184,902
Electricity	108,818	119,998	123,120	129,299	144,045
Insurance	123,455	118,879	117,330	98,542	116,191
Other	261,580	237,319	265,730	279,730	241,172
Total	1,520,022	1,593,324	1,506,710	1,621,267	1,538,967
Deficit	\$ (509,841)	\$ (332,188)	\$ (322,571)	\$ (522,489)	\$ (514,164)
Season passes	2,119	2,702	2,855	2,746	2,183
Lift tickets	30,946	33,124	25,695	22,406	22,700
Skier visits	79,683	95,270	91,360	85,564	72,551

Source: Audited financial statements and Corporation annual reports

Outside services contract

Our review of lift operations identified that the management of the lift operations, snowmaking, maintenance and other outside services had been contracted to an external company. Our review of this contract and related expenses identified the following:

- The management contract was first awarded in September 2000, for a five-year period, based on a request for expressions of interest. Since the contract expired in 2005, it was replaced with a new three-year contract and then subsequently renewed for three two-year periods which will expire in September 2014. The Corporation paid \$658,600 (\$650,200 in operating and \$8,400 in capital expenditures) in management contract fees between September 2005 to October 2011 without any further request for proposals or public tender and, as a result, the Corporation could not demonstrate whether this continues to be the most economical means of providing this service.

- No weekly invoices were submitted as required by the contract. The contract provides for weekly payments to the contractor based on a minimum of 16 weeks. In May 2005, the Board Chairperson stipulated that normal winter operations required management services for 32 weeks. However, for each of the last six years, the contractor was paid in excess of normal winter operations; in 2010-11 for 40 weeks and in 2009-10 for 39 weeks.
- In addition to the base contract fee, from May 2010 to October 2011 the Corporation also paid other expenses of the contractor including vehicle repairs (\$2,808), cell phone bills (\$2,481), automobile insurance (\$856), vehicle rental (\$7,232), ATV rental (\$3,164), snow gun rental (\$5,650), flood lights (12) purchased (\$3,390) and excavator rental (\$3,390). These expenses were not covered by the contract and there was no assessment to determine whether the Corporation was getting the best value for the funds being spent.
- From May 2010 to October 2011, the Corporation contravened the *Public Tender Act* when it paid two companies related to the contractor a total of \$36,829 for excavation and other maintenance services without any request for quotes or a call for a public tender.

Also for the fiscal years ended 30 April 2006 and 2007, the Corporation rented a tube park lift from another company owned by the same contractor at a cost of \$40,000 plus HST without requesting a public tender.

In each of these cases, there were no tenders, quotes obtained or other means to demonstrate that a fair and reasonable price was obtained for these services.

- The contract states that the main employee of the contractor named in the contract "... shall perform the services outlined in the *Management Contract as amended herein and (Name) does hereby covenant and agree to do all things necessary to cause the Contractor to comply with the provisions.*" However, for the period 26 April 2010 to 1 May 2010, the Corporation paid the contractor the weekly rate of \$3,164 including HST although documentation indicated that the main employee and owner of the contracted company was on vacation in the United States and did not perform the services as required under the contract.

Marble Mountain Development Corporation

Use of fuel not monitored

The Corporation purchases diesel fuel for its three snow groomers in bulk; however, it did not monitor usage of this fuel. As a result, the Corporation could not determine if the fuel was being used by vehicles other than the snow groomers. Diesel fuel cost the Corporation \$51,000 for the fiscal year ended 30 April 2011.

In addition, the Corporation did not have a separate General Ledger account to monitor the costs for each of its vehicles. For example, for the fiscal year ended 30 April 2011, approximately \$4,350 was spent for fuel for two snowmobiles and one all-terrain vehicle and charged to an account with one vendor. However, no accounts were maintained on gas usage for each vehicle and equipment (snowmobiles, all-terrain vehicle, generator, snowblower) or other items purchased such as propane, batteries and windshield wash. In one instance, in December 2010, \$50 in fuel was purchased for a pick-up truck; however, the Corporation did not own a pick-up truck.

1C. Condominiums

In 1999, the Corporation constructed 31 condominiums at a cost of \$3.1 million. Initially these condominiums were marketed for sale; however, no units were sold and the units were rented, beginning in July 2000. Figure 5 shows the operating results for the condominiums.

Figure 5

Marble Mountain Development Corporation Condominiums For the Years Ending 30 April

	2007	2008	2009	2010	2011
Revenue	\$259,713	\$286,465	\$367,115	\$287,290	\$296,678
Expenses	124,012	137,134	174,862	156,233	161,241
Net Profit	\$135,701	\$149,331	\$192,253	\$131,057	\$135,437
Total rooms available	10,585	10,614	10,585	10,527	10,585
Rented rooms	1,850	2,064	2,663	1,818	2,046
Occupancy Rate	17%	19%	25%	17%	19%

Although the condominiums showed a profit in each of the last five years, there is potential for a greater contribution given that the occupancy rate for the condominiums ranged from just 17% in 2007 to 25% in 2009.

Since September 2009, the Corporation has provided the condominium managers-on-duty free accommodations instead of paying a salary for the position. These two employees share duties such as handling after-hour check-ins, reservations, walk-in inquiries, guests' needs and security duties from 4:30 pm to 8:30 am every day. Although Corporation officials indicated that this saves the Corporation money, the Corporation is not recording the taxable benefits on the employees' T-4s correctly.

The Canada Revenue Agency requires that these types of benefits be recorded on an employees' T-4 at the fair market value of the benefit. However, in 2009 and 2010, the Corporation valued the benefit at \$175 per month while discussion with staff determined the benefit for 2011 would be \$300 per month. The \$300 or \$175 per month rate would be expected to be well below the fair market value for furnished lodging including utilities, cable, telephone and internet.

Recommendations

The Corporation should:

- *review its financial operations to determine if more economical means are available for the provision of services;*
- *review the outside services management contract and related payments;*
- *monitor fuel usage; and*
- *ensure all employee benefits are recorded on employees' T-4s.*

2. Compensation

Overview

For the year ended 30 April 2011, the Corporation employed 6 managers (4 full-time and 2 seasonal) and approximately 140 full or part-time staff at a total cost of approximately \$1,090,000 for salary and employee benefits. This compensation consisted of salaries to management staff, wages in accordance with union agreements, gratuities, and commissions. Our review identified the following issues:

Policy and procedures not adequate

Our review of policies and procedures identified the following:

- In September 2003, the Board approved the payment of a 20% commission to the marketing coordinator for advertising sold in the form of signage on the mountain. For the year ended 30 April 2011, \$4,940 was paid in commissions; however, 41% of this amount related to advertising in brochures. The policy had not been changed to reflect this form of advertising and there were no other documented procedures on what was to be included in the calculation of this commission.
 - One union employee was paid a tool allowance through petty cash; however, this was not required as part of the collective agreement and there was no documented policy or approval from the Board. For the fiscal year ended 30 April 2011, the employee was paid \$2,650 based on weekly invoices submitted by the employee (rates ranged from \$40 to \$100 per week). For the period May 2011 to October 2011, the employee was paid \$300. In addition, these payments were not included on the employee's T-4 as a taxable benefit as required by the Canada Revenue Agency.
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Severance not consistent with Government policy

Government's policy provides for the payment of severance to employees that have a minimum of nine years of continuous service, and leave its employment after that time. Our review of the Corporation's severance payments and policy identified the following issues:

- In November 2007, the Board directed that a severance policy be developed; however, no policy was developed. Severance was approved by the Board on an individual basis.

- In November 2007, the Board approved a payment of two months' (8.5 weeks) salary totalling \$8,117 for severance to a former management employee who resigned as of 28 December 2007. This payment was not consistent with Government policy as the employee had over eighteen years of continuous service and, therefore, would have been paid 18 weeks salary or approximately \$17,190.
- In April 2010, the Board approved a payment of three months' salary (13 wks) totalling \$20,273 for severance to a former management employee. Although the employee resigned as of 30 April 2010, the severance was calculated based on a salary increase of 3.1% that was not effective until 1 May 2010. As a result, the former employee was overpaid \$610. In addition, the \$20,273 severance payment was not recorded on the former employee's T-4 as income as required by the Canada Revenue Agency.
- In July 2010, a former management employee was paid severance totalling \$3,389 based on payment of three weeks' salary. This payment was not consistent with Government policy as the employee did not have nine years of continuous service but had been employed for less than three years (17 December 2007 to 30 July 2010). Furthermore, the payment was not approved by the Board but by the Chairperson who was also acting as the Corporation's General Manager at the time.
- In April 2011, a former management employee was terminated as indicated by senior staff and paid \$3,337 for 18 days as pay in lieu of notice. Although Government policy allows for the payment in lieu of notice, this employee had only worked for 3.5 months (27 December 2010 to 12 April 2011) and was still within the six-month probation period as stated in the letter of hire. The letter indicated that the Corporation may terminate employment without notice or pay in lieu of notice and without cause. As a result, there was no requirement for the Corporation to pay in lieu of notice. Furthermore, there was no approval by the Board for the payment in lieu of notice.

Leave not recorded

The Corporation has a leave policy which provides leave to the Corporation's four full-time management positions while all part-time staff were paid vacation pay on their weekly pay cheques. Leave taken is to be monitored and recorded by updating an electronic spreadsheet for each eligible employee based on approved leave forms. Leave forms were required to be submitted after the leave period and were to be approved by the Corporation's General Manager. Our review of leave identified the following issues:

- Leave forms were not always completed and the spreadsheet was not updated. For example, leave forms were not completed and approved for the year ended 30 April 2011 and up to October 2011 and the electronic spreadsheet had not been updated since June 2010.
- The Corporation's policy requires the General Manager to approve all leave; however, there was no requirement to have the General Manager's leave approved by the Board or Board Chairperson.
- Personnel files did not have any support for other types of leave such as sick leave, bereavement leave, and family leave for the period May 2010 to October 2011.
- Employees were not notified annually of leave entitlement and usage.
- Leave balances were calculated incorrectly. For example:
 - One management employee's leave balance as of October 2011 was overstated by 5 days due to a lack of documentation and monitoring in 2011.
 - One management employee's leave balance as of October 2011 was overstated by 6 days for a number of reasons including a proration error made during a leave increment in 2008 and a lack of documentation and monitoring in 2010 and 2011.
 - One management employee's leave balance as of October 2011 was understated by 3.75 days because of a proration error made during hiring in October 2010.

Leave payments not calculated correctly

When an employee resigns or the position with the Corporation is terminated, employees are entitled to be paid for any unused annual leave based on the rate of pay at the time they resign or are terminated. Our review identified the following overpayments:

- On 28 December 2007, a management employee retired and was paid 15.75 days for accrued leave. However, our review identified that the employee should not have been paid for any days as all leave had been used. In addition, the employee accrued 30 days and took 29 days for the period 1 May 2007 to 30 April 2008 but should have accrued and taken only 20 days as they retired on 28 December 2007. As a result, this employee was overpaid 24.75 days totalling \$4,636.

- In April 2010, a former management employee was paid \$10,604 for 34 days of unused leave. However, the amount included an accrual of 25 days (\$7,797) related to the next fiscal year and was based on a pay increase of 3.1% (\$84) effective 1 May 2010. As a result, the former employee was overpaid \$7,781.
- In July 2010, a former management employee was paid \$2,655 for 16.5 days of unused leave. However, the calculation was based on an error made in prorating the leave when the employee was first hired in December 2007. As a result, the employee was overpaid \$322 for two days of leave. Furthermore, this payment was not included on the employee's T-4 as income as required by the Canada Revenue Agency.
- From August 2011 to October 2011, a management employee was paid 28.75 days, however only 15 leave days were deducted from the leave balance, and as a result, as of October 2011 the leave record was overstated by 13.75 days. In addition, the Corporation's policy requires that a written notice be provided to the General Manager for approval for the payment of leave; however, there was no documentation to support the approval.

RRSP overpayments/ underpayments

Corporation employees are not members of a pension plan; however, as part of the compensation policy for full-time management employees, the Corporation pays an amount to the employee for contribution to a registered retirement savings plan (RRSP). For the period 23 January 2008 to 14 July 2010, this amount was 3% of an employees' annual salary. On 15 July 2010, the Board approved 5% of one management employee's annual salary effective 18 October 2010. Our review identified the following payment issues:

- The RRSP amount was calculated based on amounts that were not part of the employees' stated salary such as gratuities, commissions and leave payouts. For example, one management employee was overpaid \$96 for the year ended 31 December 2010 because the RRSP calculation was based on an amount that included gratuities. Another management employee was overpaid \$189 for the year ended 31 December 2010 because the RRSP calculation was based on an amount that included commissions.

- In two instances, the last pay period for employees who had resigned was not included in the calculation for the Corporation's matching contribution. One former management employee was underpaid RRSP deductions totalling \$409 in April 2010 and another former management employee was underpaid RRSP deductions totalling \$68 in July 2010.
 - A former management employee was not paid for RRSP deductions totalling \$417 by the Corporation upon termination on 12 April 2011.
-

**Overpaid
statutory
holidays**

Corporation policy states that an employee must be on the Corporation's payroll for 20 or more days to qualify for payment of statutory holidays. We identified four management employees who were paid for statutory holidays totalling \$1,135 who did not work 20 days before the holiday as follows: two management employees totalling \$548 for two days in 2011 and two former management employees totalling \$587 for three days in 2010 and 2011.

**Employee
overtime not
adequately
monitored**

Union employees are paid overtime based on their collective agreement and the *Labor Standards Act*. Union employees are paid time and half for hours above their 54 weekly hours and overtime on 14 hours based on minimum wage. The payroll data system used at the Corporation is inadequate to record overtime separately from regular hours. As per discussion with Corporation staff, the payroll data system did not record overtime on the record of employment; therefore, overtime hours were recorded with regular hours.

Although weekly time cards for overtime were approved after the overtime was worked, there was no documented pre-approval for overtime hours to be worked. In addition, staff at the Corporation could not readily determine the total amount of overtime paid during any fiscal year or which union employees were receiving overtime. This information could only be obtained after manually reviewing each time card per week for each union employee and recording the information into a spreadsheet.

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Vacation pay not calculated correctly

Union employees are paid vacation pay weekly based on the collective agreement. The agreement requires payment of 4% for less than 10 years of service; 5% for greater than 10 years of service and less than 15 years; and 6% for greater than 15 years of service. Our review identified errors in the calculations of the vacation increments because the payroll database was not designed to flag these changes. For example: one employee's vacation pay should have been calculated at 5% effective May 2010 but the employee was only paid 4% up to October 2011. Another employee's vacation pay should have been calculated at 5% effective December 2009 but the employee was paid 4% up to April 2010, and a third employee's vacation pay should have been calculated at 6% effective January 2010 but the employee was paid 5% up to April 2010.

Salary overpayment

A former management employee was hired in October 2010 and worked for three weeks. During this time, the employee was paid \$461 above the approved salary.

Ineligible for leave

One management employee travelled on personal business 11 days before attending a conference in British Columbia in April 2011. This seasonal employee was paid 4% vacation on each pay cheque and therefore was not eligible for leave. However, we identified that the employee's salary was not reduced for the period of leave. Corporation staff indicated the time was made up after the employee returned; however, there was not adequate documentation to support this.

Certificate of conducts not provided

The management staff are required as a condition of their employment to provide a satisfactory "Certificate of Conduct". We identified that there was no "Certificate of Conduct" found in seven of the eight personnel files for current and former management employees that we reviewed. In addition, the employees who work at the Children's Centre on site are required to provide a satisfactory "Certificate of Conduct", but only one was provided by the full-time employee. A "Certificate of Conduct" for the three part-time employees was not provided.

Recommendations

The Corporation should:

- *develop detailed policies related to the payment of commissions and allowances;*
- *review severance to determine whether the Corporation should comply with Government policy;*
- *establish procedures for the recording, review and approval of all leave;*
- *ensure payments related to leave, RRSP, holidays, vacation pay, and salary are accurate and in accordance with Corporation policy;*
- *establish a system for monitoring overtime; and*
- *obtain a certificate of conduct for all required employees.*

3. Tendering of Goods and Services

Overview

Whenever the Corporation acquires goods and services, it must comply with the requirements of the *Public Tender Act* (the *Act*) and the *Public Tender Regulations, 1998* (the *Regulations*). Figure 6 summarizes the requirements of the *Act*.

Figure 6

**Marble Mountain Development Corporation
Public Tender Act Requirements**

When goods and services cost ...	Or a public work costs ...	Then the Corporation must ...
More than \$10,000	More than \$20,000	Invite tenders
\$10,000 and less	\$20,000 and less	<ul style="list-style-type: none"> • Obtain quotations from at least three legitimate suppliers, or • Establish for the circumstances a fair and reasonable price.

The *Act* provides exceptions where tenders may not be required. In such cases, the Corporation must inform the CEO of the Government Purchasing Agency who must submit a report to the House of Assembly.

In our sample of 17 purchases over \$10,000 and a sample of 17 purchases under \$10,000 we identified issues with the tendering of goods and services in the following areas:

- A. Goods and services greater than \$10,000
- B. Goods and services \$10,000 and less and under \$20,000 for public works

3A. Goods and services greater than \$10,000

Non-compliance with the *Public Tender Act*

Our review included a sample of 17 purchases greater than \$10,000 totalling \$909,216 for the period 1 May 2010 to 31 October 2011 to assess the Corporation's compliance with the *Act* and *Regulations*. Our review identified the following:

- six purchases totalling \$119,295 were not tendered as required by the *Act*;
- one sole source purchase for a touch screen totalling \$18,744 did not have the required Form B completed. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed of this purchase;
- six purchases totalling \$265,089 did not require tenders in accordance with the *Act*; and
- four purchases totalling \$506,088 were tendered in accordance with the *Act*.

Figure 7 provides details of the 6 purchases not tendered.

Figure 7

**Marble Mountain Development Corporation
Items not Tendered**

Date	Amount (net of HST)	Description
2009-2014	\$ 11,252	Lease on photocopier
2010-10-27	32,705	Two 2011 snowmobiles
2010 November	15,491	Ski Rental Equipment
2010-11-22	10,000	Fabrication and installation of boom mount
2010-12-14	24,358	Drainage pipes
March/September 2011	25,489	Work on beginners slope excavation; removal of existing T-Bar; installation of covert
Total	\$119,295	

Issues with items tendered and not tendered

Our review identified the following issues with goods and services tendered and not tendered by the Corporation:

- Seven of the 17 purchases reviewed did not have receiving reports or an indication on invoices or purchase orders that goods or services were received. As a result, we could not determine from the payment documentation whether the goods or services were actually received.
- Eight of the 17 purchases reviewed did not have a purchase order (PO) issued. Of the remaining nine purchases for which a PO was issued, only one was approved.
- Three of the four tenders were opened by the Corporation without documenting who witnessed the opening. According to the *Regulations*, a tender may not be opened unless there are at least two witnesses present who are acceptable to the Government funded body opening the tender.
- The Corporation was approved by the Minister of Tourism, Culture and Recreation to advertise electronically in 2008; however, only one bid was received for each of the four tenders reviewed. The Government Purchasing Agency has a listing of Government funded bodies' websites on their website; however, the Corporation's website was not included. It would be beneficial to use the Government Purchasing Agency website to provide more opportunities to other potential bidders.

- One contractor was underpaid \$452 including HST in July 2010. The invoice submitted by the contractor had an error in the tender price. This incident indicates that Corporation staff were not adequately reviewing invoices prior to payment.

We also identified that the contractor did not provide proof of vehicle insurance and a letter of good standing with the Workplace Health, Safety and Compensation Commission for the second year of the contract (2010-11) as required by the Corporation.

- One contractor was paid a cash allowance of \$27,500 including HST in February 2011 on a roofing contract totalling \$335,180. Government does not allow cash allowances to be paid as an expense in contracts; therefore, this contractor was overpaid \$27,500.

3B. Goods and services \$10,000 and less and under \$20,000 for public works

Our review included a sample of 17 purchases totalling \$75,751 that were \$10,000 and less or under \$20,000 for public works for the period 1 May 2010 to 31 October 2011. Of these, 14 purchases totalling \$65,906 did not have the required three quotes or documentation that a fair and reasonable price was obtained.

We also found that the Corporation did not prepare receiving reports for two purchases or indicate purchases were received on invoices or purchase orders. We found that only 8 of 17 purchases had purchase orders prepared and none were approved.

Recommendations

The Corporation should:

- *comply with the Public Tender Act and Regulations; and*
- *review its purchasing procedures to ensure that goods and services are approved and received.*

4. Monitoring of Expenditures

Overview From our review of expenditures we identified issues in the following areas:

- A. Travel and Relocation
- B. Cell Phones
- C. Other Issues

Details are as follows:

4A. Travel and Relocation

Introduction The Corporation spent approximately \$23,000 in travel expenses during the fiscal year ending 30 April 2011 and \$9,600 from May 2011 to October 2011.

Our review of the Corporation's travel policies, 30 corporate credit card statements, and 33 travel claims for 10 employees and 1 Board member identified the following issues.

Travel expenses not consistent with Government Policy The Corporation's rates for reimbursement for meals, mileage and incidentals were not consistent with Government rates. For example, the Corporation paid:

- \$44 per day for meals within the Province and \$49 per day for meals while travelling in another province, while Government's rate is \$36.50 per day and \$43 per day respectively;
 - \$6 for the daily incidental rate while Government's rate is \$5; and
 - employees for the use of a private vehicle at \$0.3823 per kilometre; however, Government's rate varies depending on the quarterly price of fuel and ranged from 0.3470 per kilometre in May 2010 to \$0.3684 per kilometre in June 2011.
-

Duplicate payments

The Corporation reimbursed staff for ineligible expenses related to duplicate payments totalling \$535 and travel within the headquarters area totalling \$83 as follows:

- One former management employee was reimbursed \$394 for accommodations paid on behalf of another employee based on a hotel reservation printout; however, the employee subsequently claimed \$296 in hotel expenses for the same accommodations.
- For 6 instances, employees claimed expenses for meals when they were within the headquarters area and not on travel status. One management employee claimed 4 meals totalling \$57 from 2 May to 4 May 2011 and one union employee claimed two lunch meals totalling \$26 from 2 May to 3 May 2011.
- One management employee charged three meals totalling \$141 on a corporate credit card and also claimed meal allowances.

Controls over travel claims are not adequate

Our review of controls over the processing of travel claims identified the following weaknesses:

- Claims were not always supported with official receipts. For example: conference fees totalling \$905 were only supported with a visa slip, entertainment expenses totalling \$117 were only supported with a visa slip, a hotel bill totalling \$718 was only supported with a hotel schedule, and a ferry expense totalling \$263 was only supported with an itinerary.
- The Corporation was not recording HST paid on incidentals, meals, taxis, parking fees, conference fees and, as a result, was not obtaining a rebate on these costs.
- The Corporation did not use journey authorizations or other documentation to approve travel outside the Province.

Insufficient support for travel claims

Travel claims and corporate credit card expenses were not adequately reviewed to determine if all claims were eligible for reimbursement. For example, our review of travel claims identified the following issues with one manager's claims and corporate credit card bills as follows:

- We identified two trips to conferences in which the management employee claimed four extra days of expenses without any explanation noted on travel claims. The employee indicated that meetings regarding the Corporation were the reason for the extra days on travel status; however, this was not documented on the travel claim or approved through a journey authorization.
 - We identified 6 instances covering 16 days where the Corporation paid travel expenses charged directly to a Corporation credit card; however, there were no travel claims to support why the expenses such as hotel, car rentals, meals, parking and gas were incurred and to document approval of the travel.
-

No relocation agreement

In October 2010, the Corporation paid approximately \$21,900 for the relocation of a new management employee; however, the employee was not required to enter into a two-year return of service agreement which would be typical of Government relocation situations.

4B. Cell Phones

Introduction

From 1 May 2010 to 31 October 2011, the Corporation spent approximately \$11,600 on cell phone communications. At 31 October 2011, the Corporation had 14 cell phones for its managers and general operations. The Corporation had cell phone policies and procedures in place since February 2009.

Insufficient monitoring of cell phone usage

Our review identified that the Corporation did not adequately monitor the usage and costs of cell phones. Details are as follows:

- There was no documentation that cell phone invoices were reviewed monthly by those issued phones as required by Corporation policy. Of the 61 invoices we reviewed, none showed any indication of review by the user of the cell phone.

- The Corporation has not analyzed its cell phone services to determine if cell phones were being properly utilized. Our review of four cell phones identified the following instances where cell phone plans were either exceeded or not warranted or usage was not appropriate:
 - One contractor used a cell phone during vacation in the United States costing the Corporation \$161 in April 2010.

We also found that the cell phone was not returned when the contract was ended for the summer. The contractor was not working for the Corporation during the months of June and July 2010. During this time, the usage on the phone cost \$65 above the monthly plan, mostly charges for directory assistance. The contractor did not work for the Corporation during the months of July and August 2011, and the costs above the plan cost totalled \$135 with total minutes of 2,232.

In addition, the same contractor incurred cell phone costs of \$287 for the period from 28 September 2010 to 27 October 2010 above plan cost but there was no review of this bill for personal cost.

- One manager incurred cell phone costs of \$129 for the period from 28 June 2011 to 27 July 2011 above plan cost but there was no review of this bill for personal cost. We identified that the employee was on vacation from 27 June to 19 July 2011 when the majority of the phone calls occurred.
- One manager used a cell phone during vacation costing \$24 above plan costs from 4 to 12 October 2010, without any review for personal costs.

4C. Other Issues

Our review identified other instances where expenditures and other Corporation activities were not appropriately incurred or adequately monitored.

Minutes not signed

Board minutes for the period January 2010 to October 2011 were not signed as approved by the Chairperson and Secretary. Without signed minutes, we could not determine whether the minutes reviewed were the official minutes of the Corporation's Board.

Marble Mountain Development Corporation

Board member extensions not approved by Lieutenant-Governor in Council	The terms for eight Board members expired May 2011 and, as of November 2011, no approval had been obtained from the Lieutenant-Governor in Council for an extension to the terms. Section 2 of the Corporation's by-laws and powers required the Lieutenant-Governor in Council to appoint members and Chairperson.
No approval to dispose of Corporation's documents	The Corporation's management staff authorized the shredding of 35 boxes of Corporation documents in May 2010 without the required approval from the Government Records Committee as required in the <i>Management of Information Act</i> . We also found that management staff did not document what was shredded.
No retirement gift policy	The Board has no policy on retirement gifts. We identified two gifts (watch – May 2010 and cell phone - August 2010) totalling \$619, were given to a former manager for retiring in April 2010.
Electronic data not secured	The Corporation did not adequately secure its financial and other data. For example: back-up data was not stored off-site; the accounting software data was not archived at year end; there were no level of access limits to data stored on the server; there were no firewalls; and there was no internet usage policy. In addition, the adjusting entries of the external auditor were not recorded at year end.
Corporation's by-laws are not up-to-date	The amalgamation of the former Marble Mountain Management Corporation and former Marble Mountain Development Corporation in April 2007 required the current Corporation to use the by-laws from the former Marble Mountain Development Corporation. However, these by-laws, dated in 1988, have not been updated. For example: they record the Office of the Auditor General as the auditors, the Corporation's year end as 31 March, and the maximum number of board members as nine.
Entertainment expense not approved by the Board	We identified a staff function (a season-end party) in April 2011 at Marble's main lodge that cost approximately \$1,200 which included taxis of \$110, entertainment of \$450 and food of \$640 that was not approved by the Board.

Recommendations

The Corporation should:

- *adopt travel and relocation policies that are consistent with Government policy;*
- *review all claims for accuracy and compliance with policies;*
- *review its policies and procedures regarding cell phones and monitor cell phone usage;*
- *adhere to the Management Information Act for destroying documents; and*
- *update Corporation's by-laws.*

5. Buildings, Furniture and Equipment

Overview

As at 30 April 2011, the Corporation reported capital assets at a cost of \$36 million. For the Corporation to control and monitor its capital assets, it must ensure that policies and procedures are documented and communicated to staff, and that assets are identified and recorded when purchased, periodically inventoried and reconciled to financial records. Figure 8 provides a summary of the Corporation's capital assets.

Figure 8

**Marble Mountain Development Corporation
Tangible Capital Assets
As at 30 April
(\$000's)**

	2010	2011
Area improvements	\$12,288	\$12,323
Buildings	10,654	10,982
Computer equipment	24	24
Equipment under capital lease	878	911
Furniture and fixtures	805	805
Lifts	5,001	4,999
Rental equipment	264	282
Signs	107	107
Vehicles	5,545	5,522
Total Capital Assets	\$35,566	\$35,955

Source: Audited Financial Statements

Introduction

Our review identified that capital assets were not adequately controlled and safeguarded as follows.

Procedures not documented

The Corporation did not document all of its procedures for the control of capital assets including proper recognition for financial statement purposes (ie. thresholds), safeguarding of assets, and write-downs.

The Corporation did not have a capital asset disposal policy. The Corporation did complete deletion of assets forms; however, the last time this was done was June 2009 for a keyboard which was transferred to storage area for disposal. Since this time, the Corporation indicated more capital assets were transferred to the storage area for disposal.

Assets not always tagged

The Corporation has not been tagging all of its capital assets. We identified capital assets such as snowmobiles (2), an all-terrain vehicle, snow guns (6) and radios (43) that were not tagged to identify them as Corporation property. Without unique identification, the Corporation cannot determine if all assets were recorded and accounted for.

Capital asset ledger not accurate and up-to-date

The Corporation did not maintain an accurate and up-to-date capital asset ledger. Our review identified assets that were no longer in use at the Corporation but were still recorded as assets on the financial statements. For example, disposed of snowmobiles costing \$31,448 and obsolete/damaged ski rental equipment dating back to 2002 were not removed from the listing of capital assets. Also, the Corporation had recorded a tube park lift costing \$9,582 since 2006 that was never owned by the Corporation.

The Corporation did record furniture and equipment on a spreadsheet including applicable serial numbers and tag numbers for the base lodge up to May 2009, and for outside operations and Marble Villa up to June 2001. However, these listings did not record all the capital assets and included items that were disposed of.

Periodic inventory counts not performed

There was no physical examination of capital assets since May 2009 to verify the existence of all furniture, equipment and computers within the base lodge buildings, and since June 2001 for items outside the lodge. Also, rental equipment such as skis and bindings, boots, poles, helmets, and snowboards were not properly documented for inventory at year end.

We selected a sample of 18 items from the most recent listing and found six items were moved since the last verification and two items were disposed of. We selected a sample of four items purchased during the year and only one was tagged and none were recorded on the listing of assets.

Recommendations

The Corporation should:

- *develop and document its procedures for the monitoring and control of capital assets;*
- *tag and record all capital assets in capital asset ledger;*
- *keep its capital asset ledger up-to-date; and*
- *physically verify the existence of its capital assets on a regular basis.*

Corporation's Response

Background:

- *Marble Mountain Resort is located near Steady Brook, in the Humber Valley in Western Newfoundland. The Marble Mountain Development Corporation (MMDC) was established as a "Non Profit Development Corporation" under the Corporations Act in 1988 to develop the Marble Mountain ski facility into a year round, full service resort. The Corporation's mandate has been to develop the resort so that it will act as a catalyst for tourism development both locally and in the province as a whole. Government's role has been to construct the initial critical mass infrastructure to attract private sector investment.*
- *It should be noted that MMDC's senior management team experienced unprecedented turnover in late 2010 and early 2011. This included the retirement of the long term General Manager as well as three successive individuals fulfilling the Finance and Administration Manager position.*
- *In 2011, an audit was undertaken by the Auditor General and identified issues relating to the Corporation's financial position; compensation practices; tendering of goods and services; travel, cell phones and other expenditures; and control over capital assets.*
- *MMDC's responses to the recommendations in the Auditor General's draft report are found below.*

Auditor General Recommendations and MMDC Responses:

1. Financial Position

Recommendations:

MMDC should:

- *Review financial operations to determine if more economical means are available for provision of services*
- *Review the outside services management contract and related payments*
- *Monitor fuel usage*
- *Ensure all employee benefits are recorded on employees' T-4s*

Response:

- *MMDC has been examining alternatives for reducing its dependency on its line of credit; however, given the limited cash flow and operational demands there are no foreseeable opportunities for reduction of this debt. In recent years the corporation has been committed to not adding to the current debt to ensure interest costs do not increase.*
- *Given MMDC's limited and cyclical cash flow, financing the Corporation's insurance premiums is the only option. The Corporation does not have the financial ability to pay the full insurance premiums in one payment.*
- *MMDC has determined that while incurring higher interest costs, leasing some equipment rather than purchasing is still financially and operationally beneficial as it allows for the trade-in of equipment when maintenance costs begin to increase significantly. MMDC will endeavor to review financial operations to determine if a more economical means is available for the provision of services.*
- *A management contract for outside operations has been awarded to the same company because of the expertise/skill-set required to perform the necessary duties, as well as the essential knowledge of the infrastructure required regulations and codes. MMDC believes the additional expenses of this outside contractor were reasonable and helped avoid incurring higher costs. MMDC will endeavour to review the outside services contract to confirm that it continues to be the most economical means of providing this service.*
- *MMDC agrees to set up a system to more effectively monitor its fuel usage.*
- *MMDC will ensure that all benefits are properly recorded on employees' T-4s.*

2. Compensation

Recommendations:

MMDC should:

- *Develop detailed policies related to the payment of commissions and allowances*
- *Review severance to determine whether the Corporation should comply with Government policy*
- *Establish procedures for the recording, review and approval of all leave*
- *Ensure payments related to leave, RRSP, holidays, vacation pay and salary are accurate and in accordance with Corporation policy*
- *Establish a system for monitoring overtime*
- *Obtain a certificate of conduct for all required employees*

Response:

- *MMDC recognizes the need for an overall review of its policies with a view to updating them to reflect current practice as well as developing new policies as required.*
- *MMDC's Board, in the absence of a policy, approved commission for the marketing position and a tool allowance for an employee, but recognizes the need for detailed policies related to the payment of commissions and allowances.*
- *MMDC's Board approved severance for some senior management employees but recognizes the need to develop a specific and consistent severance policy for MMDC.*
- *MMDC will implement standardized procedures for recording, reviewing and approving of leave.*
- *MMDC will review its procedures related to payment of leave, RRSP, holidays, vacation pay and salary to ensure they are in accordance with MMDC's policies.*
- *MMDC currently monitors overtime which is only worked with the pre-approval of department managers. Department managers authorize overtime through verbal communication with employees or by creating a schedule that indicates that overtime will be required. MMDC will endeavor to review its system of approving and monitoring overtime to identify potential areas for improvement.*

- *MMDC does have certificates of conduct for the most recently hired management employees. These documents were not in a paper file but were stored electronically. The only full-time employee for the Children's Activity Centre has provided a certificate of conduct. MMDC will obtain a certificate of conduct for all required employees.*

3. Tendering Goods and Services

Recommendations:

MMDC should:

- *Comply with the Public Tender Act and Regulations*
- *Review purchasing procedures to ensure that goods and services are approved and received*

Response:

- *MMDC endeavours, at all times, to comply with the Public Tender Act. Three of the specific exceptions noted in this report occurred because the contractor was the only supplier in the Province with the specific knowledge and expertise in the areas where the work was completed. In the future, MMDC will comply with the Public Tender Act and Regulations even in situations where there is a sole provider for goods or services.*
- *MMDC will endeavour to institute a more accurate documentation system for purchase order forms, vendor invoices and receipt of goods and services to clearly indicate the job and dates completed.*

4. Monitoring of Expenditures

Recommendations:

MMDC should:

- *Adopt travel and relocation policies that comply with Government policy*
- *Review all claims for accuracy and compliance with policies.*
- *Review policies and procedures regarding cell phones and monitor cell phone usage*
- *Adhere to the Management Information Act for destroying documents*
- *Update Corporation's by-laws*

Response:

MMDC acknowledges the issues outlined by the Auditor General.

- *MMDC's policy and procedures for reimbursing travel expenses have been in place for the past eight years. However, MMDC will review its current travel and relocation policies and update as necessary.*
- *MMDC will review all travel claims for accuracy and compliance with policies.*
- *MMDC will review its policies and procedures regarding cell phone usage. MMDC has a small specialized management team who often need to be contacted for day to day operation decisions, even while they are on leave. If MMDC expects its managers to be this accessible, the noted cell phone costs are deemed a reasonable expense.*
- *MMDC will create policies and procedures to ensure adherence to the Management Information Act for destroying documents.*
- *MMDC will endeavor to review and update its by-laws.*

5. Buildings, Furniture and Equipment

Recommendations:

MMDC should:

- *Develop and document its procedures for the monitoring and control of capital assets*
- *Tag and record all capital assets in capital asset ledger*
- *Keep its capital asset ledger up to date*
- *Physically verify the existence of its capital assets on a regular basis*

Response:

- *MMDC will review its existing procedures for the monitoring and control of capital assets to ensure they comply with its policy.*
- *MMDC will tag and record all capital assets in its capital asset ledger and keep the ledger up to date as per its policy.*
- *MMDC will physically verify the existence of its capital assets on a regular basis as outlined in its policy.*

Marble Mountain Development Corporation

PART 2.13

DEPARTMENT OF TRANSPORTATION AND WORKS

BUILDING MAINTENANCE

Executive Summary

The Department of Transportation and Works (the Department) is responsible for the management and administration of Government-owned buildings and properties. As of 31 March 2011, this portfolio consisted of 644,000 square metres of floor space in 854 buildings on 385 sites across the Province. The total replacement cost of these buildings is estimated to be \$1.94 billion.

The Department's Works Branch has the responsibility for the facility management of these buildings. This is accomplished primarily through the four Regional Works Divisions. The Department's Engineering Support Services Division (the Division) aids in this effort through initiatives that include an inventory of the buildings and overseeing the energy management and preventative maintenance programs.

The 2004 Report of the Auditor General to the House of Assembly included a review of Government-owned buildings and properties. At that time, there were 851 buildings on 397 sites consisting of 649,000 square metres of floor space, with a total estimated replacement cost of \$1.03 billion. The conclusions contained in our 2004 Report were that:

- Government-owned buildings were in need of significant repairs;
- Department officials had expressed concern about the lack of funding provided to maintain Government buildings;
- the required maintenance and capital alterations and improvements work was not being performed and the condition of Government buildings was deteriorating;
- the Department's database of buildings was not complete;
- the Department did not use a risk-based system to identify and prioritize its maintenance work;
- the Department did not have the information necessary for a comprehensive plan to address the nature, amount and timing of future capital expenditures; and
- the Department did not have a plan to devolve Government of its vacant buildings.

Although our review indicated that the Department had taken some action on the concerns raised in our 2004 Report, we found that some of the concerns identified still existed. These concerns included the condition of Government-owned buildings, how the Department tracks information related to these buildings, how building condition is assessed and reported, the energy efficiency of Government-owned buildings, an increase in deferred maintenance, the lack of a formal process for monitoring and managing preventative maintenance, and the presence of 25 vacant properties which required maintenance services, 8 of which required utility resources despite being unoccupied - several for significant periods of time.

Condition of Government-Owned Buildings

Government-owned buildings are deteriorating. These buildings vary widely in age, with the majority (450 of 854 or 52.7%) being over 30 years old, with the oldest operational (non-historic) building being over 80 years old. The annual cost of maintaining and improving these buildings has steadily increased since our 2004 Report, from \$23.2 million in 2004 to \$50.6 million in 2011 (an overall increase of \$27.4 million or 118.1%).

Information Management Systems

In 2010, the Department adopted a new computerized tracking system, the Renewal Capital Asset Planning Process (ReCAPP); however, the new system is not complete or consistent. Our review identified the following issues:

- information on 67 buildings located in Labrador had not been entered into ReCAPP;
- information contained in ReCAPP was not complete, e.g. 55 buildings did not possess any floor space measurements and 478 buildings did not contain information on maintenance events;
- information between ReCAPP and other information management systems designed for tracking actual expenditures and for recording insurance coverage, was not always consistent; and
- the Departmental personnel who handle building maintenance were not fully trained in the use of ReCAPP.

Building Condition Assessments

The ReCAPP system allows the Department to directly compare the condition of buildings using the Facility Condition Index (FCI). This index is calculated by dividing the cost of expected maintenance events by the estimated replacement cost. Values below 100% have repair costs below replacement value while values above 100% indicate that the repairs are above the replacement cost.

Although the Department considers the FCI to be an effective measurement tool, we found that no FCI rating was available for 478 (54.7%) of the 874 building entries in the ReCAPP system. Furthermore, 44 buildings in the Government portfolio had ratings above 100% and required more money in repairs than it would cost to replace the buildings, e.g. an electrical shelter at the Botwood Airstrip had an FCI of 3,812% based on \$468,930 in needed repairs with a replacement value of \$12,300.

Condition Reports

In 2004, the Department commenced a project to have condition assessments performed on Government buildings. These assessments were used to create condition reports using the ReCAPP software so that the condition of buildings and their components could be tracked individually. We found that:

- 67 of the 94 buildings located in Labrador did not have a condition report completed;
- 7 of 20 (35%) condition reports we reviewed were incomplete or unavailable; e.g. one condition report only included details on the roof and parking lot; and
- 10 of 20 (50%) condition reports we reviewed included overall assessments of “good condition” where notes appeared inconsistent as they indicated significant issues with the components. For example, one building’s exterior brick walls were assessed in the condition report as being in good condition, but the condition note on the assessment indicated that they were in poor condition, with cracking, loose bricks, and were fracturing.

Energy Efficiency of Government Buildings

The Department’s *2011-2014 Strategic Plan* reiterated a major strategic objective that the Department had identified in its *2008-11 Strategic Plan* - to enhance the energy efficiency of Government buildings. We found that:

Building Maintenance

- some older buildings do not possess energy saving components, resulting in buildings that are not as efficient as possible. For example, one building constructed in the 1940s still had its original windows;
- none of 20 building condition reports we reviewed mentioned insulation, a fundamental component in energy efficiency, as a distinct component. Insulation is an important energy saving component as it minimizes heat loss in winter and heat penetration in the summer;
- 3 of the 20 building condition reports we reviewed noted deficiencies that allowed air and water to enter buildings; and
- the ReCAPP system was not designed to capture detailed energy efficiency information, limiting the ability of the software to be used for tracking energy efficiency in Government-owned buildings.

Deferred Maintenance

We found that overall deferred maintenance increased sharply since our 2004 Report. During our current review, the Department estimated that it will need \$549.9 million over the next 20 years in order to keep Government buildings maintained and to extend their useful life. This represents an increase of 110.5% from the \$261.2 million estimated during our 2004 review. Approximately \$306.0 million (55.6%) of the \$549.9 million in deferred maintenance work is due in the next five years, representing an increase of \$133.0 million or 76.9% over the \$173.0 million indicated in our 2004 Report as being due in the following five years.

Officials indicated that the Department's focus has been to use available funding in reacting to more immediate problems. It was noted that for the year ended 31 March 2012, a projected total of \$156.2 million had been identified by the Department for deferred maintenance work; however, only \$25.1 million had been spent during the previous year on maintenance and capital.

Preventative Maintenance

In our 2004 Report, it was noted that the Department did not have a consistent, centralized means of tracking preventative maintenance across buildings in the inventory. Prior to 2000, the Department was using a Federal Government Preventative Maintenance Support System. The system was not Y2K compliant and its use was discontinued prior to 2000.

Building Maintenance

Our current review indicated that there was still no formal means at the Department to track preventative maintenance. Officials indicated that the Federal Government Preventative Maintenance Support System had not been updated or replaced by the Department since it was discontinued. It was also indicated that there was no formal process for monitoring and managing preventative maintenance on buildings. Tracking was done manually by Building Managers, which was time consuming and prone to error.

Vacant Properties

A significant component of building and property management involves the disposal of properties that are no longer in use. We found that Government still possessed 25 vacant properties that were not in use, several for significant periods of time. These properties often require utility and maintenance resources despite being unoccupied.

Background

Introduction

The Department of Transportation and Works (the Department) is responsible for the appropriate stewardship of public infrastructure. Part of this duty includes the management and maintenance of Government-owned and operated buildings and properties in the Province. This inventory of buildings consists of approximately 644,000 square metres of floor space spread across 854 buildings on 385 sites across the Province. The Department is responsible for ensuring that buildings are maintained in a manner that maximizes their useful life. A wide variety of buildings which perform various Government functions, are included in this inventory, such as:

- office buildings;
- warehouse and storage facilities;
- transportation facilities;
- site utility buildings;
- justice facilities;
- tourism and cultural facilities; and
- other miscellaneous buildings.

Building Maintenance

The Department is not responsible for the maintenance and operation of buildings and properties of the Crown corporations (including school districts and regional health authorities) and municipalities.

Figure 1 shows the number of sites, buildings and properties, area and estimated replacement cost of the building inventory per region as at 31 March 2011.

Figure 1

Department of Transportation and Works Building and Property Inventory 31 March 2011

Region	Sites	Buildings and Properties	Floor Area Square Metres	Estimated Replacement Cost
Avalon				
St. John's East	51	82	91,300	\$ 286,761,800
Avalon/External	47	129	62,013	170,163,900
Mount Scio/Central	18	37	155,375	481,180,300
Central	116	339	175,234	433,022,300
Western	83	173	115,080	367,549,800
Labrador	70	94	45,049	202,922,800
Total	385	854	644,051	\$ 1,941,600,900

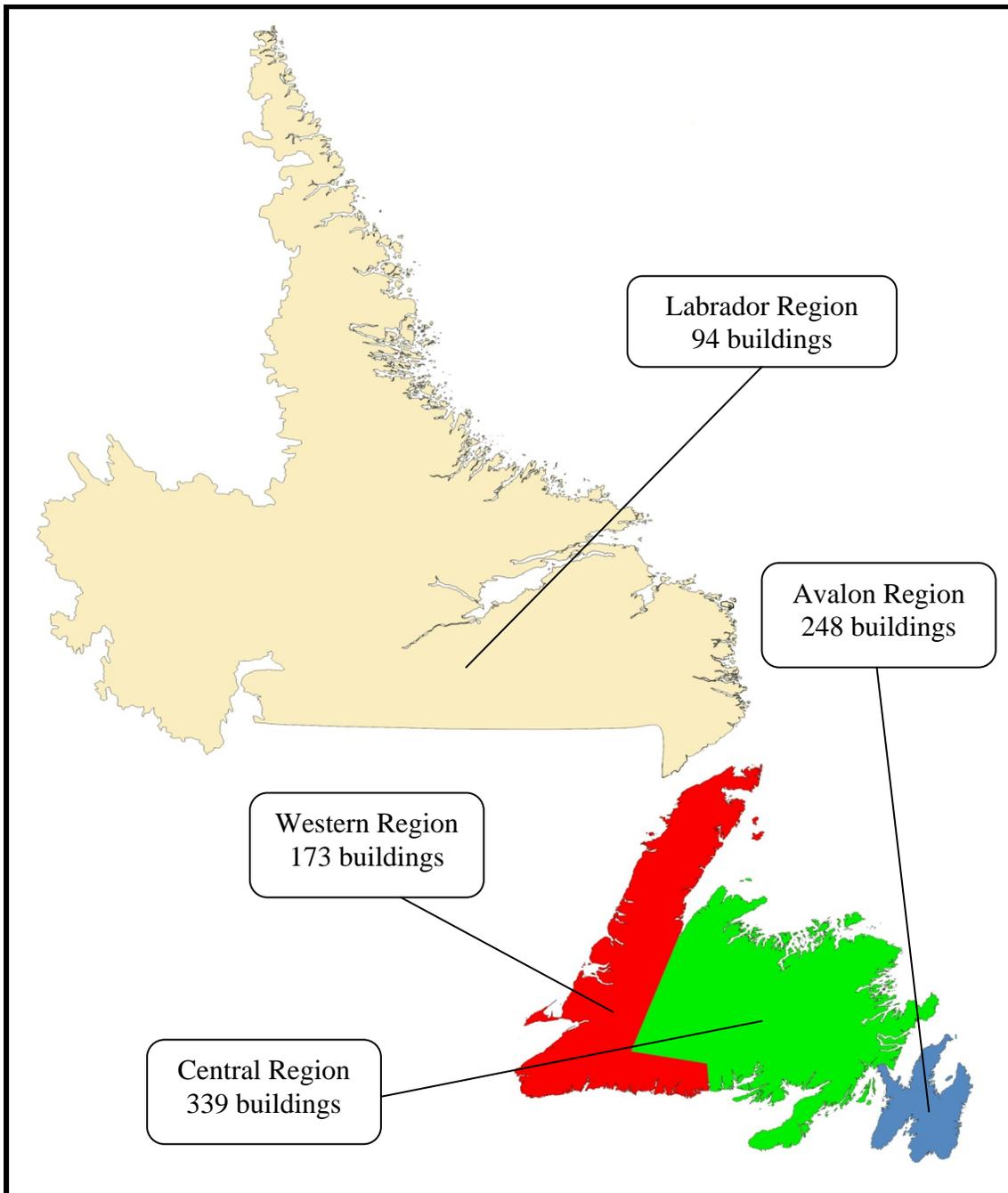
Source: Department of Transportation and Works, Works Branch Insurance Inventory Database

As indicated in Figure 1, the replacement cost for the building inventory was \$1.94 billion as at 31 March 2011 with approximately 644,000 square meters of available space.

Buildings are grouped into Works regions, which divide the Province into geographic areas that are managed by separate teams of Directors and Building Managers. Figure 2 displays the building inventory by Works region for the Province.

Figure 2

**Department of Transportation and Works
Building Inventory by Works Region
31 March 2011**



Source: Department of Transportation and Works, Works Branch Insurance Inventory Database

Building Maintenance

Engineering Support Services Division

Department's Works Branch has the responsibility for the facilities management of Government buildings and properties. This is accomplished primarily through the four Regional Works Divisions. The Department's Engineering Support Services Division (the Division) aids in this effort through initiatives that include:

- the Government building inventory;
- a preventative maintenance program; and
- an energy maintenance program.

The Division is responsible for providing technical support to the Department's four regional offices which are responsible for the ensuring properties remain in service and are safe for use.

2004 Annual Report Findings

In the 2004 Annual Report of the Office of the Auditor General, we reported on building maintenance within Government. At that time, there were 851 buildings on 397 sites consisting of 649,000 square metres of floor space, with a total estimated replacement cost of \$1.03 billion. We found that:

- Government-owned buildings were in need of significant repairs;
- Department officials had expressed concern about the lack of funding provided to maintain Government buildings;
- the required maintenance and capital alterations and improvements work was not being performed and the condition of Government buildings was deteriorating;
- the Department's database of buildings was not complete;
- the Department did not use a risk based system to identify and prioritize its maintenance work;
- the Department did not have the information necessary for a comprehensive plan to address the nature, amount and timing of future capital expenditures; and
- the Department did not have a plan to devolve Government of its vacant buildings.

Figure 3

**Window Replacement on East Block
Confederation Building**



Source: Office of the Auditor General

Audit Objectives and Scope

Audit objectives	<p>The objectives of our review were to determine whether the Department had adequate systems and processes in place to:</p> <ul style="list-style-type: none">• determine and monitor the condition of the Government-owned buildings and properties;• forecast required annual maintenance expenditures for Government-owned buildings and properties and to determine the effectiveness of the maintenance program; and• forecast long-term capital needs for the Government-owned buildings and properties, including required expenditures, planned expenditures, funding sources for planned expenditures, and capital work priorities.
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Audit scope	<p>Our review examined the building maintenance function of the Department, including the monitoring and management of the condition of Government-owned properties. The review covered the period from 2006 to 2011 and was completed in October 2011.</p> <p>Our work included discussions with officials of the Department and a review of the monitoring and management software used to track maintenance. We also examined the building condition reports and tenders as well as the policies and procedures in use by the Department to execute its duties related to building maintenance.</p>
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Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Condition of Government-Owned Buildings
2. Information Management Systems
3. Building Condition Assessments
4. Condition Reports
5. Energy Efficiency of Government Buildings
6. Deferred Maintenance
7. Preventative Maintenance
8. Vacant Properties

1. Condition of Government-Owned Buildings

Introduction

In our 2004 Annual Report, we found that the overall condition of Government-owned buildings was deteriorating. The Government-owned buildings were in need of significant repairs and the Department had insufficient funds to address these increasing repair costs.

The Department's 2003-2006 *Strategic Plan* stated that the building portfolio was under greater pressure due to the increasing repair and maintenance costs on its aging portfolio. It was also stated in the 2008-11 *Strategic Report*, the 2009-10 *Annual Report*, and the 2011-14 *Strategic Plan* that buildings within the portfolio are to be brought up to energy efficiency standards in the coming years as part of the *Provincial Energy Plan*. The *Provincial Energy Plan* included a policy action regarding building codes requiring new buildings and major renovations to existing buildings to exceed the Model National Energy Code by 25 percent. This is an important goal as the majority of the building portfolio is over 30 years old.

During our review we found that the age of the building portfolio continues to grow. Figure 4 shows the buildings by age range and the estimated replacement cost as at 31 March 2011.

Figure 4

**Department of Transportation and Works
Age Range of Buildings Portfolio
As at 31 March 2011**

Age Range Since Construction	Number of Buildings and Properties	Estimated Replacement Costs	Percentage of Estimated Replacement Cost
Greater Than 70	65	170,866,200	8.8%
Between 60 and 69	30	119,604,600	6.2%
Between 50 and 59	47	245,189,700	12.6%
Between 40 and 49	94	514,603,600	26.5%
Between 30 and 39	214	288,481,900	14.8%
Subtotal	450	1,338,746,000	68.9%
Between 20 and 29	173	420,600,100	21.6%
Between 10 and 19	111	112,818,300	5.8%
Less Than 10	120	71,129,000	3.7%
Grand Total	854	1,943,293,400	100.0%

Source: Department of Transportation and Works, Works Branch Insurance Inventory Database

Building Maintenance

As indicated in Figure 4, 450 of the 854 buildings (52.7%) were over 30 years of age with an estimated replacement cost of approximately \$1.3 billion. The oldest operational (non-historic) building in use by Government was over 80 years old.

Building maintenance costs increasing

Our review also found that the cost of maintaining the existing building portfolio had been increasing each year. The costs associated with the maintenance and improvement of Government buildings are paid through the Department. Costs are categorized by utilities, operations, general maintenance, program maintenance, and capital alterations and improvements to the structure of the buildings. Figure 5 outlines the costs incurred to maintain Government buildings and properties for the six years ending 31 March 2011.

Figure 5

Department of Transportation and Works Annual Costs Relating to Buildings and Properties For the Years Ended 31 March

Costs	2006	2007	2008	2009	2010	2011
Utilities	\$12,428,042	\$13,170,241	\$15,139,552	\$15,673,827	\$14,555,639	\$15,381,439
Operating	7,225,302	8,389,970	8,508,420	10,070,695	10,875,120	11,461,911
General Maintenance	2,445,698	2,802,876	2,673,117	2,722,316	3,018,349	3,287,580
Program Maintenance	1,265,705	1,190,202	1,536,771	1,688,291	2,781,513	1,615,079
Capital Improvements	8,243,958	11,354,228	15,137,263	12,572,603	13,237,834	18,818,204
Total	\$31,608,705	\$36,907,517	\$42,995,123	\$42,727,732	\$44,468,455	\$50,564,213
Total Square Meters	620,669	626,579	631,541	636,092	643,864	644,051
Average Cost per Square Meter	\$50.93	\$58.90	\$68.08	\$67.17	\$69.06	\$78.51

Source: Government Financial Management System

As noted in Figure 5, the overall cost of maintaining and improving buildings has steadily increased over the past six years, going from \$31.6 million in 2006 to \$50.6 million in 2011 (an increase of \$19.0 million or 60.1%), with a corresponding increase in the average cost per square metre of \$27.58 or 54.2%, from \$50.93 in 2006 to \$78.51 in 2011. Since our 2004 Annual Report, the cost has risen from \$23.2 million in 2004 to \$50.6 million in 2011, an increase of \$27.4 million or 118.1%.

2. Information Management Systems

Introduction

In our 2004 Annual Report, we determined that the Department did not have a risk-based method of determining which buildings required immediate repair work. At that time, the Department was using an informal method of gathering and selecting projects to fund based on the experiences of the building managers and directors in each region. This process was prone to gaps in maintenance work as it relied on the memory of the managers to determine what work was to be accomplished.

Subsequent to our report, the Department undertook initiatives to improve the management of the building inventory. Among these initiatives was the adoption of new management software that would allow the Department to track all properties in the inventory, allowing officials to monitor the condition and required maintenance of properties. In 2010, the Department adopted a new computerized tracking system, the Renewal Capital Asset Planning Process (ReCAPP). ReCAPP allows the Department to track the maintenance and condition over the life of individual components of buildings through the use of a centralized database. This is a complex system, requiring training in order for users to be capable of operating it effectively.

Information on buildings and any work required or performed on them is to be added to the system by the regional building managers and directors. ReCAPP organizes the information into a form that can be searched, tracked, and displayed in reports on demand, allowing staff to monitor the condition of the portfolio. Buildings that require immediate or significant repair work can be identified through this system.

This program was adopted as a companion to the Department's Project Analysis Reporting Tracking System (PARTS). PARTS is designed to track the actual expenditures incurred by each project for Government assets, including the Building portfolio. Through this system, contracts can be tendered and tracked and expense details monitored for any given project. This allows the Department to analyze how a project is progressing and how accurate cost estimates are for the work required. Information in these systems is also shared with the Insurance Inventory database maintained by the Department. This inventory database tracks estimated building replacement costs for insurance purposes.

Building Maintenance

ReCAPP is not complete

During the period of our review we found that the ReCAPP system was not complete or consistent. Officials indicated that the system was still new at the Department, but was starting to see use in budgeting and in gathering building condition reports. The other major system, PARTS, had been developed in 2003-04 and had been in operation for 7 years. Our review noted the following:

- 67 of the 94 buildings located in Labrador had not been entered into ReCAPP;
- Information contained in ReCAPP was incomplete. During our review, we found 55 buildings that were listed without any floor area or estimated asset replacement cost. 478 buildings and properties did not possess any information on maintenance events; and
- Information between PARTS, ReCAPP, and the Insurance Inventory did not agree with each other. These systems are used to track different facets of the building inventory and should be consistent. We noted differences between the number of buildings in each database (874 per ReCAPP, 1,122 per PARTS, and 854 per Insurance Inventory).
- Departmental personnel who handle building maintenance were not fully trained in the use of ReCAPP;

Recommendations

The Department should complete the process of establishing ReCAPP by:

- providing additional training for the users of the program;
- acquiring and entering data for all buildings in Labrador;
- entering in all relevant details for Government buildings; and
- ensuring that details between PARTS, ReCAPP and the Insurance Inventory database for buildings is consistent.

3. Building Condition Assessments

Introduction

ReCAPP provides the Department with a measurement tool, called the Facility Condition Index (FCI), to assess and compare the condition of the buildings. This is a common measurement used in many jurisdictions to monitor the condition of the buildings and to help in planning future maintenance expenditures. FCI is calculated by dividing the amount of expected repairs by the estimated cost to replace the building. Values that are less than 100% indicate that the maintenance required for a building will cost less than the cost to replace the building, while values above 100% indicate that the building repairs will cost more than the cost of replacement. All identified repair work regardless of priority (High, Medium, and Low) is included in the FCI.

The result is a single percentage number that indicates the condition of the building. The lower this number is, the better the overall condition is. This measurement allows the Department to express the condition of buildings in the portfolio as a single value. In turn, this allows buildings to be compared directly with other buildings in the inventory, enabling the Department to prioritize needed maintenance work across the portfolio.

Figure 6 provides details obtained from ReCAPP on the FCI of Government buildings.

Figure 6

**Department of Transportation and Works
Facility Condition Index Details
As at 14 October 2011**

Buildings with FCI Ratings of:	Number of Buildings	% of total buildings
No Rating	478	54.7%
1 - 10	104	11.9%
11 - 20	87	9.9%
21 - 30	62	7.1%
31 - 40	33	3.8%
41 - 50	28	3.2%
51 - 60	11	1.2%
61 - 70	13	1.5%
71 - 80	6	0.7%
81 - 90	4	0.5%
91 - 100	4	0.5%
Above 100	44	5.0%
Total Number of Buildings	874	100.0%

Source: Department of Transportation and Works, ReCAPP Database Records

Building Maintenance

FCI information not complete

As can be seen from Figure 6, 478 buildings, or more than half (54.7%) of the 874 buildings in the database, did not possess a FCI rating. This was due to the unavailability of the estimated replacement value and/or the expected repair events for properties listed in the system. As a result, the FCI for those buildings was listed at 0%.

Buildings identified where repair costs exceed replacement costs

In addition, there were 44 buildings found in the database whose FCI was higher than 100%, requiring repairs that were estimated to be greater than the cost of replacement for that building. Examples include:

- an electrical shelter at the Botwood Airstrip, with \$468,930 in needed repairs and a replacement value of \$12,300 resulting in an FCI of 3,812%;
- a visitors centre at the Salmonier Nature Park, with \$2,737,019 in needed repairs and a replacement value of \$592,200 resulting in an FCI of 462%;
- a forestry depot in Port Hope Simpson, with \$173,250 in needed repairs and a replacement value of \$84,000 resulting in an FCI of 206%; and
- a highway depot on Fogo Island, with \$535,343 in needed repairs and a replacement value of \$380,000 resulting in an FCI of 141%.

Recommendations

The Department should:

- update building data such that the FCI can be calculated for all properties; and
- review all buildings with FCIs over 100% to determine if they should be replaced or repaired.

Figure 7

Re-development of RNC Headquarters Fort Townsend



Source: Office of the Auditor General

4. Condition Reports

Introduction

The Facilities Condition Index (FCI) measurement relies on information obtained from condition reports for Government properties. Condition reports are based on assessments of an entire building conducted initially by external consultants, which break the structure down into its components (windows, interior doors, exterior walls, etc). These components are each assessed independently and an estimate of their useful life is generated. This estimate provides building managers and the Department with a schedule of expected work that a building will require over a period.

Building Maintenance

According to Department officials, when a component approaches its replacement date, it is reassessed by Departmental staff to determine if it requires immediate repair or if the work can be delayed. This allows for flexibility in the repair work accomplished, allowing the Department to defer maintenance and pursue repair work on higher priority components.

In 2004, the Department commenced a project to have condition assessments performed on all Government buildings. The first phase of these assessments covered 13 buildings, which was 13.5% of the total replacement cost of the buildings portfolio as at August 2003. Since then, according to Departmental officials, the assessment process has been extended to 80-85% of the total building inventory. To properly prioritize the work required, all buildings need condition reports. Initial assessments were completed by external consultants who trained Department personnel to review and update the assessments as required. These assessments were used to create condition reports using the ReCAPP software so that the condition of buildings and their components could be tracked individually.

ReCAPP is designed to have the condition reports added directly to building profiles. This aids in the tracking and prioritization of projects to be undertaken each year by the Department.

Condition reports incomplete and inconsistent

Our review of these condition reports noted the following:

- 67 of the 94 buildings in Labrador did not have a condition report completed;
- 7 of 20 sampled condition reports (35%) that were examined from ReCAPP were found to be incomplete or unavailable. One such report only included details on the roof and the parking lot, leaving out all the other components requiring assessment; and
- 10 of 20 (50%) condition reports we reviewed included overall assessments of “good condition” where notes appeared inconsistent as they indicated significant issues with the components. For example:
 - A cooling unit was assessed in the condition report as being in overall good condition, but the condition note on the assessment indicated that the frame of the unit was heavily rusted and the north fan corroded from the weather;

Building Maintenance

- Exterior doors were assessed in the condition report as being in good condition, but the condition note on the assessment indicated they had air and weather penetration and damaged components;
 - Exterior brick walls were assessed in the condition report as being in good condition, but the condition note on the assessment indicated that they were in poor condition, with cracking, loose bricks, and were fracturing; and
 - Exterior wall panels were assessed in the condition report as being in good condition, but the condition note on the assessment indicated that they were allowing water ingress in the building.
-

Recommendation

The Department should complete all condition reports (including Labrador), and review and update the existing condition reports in ReCAPP to ensure the information is complete, consistent and reliable.

5. Energy Efficiency of Government Buildings

Introduction

A major strategic objective identified by the Department in its *2008 - 2011 Strategic Plan* required that all new Government buildings meet the requirements of the *Provincial Energy Plan*. The *Provincial Energy Plan* (the Plan) is a Government report designed to guide energy resource development of Newfoundland and Labrador. The Plan deals with the generation, transmission, and use of energy by Government. This included improving the energy performance of all new buildings and major building renovations as well as the development of a five year energy management plan for the existing building inventory as of 31 March 2010. This strategic objective of improving energy efficiency in Government-owned buildings was reiterated in the *2011 - 2014 Strategic Plan* with a Departmental goal to “*have enhanced energy efficiency in public buildings to support government’s initiatives in environmental stewardship*”. To achieve this goal, the Department stated that it would adopt policies and programs designed to support higher energy efficiency standards within the Government building portfolio.

Building Maintenance

Costs associated with utilities are paid directly from the budget for maintaining buildings. An increase in the costs of providing utilities results in a corresponding decrease in the available funding for repair work. Due to the volatility in energy prices, utility expenses have been taking an increasing share of the maintenance dollars available. For the six year period ending 31 March 2011, the Department has spent an average of \$14.4 million on utilities compared to an average of \$10.5 million in the five years prior.

Information on energy efficiency is limited

Our review of building maintenance included details related to the environmental condition of these assets. This information was identified from our review of the ReCAPP database. We noted the following:

- some older buildings do not possess energy saving components, resulting in buildings that are not as efficient as possible. For example, one building constructed in the 1940s still had its original windows;
- none of the 20 building condition reports we reviewed mentioned insulation, a fundamental component in energy efficiency, as a distinct component. Insulation is an important energy solving component as it minimizes heat loss in the winter and heat penetration in the summer;
- 3 of 20 condition reports sampled contained notations on components that were allowing air and water to seep into buildings. For example, the condition report for the Arts and Culture Centre in St. John's indicated that all windows required replacement as some were "*reported to leak excessively when it rains.*"; and
- the ReCAPP system was not designed to capture detailed energy efficiency information, limiting the ability of the software to be used for tracking energy efficiency in Government-owned buildings.

Recommendation

The Department should enhance the energy efficiency component for buildings data in ReCAPP so that it can be factored into prioritization decisions.

Figure 8

**Transportation and Works
White Hills Highway Depot**



Source: Office of the Auditor General

6. Deferred Maintenance

Introduction

One of the major responsibilities of the Department is the maintenance of Government-owned buildings and properties. Maintenance refers to those activities undertaken by the Department to ensure buildings remain functional for use by various Government departments and the general public. The Department divides maintenance into three categories: general maintenance, programmed maintenance and deferred maintenance. General maintenance pertains to day-to-day occurrences in which a repair or service is required, such as the replacement of light bulbs or the clearance of a blocked pipe. Programmed maintenance pertains to planned project maintenance of limited scope, such as replacing a series of internal doors or minor upgrading of a heating system. Deferred maintenance pertains to planned projects maintenance of a more extensive scope, such as major upgrading of a heating system or window replacement.

Building Maintenance

All maintenance activities undertaken by the Department are subject to the available budget. As the amount of work necessary is usually in excess of the budget allocated, the remaining work must be delayed until a subsequent year. The amount of maintenance required in each year during the period of our review had exceeded the budget available, resulting in an increase in the balance of deferred maintenance carried forward each year.

In our 2004 Annual Report, we found that the deferred maintenance for buildings was estimated to be \$261.2 million for the next 20 years, \$173 million of which would be required within the next five years. This included repairs that were required on an immediate basis as well as capital renewal costs for upgrades and betterments of properties.

ReCAPP allows the Department to track the deferred maintenance balance by listing the number of outstanding repair events for each property. Events within the next five years are given a priority (high, medium, or low) based on factors such as the building managers' assessment of need, the damages that could result from neglect, and the priority of other events. These priorities are spread over several categories of work (replacement, life cycle replacement, repairs, and additions). Events expected beyond the next five years are not given a priority rating.

Deferred maintenance costs continue to increase

During our review, we found that overall deferred maintenance outstanding has increased sharply since our 2004 report. Per Departmental records, the total work outstanding over the next 20 years has more than doubled to \$549.9 million since 2004 (an increase of 110.5% from the \$261.2 million in our 2004 report). Approximately \$306 million of this deferred maintenance work is due in the next five years, an increase of \$133 million (or 76.9%) from the \$173 million in our 2004 report. Figure 9 provides details on the cost of expected events over these next five years by event priority.

Figure 9

Department of Transportation and Works Event Costs by Event Priority For Calendar Years 2011 through to 2015

Event Priority	Total Cost of Events					
	2011	2012	2013	2014	2015	Total
High	\$30,931,201	\$ 1,877,760	\$ 1,301,449	\$ 11,550	\$ 209,633	\$ 34,331,593
Medium	1,029,782	93,203,648	13,222,298	3,274,634	23,078,700	133,809,062
Low	59,450	61,128,473	14,148,497	15,146,858	47,397,318	137,880,596
Total	\$32,020,433	\$ 156,209,881	\$ 28,672,244	\$ 18,433,042	\$ 70,685,651	\$306,021,251

Source: Department of Transportation and Works, ReCAPP Information System

Building Maintenance

As shown in Figure 9, \$306.0 million (55.6%) of the \$549.9 million outstanding in deferred maintenance is required over the next 5 years. Of this total, \$34.3 million (11.2%) has been categorized as high priority repairs. As the budget is insufficient to address this growing deferral, the condition of Government buildings is deteriorating.

Figure 10 provides the same cost information of these events by event type.

Figure 10

**Department of Transportation and Works
Event Costs by Event Type
For calendar years 2011 through to 2015**

Category	Total Cost of Work Entries Per Year				
	2011	2012	2013	2014	2015
Addition	\$ -	\$ 11,496,990	\$ 2,842,794	\$ 3,899,700	\$ 2,578,485
Life Cycle Replacement	19,374,899	88,186,975	19,402,614	10,925,557	58,066,593
Repair	482,900	31,497,409	1,465,433	512,663	2,457,558
Replacement	12,162,634	25,028,507	4,961,403	3,095,122	7,583,015
Total	\$32,020,433	\$156,209,881	\$28,672,244	\$18,433,042	\$70,685,651

Source: Department of Transportation and Works, ReCAPP Information System

Due to the amount of work outstanding and the limited budget, maintenance on Government-owned buildings must be done on a priority basis by the Department. Projects are selected based on need and economy in a region as opposed to being allocated on a Province-wide basis. Items in need of repair that are still functioning are deferred until they are either selected in the budgeting process for funding or they fail and require immediate replacement. This can result in the Department having to be reactionary rather than proactive. This also means that maintenance events identified as high priority are deferred due to a lack of funding.

Officials indicated that the Department's focus has been to use available funding in reacting to more immediate problems. It was noted that for the year ended 31 March 2012, a projected total of \$156.2 million had been identified by the Department for deferred maintenance work; however, only \$25.1 million had been spent during the previous year on maintenance and capital.

Figure 11

**Warehouse Building 910
Pleasantville**



Source: Office of the Auditor General

Recommendation

The Department should develop a strategy to address the existing and projected deferred maintenance events.

7. Preventative Maintenance

Introduction

Preventative maintenance is a component of the Department's building maintenance function. Preventative maintenance refers to work undertaken that is designed to avoid or prevent future problems. An example would be the replacement of the plumbing for a building's fire suppression system. Performing preventative maintenance can decrease the overall cost of maintaining buildings as it reduces or avoids potentially costly problems from occurring. In the example above, a failure in the fire suppression system might severely damage or destroy the building should a fire occur.

In our 2004 Report, it was noted that the Department did not have a consistent, centralized means of tracking preventative maintenance across buildings in the inventory. Prior to 2000, the Department was using a Federal Government Preventative Maintenance Support System. This program was designed to monitor preventative maintenance by tracking the costs and ages of assets in buildings over time. This system was not Y2K compliant and its use was discontinued prior to 2000. That program has not been updated or replaced since that time.

Preventative maintenance is not tracked

Our current review indicated that there was still no formal means at the Department to track preventative maintenance. Officials indicated that the preventative maintenance program has not been updated or replaced by the Department since the previous program was discontinued. Officials at the Department also indicated that there was no formal process for monitoring and managing preventative maintenance on buildings and that tracking was done manually by building managers.

Recommendation

The Department should implement a formal process to monitor and manage preventative maintenance.

8. Vacant Properties

Introduction

A significant component of building and property management involves the disposal of properties that are no longer in use. Vacant buildings that are not disposed of can require utility and maintenance resources despite being unoccupied. The Department must ensure that the building does not become

damaged or unserviceable due to neglect. Buildings that are closed completely and slated for demolition that could be disposed of still cost the Department upkeep and security resources as well as deny Government any potential benefits of the property (e.g., new building construction, sale, etc).

Since our 2004 report, the Department has created and implemented a policy with respect to current and future vacant properties. The Department indicated that it conducts an assessment of the physical condition of the properties to determine if the building should be refurbished and returned to service or if it should be demolished. Properties to be demolished are reviewed to determine if the Department should retain or dispose of the remaining land. The reduction of the number of vacant properties was a major goal in the Department's *2006 – 08 Strategic Plan*.

Figure 12

**Nurses Residence
Former Grace Hospital Property**



Source: Office of the Auditor General

Building Maintenance

Vacant buildings consuming resources

Our review of the vacant buildings inventory of Government-owned buildings found that there are existing properties which are consuming maintenance resources without providing a financial benefit to Government. The Department maintained 25 vacant properties across the Province, which required maintenance services, and 8 of which required utility resources despite being unoccupied - several for significant periods of time. Examples include:

- The old Grace Hospital Nurses' Residence in St. John's, which was vacated in 2001, is considered too dangerous to enter. This property uses security to ensure the building remains off limits.
- The Grand Falls House on the seized Abitibi Bowater property has not been used since the expropriation in 2008. When Government acquired this property, the building was closed and has since remained vacant. The Department maintains the property by tending the grounds and providing heat to the building to ensure that it does not deteriorate.

Recommendation

The Department should continue to assess its vacant buildings inventory to provide for timely refurbishment or disposal of vacant properties.

Department's Response

The stewardship of the province's buildings is a high priority for the Department of Transportation and Works. This is evidenced in daily operations and longer term efforts to improve the condition of the building inventory. Since the 2004 report by the Auditor General, a formal assessment tool called "Renewal Capital Asset Planning Process" (ReCAPP), has been introduced. Funding for Capital Improvements has increased from \$3.1M in 2004 to \$18.8M in 2011, a substantial increase that is in keeping with the need to address deferred maintenance. The Department acknowledges that work remains to be done but feels significant progress has been made.

1. Condition of Government-Owned Buildings

Recommendations

None

Response

The report states that overall deferred maintenance increased sharply since the 2004 Report. While the value of identified deferred maintenance has increased since 2004, from \$261.2M to \$549.9M, these numbers do not represent an accurate measure of the absolute growth of deferred maintenance. This growth was also due to

- *Inflation. Increases in construction cost increases are outpacing CPI increases. For example since 2002 construction cost increases are about 5% per year as opposed to less than 2% for CPI.*
- *Data Capture: ReCAPP has provided more accurate information on the overall condition of the property portfolio and part of the 2004-2011 increase is attributable to more accurate facility information*

It is noted in the report that the annual cost of maintaining and improving these buildings has steadily increased since the 2004 Report, from \$23.2 million in 2004 to \$50.6 million in 2011 (an overall increase of \$27.4 million or 118.1%). The biggest single contributor to this increase is an additional \$15.7M for Capital Improvements (Alterations and Improvements funding). This reflects a significant increase in the investment in addressing the deferred maintenance issue and an undertaking by the Department to deal with the first three conclusions of the 2004 report which dealt with needed repairs and associated funding.

2. Information Management Systems

The Department should complete the process of establishing ReCAPP by:

Recommendation

- *providing additional training for the users of the program;*

Response

The report noted that Departmental personnel who handle building maintenance were not fully trained in the use of ReCAPP. Staff have been trained in ReCAPP although a new Windows based interface was introduced in 2011. This required some further training and this training has since been completed.

Recommendation

- *acquiring and entering data for all buildings in Labrador;*

Response

- *The Department is in the process of undertaking additional assessments of buildings in Labrador*

Recommendation

- *entering in all relevant details for Government buildings;*

Response

The Department will continue to undertake facility assessments and update the information within ReCAPP.

Recommendation

- *ensuring that details between PARTS, ReCAPP and the Insurance Inventory database for buildings is consistent*

The report stated that information between ReCAPP and other information management systems designed for tracking actual expenditures and for recording insurance coverage, was not always consistent. Some inconsistencies can be corrected but different values in each of the databases are not necessarily inconsistencies. The Project Analysis Reporting Tracking System (PARTS), for instance, has an internal Building Number table that includes leased properties, whereas the other databases do not, and generic numbers, such as 3999, used to capture administrative costs for several buildings. So, while there may be a table in PARTS called Building Inventory, it is not a building inventory in the conventional sense. As well the replacement value carried for insurance purposes is not the same as the replacement value within the Facility Condition Index (FCI) - it is industry practice, and even recommendation, that the insured value not be used for FCI calculation.

3. Building Condition Assessments

Recommendations

The Department should:

- *update building data such that the FCI can be calculated for all properties; and*

Response

The report notes that 478 buildings did not contain information on maintenance events. Of the 478 buildings, 475 are less than 150 sq m in area and nearly half (236 of 478) are less than 50 sq m in area. Detailed assessments on facilities that represent a small portion of the overall portfolio are not felt to be economically feasible.

The report does contain examples of apparent anomalies such as the electrical shelter at the Botwood Airstrip which had an FCI of 3,812% based on \$468,930 in needed repairs with a replacement value of \$12,300. In most large buildings deficiencies related to site conditions such as parking lots form a relatively small portion of the total cost of the overall building deficiency list. That is not the case in Botwood Airstrip where the site deficiencies, which relate to lighting and fencing, are much higher than the shelter requirements. It is acknowledged that such anomalies do need to be scrutinized to ensure a consistent approach to all sites.

Recommendations

- *review all buildings with FCIs over 100% to determine if they should be replaced or repaired.*

Response

The Department uses the FCI as a determinant in its evaluation of the long term use of a facility and will continue this practice.

4. Condition Reports

Recommendation

The Department should complete all condition reports (including Labrador), and review and update the existing condition reports in ReCAPP to ensure the information is complete, consistent and reliable.

Response

The report states that some condition reports that were reviewed included inconsistent assessments of components, where overall assessments of “good condition” included notes which indicated significant issues with some components. While it is acknowledged that there could be inconsistencies, a difference between the condition of a component and the larger piece of equipment is not necessarily inconsistent. For example a single roof leak would not necessarily indicate a roof in poor condition nor would a broken drive belt indicate, in and of itself, an air handling unit in poor condition.

As previously noted, the Department will continue to undertake facility assessments and update the information within ReCAPP.

5. Energy Efficiency of Government Buildings

Recommendation

The Department should enhance the energy efficiency component for buildings data in ReCAPP so that it can be factored into prioritization decisions.

Response

It was stated in the report that none of the 20 building condition reports reviewed by the Auditor General, mentioned insulation, a fundamental component in energy efficiency. Facility assessments are intended to identify deficiencies in infrastructure “as installed” and the cost to replace “in kind” not necessarily to upgrade such systems. While such upgrading or replacement may indeed offer opportunities for improvements, this is not the focus of the assessment. However, the Department does undertake detailed energy audits on its facilities in order to identify opportunities for improved energy consumption.

6. Deferred Maintenance

Recommendation

The Department should develop a strategy to address the existing and projected deferred maintenance events.

Response

Significant progress has been made in addressing the deferred maintenance needs of Government buildings and the Department will continue this effort through the annual budget process.

7. Preventative Maintenance

Recommendation

The Department should implement a formal process to monitor and manage preventative maintenance.

Response

The Department's focus has been on detailed assessments of its facilities and implementation of ReCAPP. Once this has been further advanced then consideration will be given to introduction of a preventive maintenance system.

8. Vacant Properties

Recommendation

The Department should continue to assess its vacant buildings inventory to provide for timely refurbishment or disposal of vacant properties.

Response

The Department will continue with its efforts on the refurbishment or disposal of vacant properties.

PART 2.14

DEPARTMENT OF TRANSPORTATION AND WORKS

TRANS LABRADOR HIGHWAY

Executive Summary

In a November 1996 news release, the then Minister of Works Services and Transportation (now Transportation and Works) and the then Minister responsible for Labrador explained their vision for a highway which integrated Labrador into Canada's national highway system. They indicated that the existing highway infrastructure in Labrador was inadequate and in many cases non-existent. The people of Labrador had expressed the need for an all-weather Trans Labrador Highway which would upgrade the route from Labrador West to Happy Valley-Goose Bay, link southern coastal communities with the highway at Red Bay and connect Cartwright to Happy Valley-Goose Bay.

At that time, the Province had begun negotiations with the Federal Government. The Province would accept responsibility for Labrador marine services operated by the Federal Government in return for a funding settlement to be used for a Trans Labrador Highway (the Highway) as well as the operation of the Labrador marine services. The Ministers indicated that upon completion of the agreement, construction on the Highway could commence and would continue until a complete system of paved roads was in place in Labrador.

In March 1997, the Federal and Provincial Governments entered into an agreement whereby the Province would assume responsibility for operating marine freight and passenger services on and to the coast of Labrador in exchange for \$340 million plus interest. The Province received \$347.6 million in December 1997 as a cash settlement, together with related ferry service infrastructure.

Construction of the Highway was planned to start in 1997 and was designed in the following three phases, with road work in these phases connecting to existing roadways in western Labrador and the southern coast of Labrador:

- Phase I - 537 kilometre route to extend from Labrador West to Happy Valley-Goose Bay (171 kilometres (32%) paved as at 31 March 2011);
- Phase II - 237 kilometre route to extend from Red Bay in southern Labrador to Cartwright Junction (route completed in 2003, with no paving as at 31 March 2011); and
- Phase III - 287 kilometre route to extend from Cartwright Junction to Happy Valley-Goose Bay (route completed in 2009, with no paving as at 31 March 2011).

Trans Labrador Highway

In 1998, Government estimated that it would cost \$190 million to construct phases I and II of the Highway and that construction would be completed in 2002-03. In 2002, Government announced planned construction of Phase III at an estimated cost of \$100 million, with construction of that phase to be completed, subsequent to an environmental assessment, over a six-year period. This meant that the original estimate to construct all three phases was \$290 million.

During our current review, Department of Transportation and Works (the Department) officials were not readily able to provide information on the actual capital costs to date of individual road projects on the Highway. Therefore, we could not compare the actual costs to date for each phase to the original estimated costs, or determine the cost of any changes in construction plans.

Officials were; however, able to provide summary information showing that capital expenditures relating to the Highway totalled \$501.3 million over the fiscal years 1998-99 to 2010-11. They were also able to provide information on the estimated additional cost to complete paving for Phases I, II, and III. The estimated additional cost would be approximately \$428 million if paving of all three phases were included. Using assumptions provided by Department officials, a fully paved Highway could be completed by 2019.

Our review also identified that:

- Department officials could not provide a formal plan to demonstrate how the Department intends to complete the Highway;
- Department officials could not provide documentation supporting why the southern route was chosen for Phase III rather than the northern route which was initially preferred;
- While the initial Government commitment was to pave the complete Highway, Department officials indicated that the decision whether to pave Phase II and Phase III would be reviewed in 2014 after completion of Phase I paving;
- Results of road project audits conducted by the Department identified deficiencies in practices and record keeping on the road projects;
- A payment in the amount of \$1,572,507 was made to a contractor during 2010-11 to resolve a legal claim related to a construction contract for Phase II of the Highway;

- Bridges along the Highway route had not had official inspections conducted in accordance with Departmental policy; and
- Five of the 80 satellite phones purchased since March 2009, for use by the public when travelling the Highway, could not be accounted for.

We also identified instances where the Department did not comply with the *Public Tender Act*. Existing road paving contracts were extended multiple times to perform additional work that was not within the original scope of the paving contract. The additional work should therefore have been publicly tendered. As well, approval of the additional work by the Deputy Minister was not always documented and the changes were not always reported to Treasury Board, both of which are required under the *Act*.

Plan to Complete the Highway

Officials of the Department were not able to provide a formal plan to demonstrate how the Department intends to complete the Highway. A comprehensive plan would include: goals, objectives and milestones; timelines for completion of projects; the desired highway standards; an estimate of the construction costs for completion; and sources of funding for the identified costs.

The Department also does not have an integrated project management system for any of its road projects that could provide information on actual costs and related revenue by project, which would provide for analysis over a longer period of time. Currently, tracking is done through the use of manual spreadsheets.

Phase III Route

During 2002 and 2003, the Department considered thirteen routes for the final section, Phase III, between Happy Valley-Goose Bay and Cartwright Junction. Based upon its review, the Department initially chose a northern route as their preferred route. An environmental assessment was undertaken of the northern route and submitted to the then Minister of Environment for review in January 2003. Departmental officials indicated that as part of the review, the Department was asked to prepare an environmental assessment for a different route, referred to as the southern route.

The resulting environmental assessment concluded that: there were no significant differences in terms of environmental impacts between the northern route and the southern route; there were no differences identified that precluded the Highway from being constructed along the northern route; the southern route was a longer route estimated to cost an additional \$7.5 million more to construct and \$4.5 million for an additional year of ferry service due to the longer construction time; the northern route would be cheaper to maintain and would be the lower cost alternative for users of the Highway; and that the Department felt that the decision should be based upon cost effectiveness and that the Department had intended to proceed with construction of Phase III along the northern route.

Although the Department subsequently decided to construct Phase III along the southern route, officials could not provide documentation supporting why the northern route was not chosen.

Paving the Highway

The initial Government commitment was to pave the complete Highway; however, the current commitment is to pave Phase I by approximately 2014, with any further plans for Phase II and Phase III to be reviewed at that time.

Department Audits

Results of road project audits conducted by the Department during Highway construction identified deficiencies in practices and record keeping. Audit reports highlight a number of consistent record keeping problems found with the road projects. They include: deficiencies in the completeness of information recorded in required project diaries; a lack of documentation to support regular project meetings being held; deficiencies in records kept to support certain pay items; and a significant number of overpayments and underpayments found related to individual project pay items.

While not of a high value in relation to total project cost, these overpayments and underpayments were significant in terms of the number of differences identified. The audit reports indicated that they resulted from calculation errors and omissions, and recommended that these calculations be checked during projects. Given the fact that Departmental officials only audit a portion of the total number of projects (one to two projects per season), it is likely that there are errors and omissions on other projects that go undetected.

Resolution of Legal Claim

During 2010-11, the Department paid \$1,572,507 to a contractor to resolve a legal claim related to a Phase II construction contract completed in 2001. The Department of Justice had provided an opinion that the Department of Transportation and Works was liable for delays encountered by the contractor and would likely be found liable for certain other delays which the contractor encountered, as well as for claims related to different subsoil materials encountered by the contractor than were referenced in the public tender documents for the project. In order to settle the dispute, the Department agreed to pay the contractor the amount of \$1,550,000 plus interest and taxes.

Bridge Inspections

Based on our review of information contained in the Department's on-line bridge inspection system as at April 2011, we identified 29 bridges that were part of the Highway. We determined that there were a significant number of bridges along the Highway route that had not had official inspections conducted in accordance with Departmental policy. The policy requires that bridges be inspected at least every two years. We found that as of April 2011:

- 1 of the 29 bridges did not have an official inspection performed for more than four years;
- the remaining 28 bridges did not have an official inspection performed within the two year requirement - the most recent inspections were conducted during 2009, with the previous inspections conducted three years earlier in 2006;
- 7 of the 28 bridges inspected during 2009 had an overall condition rating of fair but it was indicated that follow-up inspections were required within one year; however, there was no evidence that follow-up inspections had been conducted; and
- the bridge management system had not been updated on a timely basis.

Satellite Phones

During the Department's annual maintenance check for the summer of 2011, officials determined that 5 of the 80 satellite phones purchased since March 2009 could not be accounted for. This represents a potential loss in this valuable service to the public using the Highway.

Public Tender Act

The Department did not comply with the *Public Tender Act* related to two road paving contracts. In these cases, existing contracts were extended multiple times to perform significant amounts of additional paving work, as well as other work outside the requirements of the original contracts. Details on the two instances reviewed follows.

- In one contract awarded at a value of \$17.5 million, there were four contract extensions approved over two fiscal years, totalling an estimated \$9.5 million or 54.3% of the estimated original contract. Two of the extension contracts totalling \$3.5 million, cumulatively exceeded \$50,000 or 5% of the original contract value, but approval of the Deputy Minister was not documented and the changes were not submitted for inclusion in the Department's annual report to Treasury Board, both of which are required under the *Act*. The other two extension contracts totalling \$6.0 million again cumulatively exceeded \$50,000 or 5% of the original contract value, and while these were documented as being approved by the Deputy Minister, they were not submitted for inclusion in the Department's annual report to Treasury Board until after our enquiry.

Furthermore, the additional 36 kilometres of paving to be performed through three of the contract extensions totalling \$7.9 million was not within the original scope of the 80 kilometres of paving, and, under the requirements of the *Act*, should have been tendered. The fourth extension contract for \$1.6 million was for the construction and paving of a permanent weigh scale site near Wabush. This work was not within the original scope of the paving contract and also should have been publicly tendered.

- In the second contract awarded at a value of \$12.1 million, there were two contract extensions approved during 2010-11 totalling an estimated \$3.5 million or 28.9% of the estimated original contract. In one of the two extension contracts, the \$3.0 million extension value exceeded \$50,000 or 5% of the original contract value, but approval of the Deputy Minister was not documented as required under the *Act* and the change was not submitted for inclusion in the Department's annual report to Treasury Board until after our enquiry. The other extension contract for \$550,000 again cumulatively exceeded \$50,000 or 5% of the original contract value, but approval of the Deputy Minister was not documented, and it was not submitted for inclusion in the Department's annual report to Treasury Board as required under the *Act*.

Furthermore, the additional 10 kilometres of paving to be performed through the contract extension for \$3.0 million was not within the original scope of the 50 kilometres of paving, and, under the requirements of the *Act*, should have been tendered. The second extension contract for \$550,000 was for the construction of a temporary portable weigh scale site at Happy Valley-Goose Bay. This work was not within the original scope of the paving contract and also should have been publicly tendered.

Background

Department Overview

As at 31 March 2011, the Department of Transportation and Works (the Department) had 1,777 employees in permanent, temporary and seasonal categories. It operated seven regional offices with 67 depots/units located throughout the Province.

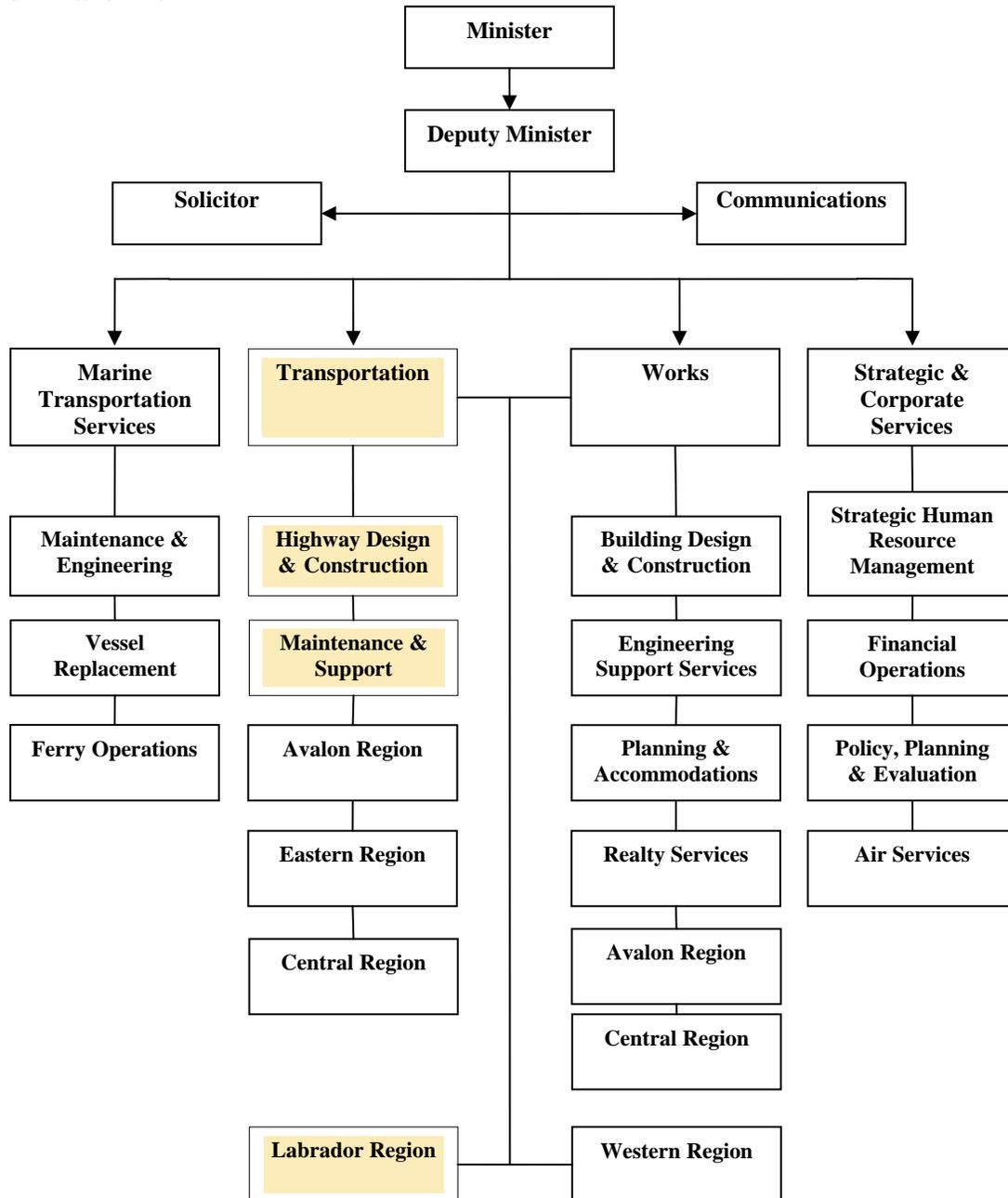
The Department is responsible for the construction and maintenance of the Province's road system. The system consists of approximately 9,800 kilometres of primary and secondary highways and community access roads on the island portion of the Province and in Labrador. Road construction and maintenance for Labrador are the responsibility of the Transportation Branch and its divisions. Two of these divisions are directly involved in the Trans Labrador Highway initiative, the Highway Design and Construction Division and the Highway Maintenance Support Division.

The Highway Design and Construction Division is responsible for designing transportation infrastructure including highways; managing and inspecting construction and rehabilitation projects; quality assurance of construction materials; and investigating soil conditions for bridges and highways.

The Highway Maintenance Support Division is responsible for developing and implementing policies and procedures for maintenance of highways; maintaining data on maintenance and equipment costs; storing Departmental records; and administering inventory management and control. An organization chart for the Department is shown in Figure 1.

Figure 1

Department of Transportation and Works
 Organization Chart
 31 March 2011



Source: Department of Transportation and Works

Trans Labrador Highway

Labrador Region

The Labrador Regional Office is responsible for program delivery for highway construction, rehabilitation and maintenance in Labrador; and equipment maintenance for the Government vehicle fleet in Labrador.

Labrador has a large total area of 294,330 square kilometres compared to 111,390 square kilometres for the island portion of the Province. There is a small population of about 27,000 in three main population centres of Labrador West (Wabush/Labrador City), Churchill Falls and Happy Valley-Goose Bay as well as about 28 smaller coastal communities. The Trans Labrador Highway was constructed to improve the transportation network in Labrador which had relied heavily on air and marine ferry services.

Trans Labrador Highway

In a November 1996 news release, the then Minister of Works Services and Transportation (now Transportation and Works) and the then Minister responsible for Labrador explained their vision for a highway which integrated Labrador into Canada's national highway system. They indicated that the existing highway infrastructure in Labrador was inadequate and in many cases non-existent. The people of Labrador had expressed the need for an all-weather Trans Labrador Highway which would upgrade the route from Labrador West to Happy Valley-Goose Bay, link southern coastal communities with the highway at Red Bay and connect Cartwright to Happy Valley-Goose Bay.

At that time, the Province had begun negotiations with the Federal Government. The Province would accept responsibility for Labrador marine services operated by the Federal Government in return for a funding settlement to be used for a Trans Labrador Highway (the Highway) as well as the operation of the Labrador marine services. The Ministers indicated that upon completion of the agreement, construction on the Highway could commence and would continue until a complete system of paved roads was in place in Labrador.

In March 1997, the Federal and Provincial Governments entered into an agreement whereby the Province would assume responsibility for operating marine freight and passenger services on and to the coast of Labrador in exchange for \$340 million plus interest. The Province received \$347.6 million in December 1997 as a cash settlement, together with related ferry service infrastructure.

Construction on the Highway was planned to start in 1997 and was designed in the following three phases:

- Phase I extends from Labrador West to Happy Valley-Goose Bay;
- Phase II extends from Red Bay in Southern Labrador to Cartwright Junction; and
- Phase III extends from Cartwright Junction to Happy Valley-Goose Bay.

Road work in these phases connected existing roadways in western and the southern coast of Labrador to form a continuous Trans Labrador Highway.

Construction phases

Phase I

Phase I refers to the 537 kilometre (km) route between Labrador West and Happy Valley-Goose Bay. Prior to 1983, there were existing roads in place between the Quebec border and the Labrador City/Wabush (Labrador West) area, as well as other roads along the eventual Phase I route. In 1983, upgrading of existing roads and new road construction on the route from Labrador West to the junction with the road to Esker and the Smallwood Reservoir began and continued until completion in 1990. Between 1993 and 1998, portions of the route from Happy Valley-Goose Bay towards Churchill Falls were completed. In 1997, a three year construction phase began to complete upgrading between Happy Valley-Goose Bay and Churchill Falls.

In 2007, upgrading started between Happy Valley-Goose Bay and Wabush to widen the road in preparation for paving and was still ongoing as of 31 March 2011. At that time, 171 km (32%) of the route had been paved.

Phase II

Phase II refers to the 237 km route on the southern coast of Labrador from Red Bay to Cartwright Junction. In 1999, construction began and the route was opened in 2003. As of 31 March 2011, there had been no paving on Phase II and there was no commitment in place to do so. A paved route between Red Bay and Blanc Sablon, Quebec links Phase II to the island portion of the Province.

Phase III

Phase III refers to the 287 km route from Cartwright Junction to Happy-Valley-Goose Bay. Construction started in 2004 and the road was opened for use in December 2009. Further work was performed in 2010 to fully complete this phase. As of 31 March 2011, there had been no paving on Phase III and there was no commitment in place to do so.

Trans Labrador Highway Route

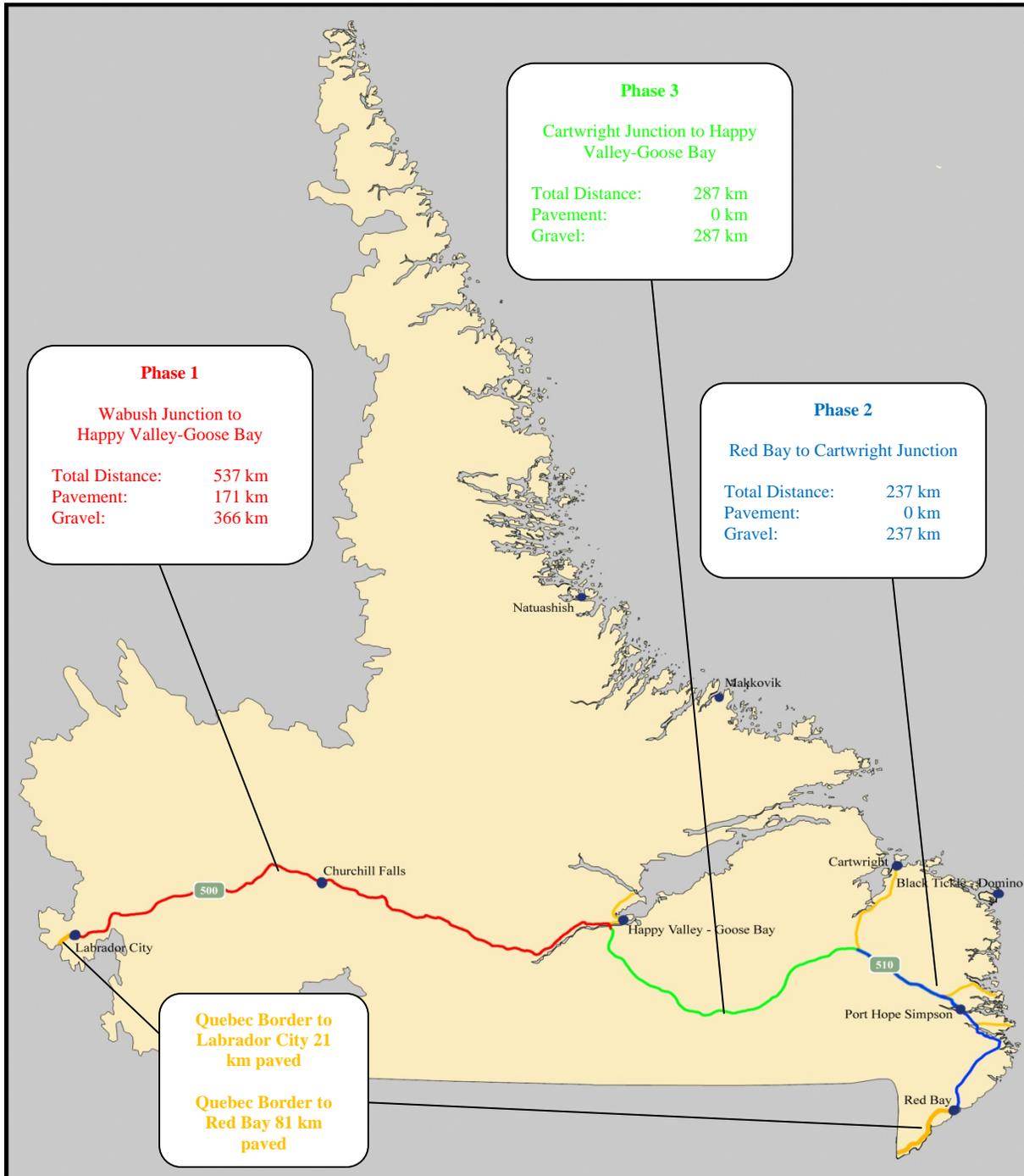
The Trans Labrador Highway includes Phase I (537 km), Phase II (237 km) and Phase III (287 km). In addition, it also includes 21 km of paved road from the western Quebec border to Wabush Junction and 81 km of paved road from Red Bay to the southern Quebec border. A map of the Trans Labrador Highway is shown in Figure 2.

As at 31 March 2011, approximately 273 km or 23% of the Trans Labrador Highway was paved while approximately 890 km or 77% remained unpaved. The Trans Labrador Highway consisted of 558 km designated Route 500 that extended from the western Quebec border to Happy Valley-Goose Bay and a 605 km designated Route 510 that extended from Happy Valley-Goose Bay to the southern Quebec border.

Trans Labrador Highway

Figure 2

Trans Labrador Highway 31 March 2011



Source: Department of Transportation and Works

Audit Objectives and Scope

Audit objectives

The objectives of our review of the Trans Labrador Highway initiative were to identify construction costs; and determine whether the Department had ensured that:

- there were adequate plans in place for construction;
 - construction and maintenance work were properly managed;
 - there were adequate information systems in place; and
 - the initiative had been administered in accordance with legislation and policy.
-

Audit scope

We reviewed practices and transactions related to the Trans Labrador Highway initiative for the fiscal years ending 31 March 2010 and 2011. We also reviewed available historical information from the beginning of the Trans Labrador Highway initiative.

Our review included discussions with staff of the Department of Transportation and Works. We examined documentation available from the head office of the Department and the Labrador Regional Office, as required.

We completed the review in December 2011.

Detailed Observations

This report provides detailed audit findings and recommendations in the following sections:

1. Planning
2. Project Costs
3. Project Management
4. Highway Maintenance

1. Planning

Overview We would expect that given the magnitude of the Trans Labrador Highway initiative and the significant associated costs that the Department of Transportation and Works would have a plan to guide its completion.

During the review we identified issues in the following areas related to planning:

- A. Formal Plan for Completion
- B. Estimate of Cost to Complete

Details are as follows:

1A. Formal Plan for Completion

Introduction Department officials indicated that the Department intended to complete paving of Phase I of the Trans Labrador Highway by 2014, at which time it would look at whether further upgrading would be done on Phase II and Phase III. There has been no commitment from Government to pave Phase II and Phase III.

No formal plan Department officials could not provide a formal plan to demonstrate how the Department intends to complete the Trans Labrador Highway. A comprehensive plan would include:

- goals, objectives and milestones;
 - timelines for completion of projects;
 - the desired highway standards;
 - an estimate of the construction costs for completion; and
 - sources of funding for the identified costs.
-

Figure 3

**Gravel Section
Phase I-Trans Labrador Highway**



Source: Office of the Auditor General

1B. Estimate of Cost to Complete

Introduction

The Department has indicated that it is committed to completing the paving of Phase I by 2014. At that time, it intends to review its plans for the remaining parts of the Trans Labrador Highway (Phase II and Phase III). A Department official provided information on the estimated cost and duration of construction for a paved Trans Labrador Highway (all three phases).

Trans Labrador Highway

Estimated cost \$428 million Using available budget amounts provided for the completion of Phase I and estimates provided by staff to complete Phase II and III, we were able to compile an overall estimate to complete a paved Trans Labrador Highway. Information provided by the Department indicated that the current cost at 31 March 2011 to complete a paved Trans Labrador Highway would be approximately \$428 million and that using assumptions provided it could be completed by 2019.

Department's estimated completion by 2019 Phase I is planned to be completed by 2014. Department officials believe that Phase II and Phase III can be completed concurrently and estimate that it would take approximately five or six years to complete both phases. Therefore, they expect all phases to be completed by 2019. If Phase II and III are not able to be completed concurrently, based on estimated completion times, all phases could be completed by 2024 to 2026.

An estimate of the cost required to finish widening and paving the Trans Labrador Highway at 31 March 2011 is summarized in Figure 4, based upon information provided by the Department.

Trans Labrador Highway

Figure 4

**Department of Transportation and Works
Trans Labrador Highway
Estimated Completion Costs
for Phases I, II, and III
31 March 2011**

Phase	Category	Estimated cost (\$ Millions)	Estimated completion
Phase I-Wabush Junction to Happy Valley-Goose Bay	Road upgrading	\$ 25.6	Completed by 2012
	Paving	103.1	Completed by 2014
Total for Phase I		128.7	
Phase II-Red Bay to Cartwright Junction	Road upgrading	60.4	3-4 years to complete
	Bridge replacement	19.9	
	Paving	66.9	5-6 years to complete
Total for Phase II		147.2	
Phase III- Cartwright Junction to Happy Valley-Goose Bay	Road upgrading	72.2	3-4 years to complete
	Paving	80.1	5-6 years to complete
Total for Phase III		152.3	
Total for all Phases		\$ 428.2	

Source: Department of Transportation and Works

The estimated completion periods for Phase II and Phase III assume offsetting the start of paving on the phase by about two years after the start of road upgrading. With the widening of the roadway, a number of existing bridges along Phase II would require replacement.

**\$251,578/km
for widening**

The road widening/upgrading costs were estimated at about \$251,578 per kilometre based upon an average widening cost, including engineering, of six recent projects for Phase I.

**\$278,894/ km
for paving**

Paving costs were estimated at about \$278,894 per kilometre based upon an average cost, including engineering, of six recent projects for Phase I.

Upgrading of Phase II would require a number of bridge replacements estimated by the Department to cost \$19.9 million including engineering.

Recommendation

The Department should develop a formal plan for the completion of the Trans Labrador Highway, detailing goals, objectives and milestones; timelines for completion of projects; the desired highway standards; an estimate of the construction costs for completion; and sources of funding for the identified costs.

2. Project Costs

Overview

The Trans Labrador Highway extends approximately 1,163 km from western Labrador to the communities in southern Labrador and ferry services to the island portion of the Province at Blanc Sablon. The Trans Labrador Highway was constructed to improve the transportation network in Labrador which had relied heavily on air and ferry services. It represents a significant investment by the Province.

During the review we identified issues in the following areas related to project costs and related funding:

- A. Capital cost
- B. Route Selection-Phase III
- C. Settlement of Claim

Details are as follows:

2A. Capital Cost

Introduction

In 1998, Government estimated that it would cost \$190 million to construct Phases I and II of the Highway and that construction would be completed in 2002-03. In 2002, Government announced planned construction of Phase III at an estimated cost of \$100 million, with construction of that phase to be completed, subsequent to an environmental assessment, over a six-year period. This meant that the original estimates to construct all three phases were \$290 million.

Trans Labrador Highway

We requested information on actual capital costs of the Trans Labrador Highway. Officials of the Department could not readily provide costs back to the commencement of work on Phase I. Information from a computerized database maintained by the Department shows individual projects and their original estimated tender cost only.

Figure 5

Road Construction Trans Labrador Highway



Source: Department of Transportation and Works

\$501.3 million in capital expenditures Departmental reports on program expenditures and revenues of the Consolidated Revenue Fund show capital expenditures for the Trans Labrador Highway that amount to \$501.3 million over the fiscal years 1998-99 to 2010-11. Details are shown in Figure 6.

Trans Labrador Highway

Figure 6

**Trans Labrador Highway
Capital Expenditures and Related Revenue
for Years Ending 31 March
(\$ Millions)**

Description	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	Total
Salaries	-	-	-	-	-	-	-	-	1.8	1.6	1.3	1.8	1.5	8.0
Transportation and Communication	0.7	2.3	2.5	1.6	1.0	1.5	0.5	0.9	1.0	0.8	0.6	0.7	0.4	14.5
Professional Services	0.6	0.2	0.5	0.2	0.8	0.6	0.1	0.1	0.3	0.2	6.0	6.4	7.8	23.8
Purchased Services	23.1	37.7	50.5	33.0	15.0	8.2	5.9	29.7	20.3	24.0	54.7	63.2	72.5	437.8
Other	1.6	2.9	3.6	2.7	1.3	1.4	1.1	1.5	0.2	0.2	0.2	0.3	0.2	17.2
Gross Expenditure	26.0	43.1	57.1	37.5	18.1	11.7	7.6	32.2	23.6	26.8	62.8	72.4	82.4	501.3
Revenue - Federal	-	-	-	-	-	-	-	-	-	-	-	(47.5)	(5.0)	(52.5)
Revenue - Provincial	(26.2)	(43.0)	(57.5)	(36.7)	(18.2)	(11.6)	(7.5)	(32.1)	(0.2)	-	-	-	-	(233.0)
Related revenue	(26.2)	(43.0)	(57.5)	(36.7)	(18.2)	(11.6)	(7.5)	(32.1)	(0.2)	-	-	(47.5)	(5.0)	(285.5)
Net Expenditure	(0.2)	0.1	(0.4)	0.8	(0.1)	0.1	0.1	0.1	23.4	26.8	62.8	24.9	77.4	215.8

Source: Reports on Program Expenditures and Revenues of the Consolidated Revenue Fund

Salaries costs totalling \$8.0 million included the salaries of Departmental staff that had been allocated to construction projects under this activity. Transportation and Communications costs totalling \$14.5 million related primarily to travel expenses. Professional services costs totalling \$23.8 million primarily related to costs for consultants such as those that managed the construction projects on the Trans Labrador Highway and the connecting roads to coastal communities. Purchased services of \$437.8 million were primarily for payments to contractors constructing and/or upgrading roads and bridges along the Trans Labrador Highway and the connecting roads to coastal communities.

No integrated project management system

The Department does not have an integrated project management system for any of its road projects that could provide information on actual costs and related revenue by project which would provide for analysis over a longer period of time. Currently, tracking is done through the use of manual spreadsheets.

During our current review, Department officials were not readily able to provide information on the actual capital costs to date of individual road projects on the Highway. Therefore, we could not compare the actual costs to date for each phase to the original estimated costs, or determine the cost of any changes in construction plans.

As the Department was not able to provide a complete listing of the actual capital cost of projects on the Trans Labrador Highway, we determined that Departmental statements disclosing separate capital costs for the Trans Labrador Highway go back as far as the year ended 31 March 1999.

2B. Route Selection – Phase III

Introduction

During 2002 and 2003, the Department considered thirteen routes for the final section, Phase III, between Happy Valley-Goose Bay and Cartwright Junction. Based upon its review, the Department chose a northern route as their preferred route. An environmental assessment was undertaken of the northern route and submitted to the then Minister of Environment for review in January 2003. Departmental officials indicated that as part of the review, the Department was asked to prepare an environmental assessment for a different route referred to as the southern route.

Preferred route not chosen

The resulting environmental assessment concluded that:

- there were no significant differences in terms of environmental impacts between the northern route and the southern route;
- there were no differences identified that precluded the Highway from being constructed along the northern route;
- the southern route was a longer route estimated to cost an additional \$7.5 million more to construct and \$4.5 million for an additional year of ferry service due to the longer construction time;

- the northern route would be cheaper to maintain and would be the lower cost alternative for users of the Highway; and
- the Department felt that the decision should be based upon cost effectiveness and that the Department had intended to proceed with construction of Phase III along the northern route.

Although the Department subsequently decided to construct Phase III along the southern route, officials could not provide documentation supporting why the northern route was not chosen.

2C. Settlement of Claim

Introduction

During 2010-11, the Department paid \$1,572,507 to a contractor for the settlement of a legal claim by the contractor against the Department.

On 3 June 2010, an agreement was entered into between the Department of Transportation and Works and a contractor regarding a dispute relating to a roads construction contract during Phase II of the Trans Labrador Highway initiative. The construction contract was for grading the Charlottetown Access Road towards Paradise River and was completed in 2001.

\$1,572,507 settlement paid

Documentation provided indicated that the Department of Justice had provided an opinion that the Department of Transportation and Works was liable for delays encountered by the contractor and would likely be found liable for certain other delays which the contractor encountered as well as for claims related to different subsoil materials encountered by the contractor in comparison to those referenced in the public tender documents for the project.

In order to settle the dispute, the Department agreed to pay the contractor the amount of \$1,550,000 plus interest and taxes.

Recommendations

The Department should:

- ensure that cost information for major initiatives such as the Trans Labrador Highway can be tracked on a long term basis; and
- consider the implementation of an integrated project management system for road construction projects.

3. Project Management

Overview

The Report on Program Expenditures and Revenues of the Consolidated Revenue Fund for the year ended 31 March 2011 shows that purchased services on capital items for the Trans Labrador Highway totalled \$72.5 million. It is important to have an adequate project management system in place to ensure that these funds are expended in compliance with legislation and Department policy.

During the review we identified the following issues:

- A. Extensions to Contracts
- B. Results of Departmental Audits

Details are as follows:

3A. Extensions to Contracts

Introduction

Under the terms of the *Public Tender Act* (the *Act*) the deputy minister of a department may authorize change orders within the requirements of a contract or authorize extensions to contracts. Where the original contract has a value equal to or greater than \$500,000, and the cumulative value of changes exceeds the greater of \$50,000 or 5% of value, those changes have to be reported to the Treasury Board annually.

The Department did not comply with the *Act* related to two road paving contracts. In these cases, existing contracts were extended multiple times to perform significant amounts of additional paving work as well as other work outside the requirements of the original contracts. Details on the two instances reviewed follows.

Four contract extensions did not comply with the *Public Tender Act*

In one contract awarded at a value of \$17.5 million, there were four contract extensions approved over two fiscal years, totalling an estimated \$9.5 million or 54.3% of the estimated original contract. Two of the extension contracts totalling \$3.5 million, cumulatively exceeded \$50,000 or 5% of the original contract value, but approval of the Deputy Minister was not documented and the changes were not submitted for inclusion in the Department's annual report to Treasury Board, both of which are required under the *Act*. The other two extension contracts totalling \$6.0 million again cumulatively exceeded \$50,000 or 5% of the original contract value, and while these were documented as being approved by the Deputy Minister, they were not submitted for inclusion in the Department's annual report to Treasury Board until after our enquiry.

Furthermore, the additional 36 km of paving to be performed through three of the contract extensions totalling \$7.9 million was not within the original scope of the 80 km of paving, and, under the requirements of the *Act*, should have been tendered. The fourth extension contract for \$1.6 million was for the construction and paving of a permanent weigh scale site near Wabush. This work was not within the original scope of the paving contract and also should have been publicly tendered.

Two contract extensions made did not comply with the *Public Tender Act*

In the second contract awarded at a value of \$12.1 million, there were two contract extensions approved during 2010-11 totalling an estimated \$3.5 million or 28.9% of the estimated original contract. In one of the two extension contracts, the \$3.0 million extension value exceeded \$50,000 or 5% of the original contract value, but approval of the Deputy Minister was not documented as required under the *Act* and the change was not submitted for inclusion in the Department's annual report to Treasury Board until after our enquiry. The other extension contract for \$550,000 again cumulatively exceeded \$50,000 or 5% of the original contract value, but approval of the Deputy Minister was not documented, and it was not submitted for inclusion in the Department's annual report to Treasury Board as required under the *Act*.

Furthermore, the additional 10 km of paving to be performed through the contract extension for \$3.0 million was not within the original scope of the 50 km of paving, and, under the requirements of the *Act*, should have been tendered. The second extension contract for \$550,000 was for the construction of a temporary portable weigh scale site at Happy Valley-Goose Bay. This work was not within the original scope of the paving contract and also should have been publicly tendered.

3B. Results of Departmental Audits

Introduction

The Department performs two different types of audits on road projects. They are known as summer and winter field audits. During summer field audits, a staff member from the Highway Design and Construction Division visits the construction sites; discusses procedures in place with staff; and examines records as required. During the winter season, this staff member performs audits that are much more comprehensive and detailed, therefore only a few road projects can be audited each year.

We requested and reviewed reports on the four most recent winter audits performed on road projects for the Trans Labrador Highway. The audits were for two projects awarded in 2004, one awarded in 2007 and one awarded in 2009. The 2009 audit was finalized during our review in 2011. Results of road project audits conducted by the Department during Highway construction identified deficiencies in practices and record keeping.

The audit reports highlighted a number of consistent record keeping problems found with the road projects. They included:

- deficiencies in the completeness of information recorded in the required project diaries;
- a lack of documentation to support regular project meetings being held;
- deficiencies in the records kept to support certain pay items; and
- a significant number of overpayments and underpayments found related to individual project pay items. A summary is included in Figure 7.

Trans Labrador Highway

Figure 7

**Department of Transportation and Works
Overpayments and underpayments
Result of Departmental Audits**

Project Description	Contract Amount	Overpayments		Underpayments		Net Over (Under) Payment
		Items	Amount	Items	Amount	
62-09 PHP - Grading 10.7 km R500 TLH Happy Valley - Goose Bay towards Cartwright Junction	\$10,910,835	7	\$44,815	9	(\$101,374)	(\$56,559)
103-07 PHR -Upgrading R500 TLH from Happy Valley - Goose Bay to Churchill Falls km 33.5 - 48.5.	\$3,256,690	1	\$1,963	1	(\$10,351)	\$(8,388)
1-04 PHG -Grading 27 km R500 TLH, Cartwright Jct. to HVGB.	\$6,904,573	6	\$54,626	4	(8,127)	\$46,499
57-04 PHP -Supply and application of approximately 4 km of chip seal to R500 TLH at Churchill Falls	\$574,500	3	\$1,685	1	(2,190)	(\$505)

Source: Department of Transportation and Works Audit Reports

While not of a high value in relation to total project cost, these overpayments and underpayments were significant in terms of the number of differences identified. The audit reports indicated that they resulted from calculation errors and omissions, and recommended that these calculations be checked during projects.

Given the fact that Departmental officials only audit a portion of the total number of projects (one to two projects per season), it is likely that there are errors and omissions on other projects that go undetected.

Recommendations

The Department should:

- ensure that approvals of contract extensions are adequately documented in the project files;
- comply with the *Public Tender Act*;
- ensure that record keeping for construction projects is adequate;
- ensure that projects are completed in compliance with Departmental policy; and
- consider increasing the number of Departmental audits conducted.

4. Highway Maintenance

During our review of highway maintenance we identified issues in the following areas:

- A. Bridge Inspections
- B. Satellite Phones

Details are as follows:

4A. Bridge Inspections

Introduction

Bridge inspection is necessary to determine the safety of bridges and to determine the priority for maintenance, rehabilitation and replacement. The Department's policy for bridge inspections, dated 8 July 2004, indicates that official inspections shall be performed on all bridges under its jurisdiction. It states that the frequency of inspections is risk-based but shall not exceed two years. Risk-based inspection reduces the potential for catastrophic infrastructure failure and provides the ability to efficiently allocate limited inspection budgets and personnel.

Standard manual inspection forms are used by regional staff to document the inspections. Information from the inspection forms is periodically input by regional staff into an on-line bridge inspection system that can be accessed through the internet.

Figure 8

**Churchill River Bridge
Phase III - Trans Labrador Highway**



Source: Office of the Auditor General

Inspections not performed according to policy

Based upon our review of information contained in the Department's on-line bridge inspection system in April 2011, we identified 29 bridges that were part of the Trans Labrador Highway. We determined that there were a significant number of bridges along the Highway route that did not have official inspections conducted in accordance with Departmental policy. The policy requires that bridges be inspected at least every two years. We found that as of April 2011:

- 1 of the 29 bridges did not have an official inspection performed for more than four years;
- the remaining 28 bridges did not have an official inspection performed within the two year requirement - the most recent inspections were conducted during 2009, with the previous inspections conducted three years earlier in 2006;

- 7 of the 28 bridges inspected in 2009, had an overall condition rating of fair but it was indicated that follow-up inspections were required within one year; however, there was no evidence that follow-up inspections had been conducted; and
 - the bridge management system had not been updated on a timely basis. At the time of our review in April 2011, four bridges along the Trans Labrador Highway had not been included in the bridge inspection system, including:
 - Travespine River Bridge completed in 2008;
 - Travespine Tributary Bridge completed in 2009;
 - Otter Brook Bridge completed in 2008; and
 - Kenamu River Bridge completed in 2010.
-

4B. Satellite Phones

Introduction

There are long, remote stretches along the Trans Labrador Highway that have no emergency facilities. Cell phones do not work in most areas and traffic volumes in many areas are low. In the interest of public safety, a pilot satellite phone project began in 2003 whereby 60 satellite phones were provided by the Department. The project was administered by a local service group with the assistance of local hotels in the Labrador West, Churchill Falls and Happy Valley-Goose Bay areas. Since April 2004, the Department has administered the program with the assistance of hotels, town councils and store operators along the route.

Figure 9

Phase II - Trans Labrador Highway



Source: Department of Transportation and Works

5 satellite phones not accounted for

In response to public concerns about the reliability of the service, including poor coverage and dropped calls, the Department changed service providers in March 2009. Since this time, a total of 80 new satellite phones were purchased at a cost of \$115,847 or about \$1,448 per phone.

The phones are set up to make calls to the RNC 24 hour 911 service in Labrador City. Emergency calls are directed to the appropriate emergency service (fire, ambulance, police) while matters judged to be non-emergency are directed to a number at the Department of Transportation and Works.

Departmental officials indicated that at the most recent annual maintenance check during the summer of 2011, the Department determined that 5 of the 80 satellite phones (6.3%) could not be accounted for. These satellite phones cost the Department approximately \$7,240 and resulted in a potential loss in this valuable service of these satellite phones to the public using the Highway.

Recommendations

The Department should:

- inspect bridges on the Trans Labrador Highway in accordance with policy;
 - update the on-line bridge inspection system on a timely basis;
 - review procedures in place for the monitoring of satellite phones; and
 - follow-up on the satellite phones that had not been accounted for.
-

Department's Response

1. Planning

Recommendation

The Department should develop a formal plan for the completion of the Trans Labrador Highway, detailing goals, objectives and milestones; timelines for completion of projects; the desired highway standards; an estimate of the construction costs for completion; and sources of funding for the identified costs.

Response

The Department has a clear mandate to work towards three key objectives as part of an overall Northern Strategic Plan that was released by Government on April 20, 2007. The Department feels that this constitutes the goals and objectives required for a formal plan.

The first objective 5.1.2(v) is to: Finish Phase III of the TLH. This objective was planned, budgeted and constructed in accordance with the Department's already existing highway construction standards.

The second objective 5.1.2(vi) is to: Complete Hard Surfacing of Phase I of the TLH. Transportation and Works has been working towards the completion of this objective in incremental steps through various construction contracts. In normal fashion the Department has budgeted and planned for yearly contracts and administration of those contracts with a targeted and publically stated completion date of 2014. As noted in the first objective, Transportation and Works has been using its existing highway design and construction standards.

The third objective 5.1.2 (xv) is to: Increase Signage and Tourism Information Along the TLH. The Department has also been working towards the completion of this objective through construction contracts. The signage standards employed are in keeping with the Department's standards that are used throughout the Province.

With respect to upgrades on Phases II and III of the TLH to a paved standard, since the Auditor General's review, The Department has developed a potential construction schedule with associated costs and milestones that would constitute the basis of a formal plan. In addition, The Department will continue to investigate potential sources of funding that could be leveraged once the next steps are endorsed by Government.

2. Project Costs

Recommendations

The Department should:

- *Ensure that cost information for major initiatives such as the Trans Labrador Highway can be tracked on a long term basis; and*

The Department presently has this capability through its use of unique project identifiers, and can provide costs on a project by project basis.

- *Consider the implementation of an integrated project management system for road construction projects.*

The Department has reviewed potential software applications which integrate the project management of highway construction and reconstruction projects. To date, the department has not located a cost-effective software package which meets our operating requirements. The department will continue to monitor new and improved software applications.

3. Project Management

Recommendations

The Department should:

- *Ensure that approvals of contract extensions are adequately documented in the project files;*

The Department accepts the recommendation and will ensure that contract extensions are adequately documented in the project files.

- *Comply with the Public Tender Act;*

The Department will comply with the Public Tender Act.

- *Ensure that record keeping for construction projects is adequate;*

The Department will ensure that record keeping for construction projects is adequate.

- *Ensure that projects are completed in compliance with Departmental policy; and*

The Department will ensure that projects are completed in compliance with Departmental policy.

- *Consider increasing the number of Departmental audits conducted.*

The current Departmental audit process serves not only as a key tool to report on project payment accuracy, but also to establish and monitor consistent practice across regional project offices. Given the generally high number of items in the unit price tables of those contracts, the Department would expect that the number of differences could be high while the actual dollar value difference would be relatively low.

The Department feels that the internal audit process is working well and is sized correctly to determine, on a test case basis, overall program accuracy.

4. Highway Maintenance

Recommendations

The Department should:

- *Inspect bridges on the Trans Labrador Highway in accordance with policy;*

The Department will inspect bridges on the Trans Labrador Highway in accordance with policy.

The delay in completing bridge inspections on the TLH has been largely addressed. Bridge inspections cannot be completed safely during winter months. The remaining three (3) bridges will be fully inspected when conditions permit in spring 2012.

Further, the Department is implementing a full bridge management system that has capabilities around bridge life-cycle and risk management analysis.

- *Update the on-line bridge inspection system on a timely basis;*

The Department will update the bridge inspection system on a timely basis.

- *Review procedures in place for the monitoring of satellite phones; and*

The Department currently collects all phones annually to perform maintenance checks. This exercise will help identify phones that are unaccounted for. Phones are distributed and collected by community minded local businesses on a volunteer basis (they are not compensated for providing the service). Department officials will review documentation procedures for satellite phone distribution/collection with the service providers.

- *Follow-up on the satellite phones that had not been accounted for.*

The Department will collect the sign out - sign in information for satellite phones and attempt to identify and recover the missing phones. The documentation will continue to be reviewed on an annual basis should phones be unaccounted for.

CHAPTER

3

**AUDIT OF THE PROVINCE'S
FINANCIAL STATEMENTS**

Reflections of the Auditor General



The following comments are made further to my audit of the Province's financial statements (commonly referred to as the Public Accounts) for the year ended 31 March 2011. The Report provides additional information on the financial condition of Government measured by using indicators issued by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants.

The Public Accounts provide an important link in an essential chain of public accountability. They are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

Public Accounts Volume I (Consolidated Summary Financial Statements) provides the most complete information about the financial position and operating results of the Province. They combine the financial position and operating results of central Government and the departments (Consolidated Revenue Fund - Public Accounts Volume II), with those of other Government entities.

The Province's economy and Government's financial position have improved significantly over the last five years. While there have been fluctuations between years, the Province's GDP has increased overall from \$21.5 billion in 2006 to \$28.2 billion in 2011, and Government's debt to GDP ratio has decreased from 54.4% in 2006 to 28.8% in 2011. An increase in GDP and a related decrease in debt to GDP are seen as indicators of whether a Government can generate enough revenue to fund its expenditures and to service its debt, i.e. whether a Government is living within its means. As well, Government has recorded either surpluses or a slight deficit since 2006, and net debt has decreased from \$11.7 billion in 2006 to \$8.1 billion in 2011. Surpluses from 2006 to 2011 totalled \$4.7 billion, with decreases in net debt of \$3.6 billion.

Despite these improvements in the Province's financial position, the following factors need to be considered:

- The Province's net debt is significant. A surplus of \$270 million would be required each year for 30 years to eliminate the \$8.1 billion in net debt as at 31 March 2011, and the \$8.1 billion represents a net debt per capita of \$15,948.
- While overall the economy remains strong, there are concerns for the sustainability of current and future expenditure requirements and the impact on future generations of Newfoundlanders and Labradorians if sufficient revenues are not available so that these requirements can continue to be met. For the year ended 31 March 2011, 37.6% of all Provincial source revenues came from oil royalties; however, this revenue source is highly volatile and subject to the possibility of significant fluctuations in world oil prices, production and foreign exchange. It is also based on a non-renewable resource.
- Along with the continued reliance on oil to fund a significant portion of expenditures, the continuing shift in demographics towards an aging population continues to result in increasingly significant levels of expenditures. Information obtained from the Newfoundland and Labrador Statistics Agency indicates that the number of people in the Province who are 60 years of age or over had increased from 99,509 (or 19.5% of the total population) in 2006 to 119,002 (or 23.3% of the total population) in 2011. Health sector expenses have increased significantly over the last five years, from \$1.9 billion in 2006 to \$2.7 billion in 2011, an increase of over 42%, and for 2011 represented 35.3% of total Government expenses. These expenses are expected to increase in the future as our population continues to age. If revenue levels cannot sustain these increased expenses, Government will be faced with reductions in services or potentially significant deficits and resulting increases in net debt, both of which will be passed on to future generations.
- Diversification of the economy is important to the future of the Province. This is especially true given the volatility of oil revenues and the fact that oil is a non-renewable resource. Government has several activities aimed in part at diversifying and strengthening the economy, with two of the largest being Business Attraction in the former Department of Business and Comprehensive Economic Development in the former Department of Innovation, Trade and Rural Development. Combined, Government has budgeted a total of \$200.2 million over the last five years in these two activities alone; however, actual expenditures totalled only \$60.5 million, or 30% of the amount budgeted. While much of this funding is application driven, and unspent funding in one year is sometimes budgeted again in subsequent years, Government's objective for these two activities, in terms of leveraging such funding to diversify and strengthen the economy, has likely not been fully realized.
- Government has increased capital spending dramatically in recent years, in large part due to an announced Infrastructure Strategy. Planned investments under the Infrastructure Strategy have increased from \$300 million for the year ended 31 March 2007, to \$1.0 billion for the year ended 31 March 2012. While spending on infrastructure is seen as a means to provide better services and to reduce future expenditures, it does come at a financial cost in terms of not utilizing associated funding to reduce debt and related debt servicing charges.

- There are several factors associated with the proposed agreement to develop Muskrat Falls which may have either a positive or negative impact on Government's financial condition. These factors include whether projected electricity demands, projected costs totalling \$6.2 billion, and the level of anticipated debt expenses go as planned. If these factors do not go as planned, there could be significant issues that the Government of the day will have to face.
- While Government's borrowings have decreased, its unfunded pension liability and liability for group health and group life insurance retirement benefits continue to increase as follows:
 - The unfunded pension liability increased by \$490 million, from \$2.2 billion in 2010 to \$2.7 billion in 2011. This represents an increase of \$1.2 billion (80%) from a low of \$1.5 billion in 2008. All of the six pension plans had increases in the unfunded liability, and for the year ended 31 December 2010, benefit payments of \$494 million exceeded contributions of \$329 million.
 - The liability for group health and life insurance retirement benefits increased by \$141 million, from \$1.8 billion in 2010 to \$1.9 billion in 2011. This represents an increase of \$644 million (51%) over the last five years.

Acknowledgements

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



WAYNE R. LOVEYS, CMA
Auditor General (A)

3.1 Introduction

Background

This Report presents information on the Province's financial statements (commonly referred to as the Public Accounts). These financial statements provide an important link in an essential chain of public accountability. They are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

Volume I of the Public Accounts, the Consolidated Summary Financial Statements, are prepared on the accrual basis of accounting in accordance with the accounting standards established for governments by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA), and as outlined in the significant accounting policies of the Province.

The statements provide the most complete information about the operating results and financial position of the Province. They combine the results of operations of the Consolidated Revenue Fund, which accounts for the financial activities of the central Government and the departments, with those of other Government entities.

For the year ended 31 March 2011, Volume I of the Public Accounts contains the Consolidated Summary Financial Statements, the Auditor General's Report on those financial statements, and other information which Government is required to include or chooses to include. Volume II contains financial information relating to the Consolidated Revenue Fund.

The focus of this Report is primarily on the Consolidated Summary Financial Statements and presents a summary of certain financial information contained in those financial statements. I have also included two appendices. Appendix I presents answers to questions I am frequently asked in relation to the Public Accounts, while Appendix II presents a glossary of terms used in the Public Accounts.

Legislative Requirements

In accordance with section 59 of the *Financial Administration Act*, Government prepares a document called the Public Accounts which includes the Consolidated Summary Financial Statements of the Province and the Consolidated Revenue Fund Financial Statements. In accordance with the *Act* the Public Accounts must show:

- the state of the public debt;
- the revenue and expenditure;
- all compromises, remissions, refunds and amounts written off; and
- those other accounts and statements that may under good accounting practice be required to show the financial position of the Province at the end of the fiscal year.

Under section 19 of the *Transparency and Accountability Act*, the Comptroller General is required to include (consolidate) the audited financial statements of Government entities in the Public Accounts.

Treasury Board prescribes the manner and form in which the Public Accounts of the Province are prepared, as provided for under the *Financial Administration Act*.

Section 11 of the *Auditor General Act* requires that the Auditor General express an opinion as to whether the financial statements included in the Public Accounts present fairly the financial position, results of operations and changes in the financial position of the Province in accordance with the disclosed accounting policies of the Provincial Government and on a basis consistent with that of the preceding year, together with reservations the Auditor General may have.

Responsibility for the Public Accounts

Government is responsible for providing the House of Assembly with the Province's financial statements (the Public Accounts). While Treasury Board prescribes the manner and form in which the Public Accounts of the Province are prepared, the actual statements, schedules and notes are prepared by the Comptroller General.

The Consolidated Summary Financial Statements include a Statement of Responsibility, signed by the Minister of Finance and President of Treasury Board, and the Comptroller General. The Statement indicates that "*Responsibility for the integrity, objectivity and fair presentation of the consolidated summary financial statements of the Province of Newfoundland and Labrador rests with the Government. As required under Section 59 of the Financial Administration Act, these consolidated summary financial statements are prepared by the Comptroller General of Finance in accordance with the applicable legislation and in accordance with the accounting policies as disclosed in Note 1 to these consolidated summary financial statements. These consolidated summary financial statements are prepared based upon information provided by the various Government departments and the noted Crown corporations, boards and authorities*

pursuant to Section 19 of the Transparency and Accountability Act and Section 20 of the Financial Administration Act. The Government is responsible for maintaining a system of internal accounting and administrative controls in order to provide reasonable assurance that transactions are properly authorized, assets are safeguarded and financial records are properly maintained."

Auditor's Report on the Financial Statements of the Province

The Auditor's Report on the Consolidated Summary Financial Statements of the Province for the year ended 31 March 2011 reads as follows:

*To the House of Assembly
Province of Newfoundland and Labrador*

Report on the Consolidated Financial Statements

I have audited the accompanying consolidated financial statements of the Province of Newfoundland and Labrador, which comprise the consolidated statement of financial position as at 31 March 2011, and the consolidated statements of change in net debt, operations, change in accumulated deficit, and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Government's Responsibility for the Consolidated Financial Statements

Government is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with Canadian public sector accounting standards, and for such internal control as Government determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these consolidated financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial

statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by Government, as well as evaluating the overall presentation of the consolidated financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the consolidated financial statements present fairly, in all material respects, the consolidated financial position of the Province as at 31 March 2011, and the consolidated results of its operations, the change in its net debt, the change in its accumulated deficit, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Report on Other Legal and Regulatory Requirements

As required under Section 11 of the Auditor General Act, I also report that in my opinion, these consolidated financial statements present fairly, in all material respects, the consolidated financial position of the Province as at 31 March 2011, and the consolidated results of its operations, the change in its net debt, the change in its accumulated deficit, and its cash flows for the year then ended in accordance with the accounting policies as disclosed in Note 1 to these consolidated financial statements applied on a basis consistent with that of the preceding year.



WAYNE R. LOVEYS, CMA
Auditor General (A)

13 December 2011
St. John's, Newfoundland and Labrador

Audit of the Province's Financial Statements

**Compliance
with Generally
Accepted
Accounting
Principles**

The Consolidated Summary Financial Statements are the principal financial statements of the Province and are in full compliance with the requirements of Canadian generally accepted accounting principles for government.

3.2 Financial Condition of the Province

Introduction

Each year in this chapter, we present key financial information contained in the Public Accounts. We also present information on the financial condition of the Province, including a discussion of financial indicators in the Newfoundland and Labrador context. These financial indicators are intended to assist the reader in interpreting the financial information contained in the Public Accounts and to more completely understand the significance of the information provided.

The following analysis is based on the financial position of the Province for the year ended 31 March 2011.

Key Balances in the Public Accounts

There are five key balances in Volume I of the Public Accounts, i.e. the Consolidated Summary Financial Statements - net debt, accumulated deficit, surplus (deficit), revenue and expense.

Net Debt

Net debt as at 31 March 2011 was \$8.1 billion (2010 - \$8.2 billion). This is the amount by which the Province's liabilities of \$13.1 billion (2010 - \$12.6 billion) exceeded its financial assets of \$5.0 billion (2010 - \$4.3 billion). It is also considered to be the amount which the Government of the day leaves for future Governments to either repay or refinance.

Accumulated Deficit

The accumulated deficit as at 31 March 2011 was \$4.9 billion (2010 - \$5.5 billion). This is the total net amount of all annual surpluses and deficits experienced by the Province.

Surplus (Deficit)

The consolidated surplus for the year ended 31 March 2011 was \$598 million (2010 - deficit of \$33 million). The \$598 million surplus for 2011 is the amount by which the Province's total revenue exceeded its total expense. The \$33 million deficit for 2010 is the amount by which the Province's total expense exceeded its total revenue.

Revenue

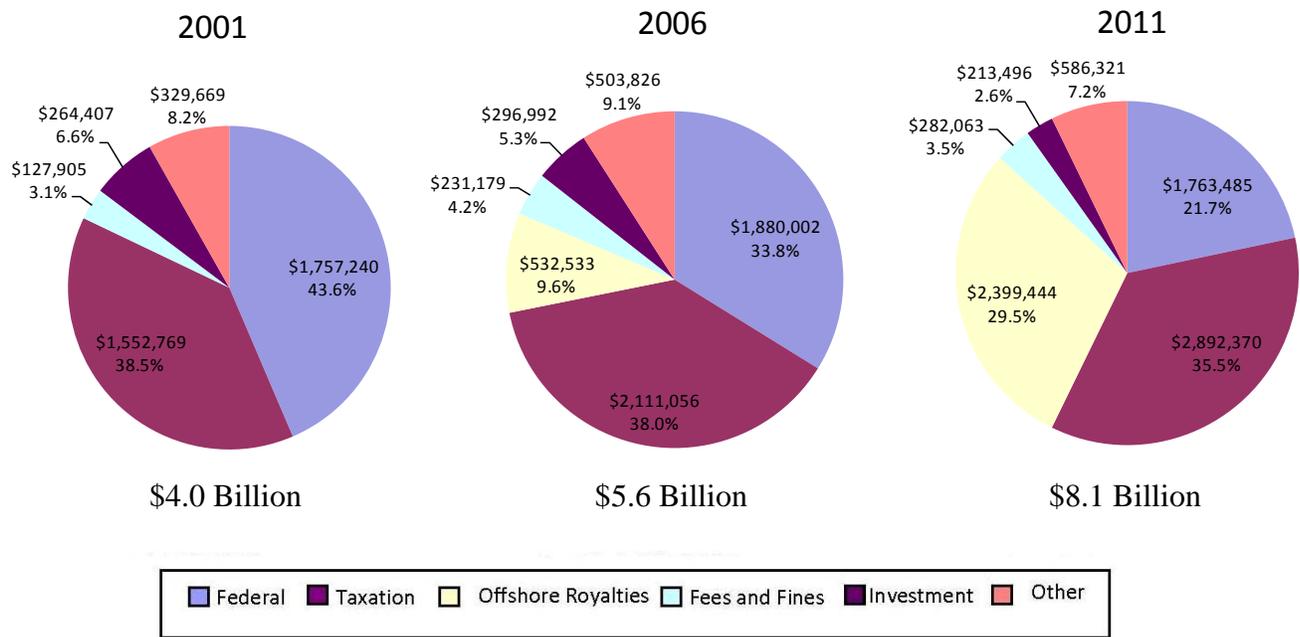
Total revenue for the year ended 31 March 2011 was \$8.1 billion (2010 - \$7.3 billion). Revenues consist of:

- revenues received from the Government of Canada;
- own source revenues generated by the Province e.g. through taxation, offshore oil royalties, fees and fines;
- revenues from investments; and
- other revenue sources, including net income of Government business enterprises - considered as organizations which carry on business and sell goods and services to individuals and non-Government organizations as their principal activity and source of revenue. The Government business enterprises included in the 2011 Consolidated Summary Financial Statements consisted of the Newfoundland and Labrador Liquor Corporation (year ended 2 April 2011) and Nalcor Energy (year ended 31 December 2010).

Figure 1 shows the total revenues of the Province by source for 2001, 2006 and 2011.

Figure 1

Province of Newfoundland and Labrador
Revenues by Source for 2001, 2006 and 2011
(\$ 000's)



As Figure 1 shows, Federal revenue as a proportion of total revenues has decreased from 43.6% in 2001 to 21.7% in 2011, while the proportion of offshore oil royalties has increased significantly from being an immaterial amount in 2001 to 29.5% in 2011.

Expense

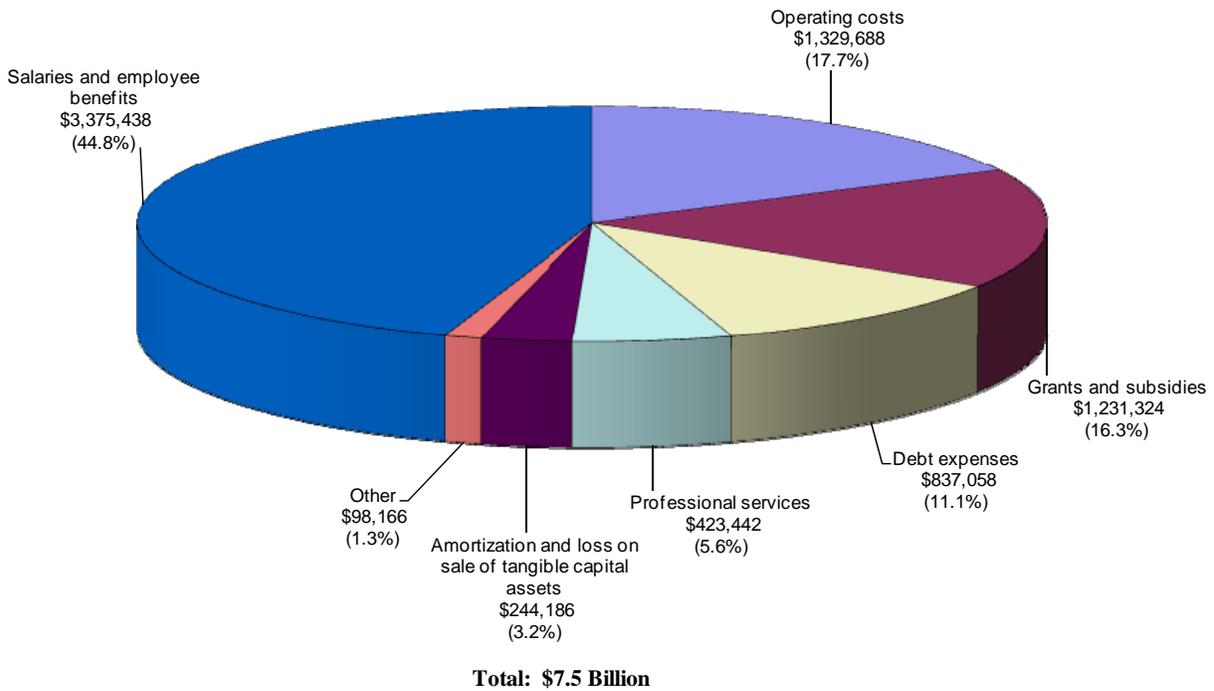
Total expense for the year ended 31 March 2011 was \$7.5 billion (2010 - \$7.3 billion). Expenses include:

- salaries and employee benefits;
- debt expenses;
- operating costs;
- grants and subsidies; and
- other costs to Government of providing programs and services.

Figure 2 shows the total expenses of the Province by type for 2011.

Figure 2

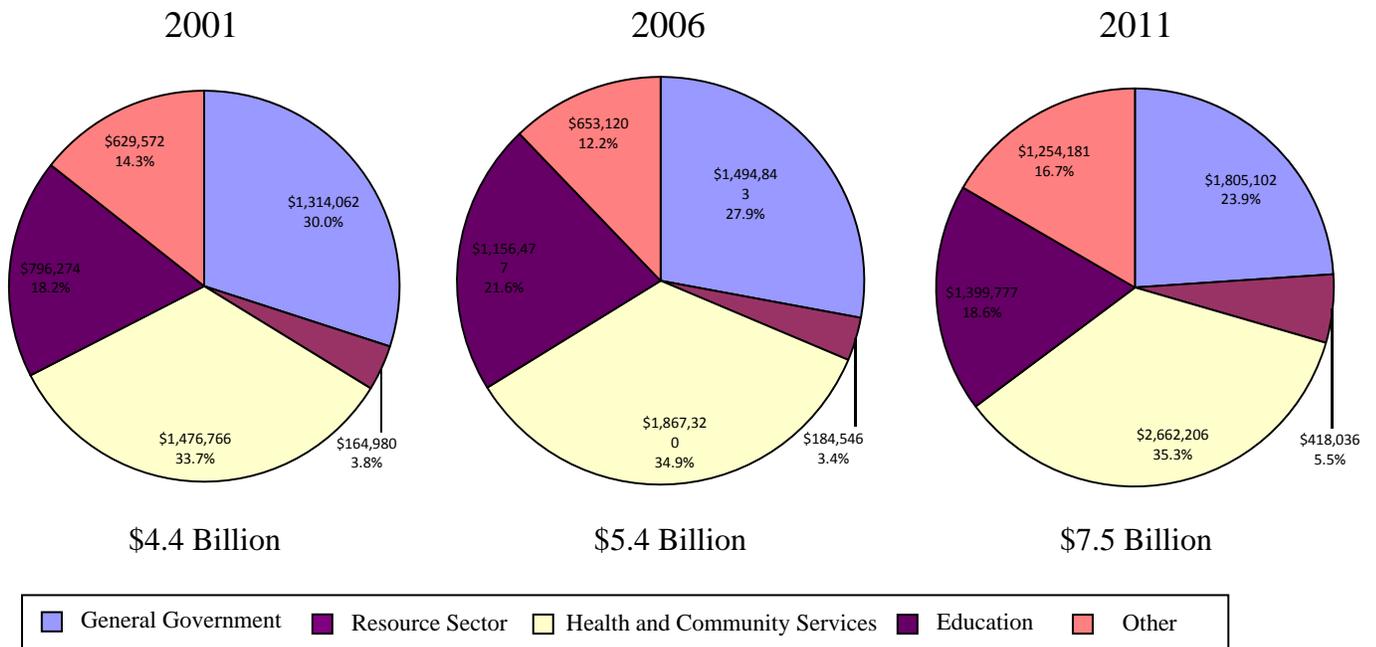
**Province of Newfoundland and Labrador
Expenses by Type for 2011
(\$000's)**



Expenses are summarized in the statements by the three sectors - general Government and legislature sector, resource sector, and social sector (including health and community services, education, and other social sector areas). Figure 3 shows the expenses of the Province by sector for 2001, 2006 and 2011.

Figure 3

Province of Newfoundland and Labrador
Expenses by Sector for 2001, 2006, and 2011
(\$ 000's)



As Figure 3 shows, funding for the Departments of Health and Community Services, and Education has increased significantly since 2001. Funding for the Department of Health and Community Services has increased from \$1.5 billion (34% of total expenses) in 2001 to \$2.7 billion (35% of total expenses) in 2011, while funding for the Department of Education increased from \$796 million (18% of total expenses) in 2001 to \$1.4 billion (19% of total expenses) in 2011. Combined funding for health and education made up 54% of the total expenses in 2011, up from 52% in 2001.

Key Balances

A summary of key balances contained in the Consolidated Summary Financial Statements is provided in Figure 4.

Figure 4

Consolidated Summary Financial Statements
Key Balances
Years Ended 31 March
(\$ Billions)

Balance	2007	2008	2009	2010	2011
Statement of Financial Position					
Financial Assets	2.104	3.177	4.422	4.339	4.974
Liabilities	13.662	13.365	12.391	12.559	13.103
Net Debt	11.558	10.188	7.969	8.220	8.129
Non-Financial Assets	2.316	2.436	2.467	2.705	3.208
Accumulated Deficit	9.242	7.752	5.502	5.515	4.921
Statement of Operations					
Revenue	5.521	7.141	8.632	7.296	8.137
Expense	5.367	5.704	6.282	7.329	7.539
Annual Surplus (Deficit)	0.154	1.437	2.350	(0.033)	0.598

Government's overall financial condition improved from 2007 to 2009; however, a deficit of \$33 million was reported in 2010. Another surplus of \$598 million was reported for 2011. The Province's net debt of \$8.1 billion is still quite high, with net debt per capita of approximately \$15,948 as at 31 March 2011.

Also, while the Province's economic growth has been positive, its ability to raise its own source revenue remains vulnerable to changes in the economy, including changes due to fluctuations in oil prices and production levels, the value of the Canadian dollar and interest rates.

With regards to offshore oil royalties, the Province is becoming increasingly reliant on these revenues due to growth in this revenue source in recent years. Offshore oil royalties in 2005 were \$265 million and increased by \$2.1 billion to \$2.4 billion in 2011. These revenues are generated from non-renewable resources and are very vulnerable to changes in world oil prices, production and foreign currency fluctuation; all of which are outside the control of Government. As a result, there can be significant variances between Government estimated revenue and actual revenue which can have significant impacts on fiscal performance.

To illustrate, in November 2011, Government increased its offshore oil royalties estimate for the year ended 31 March 2012 by \$681 million. This had a significant impact on the expected fiscal outlook and was a major factor in changing the original budgeted surplus of \$59.1 million for 2012, to a projected surplus of \$755.8 million.

There has to be a continued improvement in Government's financial results in order to support a reasonable plan to address the substantial net debt. By way of illustration, consider that the Province would require a surplus of \$270 million each year for 30 years to eliminate its current net debt of \$8.1 billion.

Maintaining a substantial net debt means incurring significant annual costs to service that debt. It also means that these annual costs could change significantly due to changes in interest rates. Debt expenses for the year ended 31 March 2011 totalled \$837 million (2010 - \$890 million), which represents 10.3% (2010 - 12.2%) of total revenues (also known as the "interest bite"). This means that the Province spent \$837 million to pay financing costs associated with debt incurred in the past, as well as changes in the unfunded pension liability and the liability for group health and life insurance retirement benefits. As a result, that amount was not available to spend on programs and services. Furthermore, at 31 March 2011, the Province had \$736 million in U.S. debt (net of sinking fund assets). Therefore it has exposure to currency fluctuations. For example, a 1 cent change in exchange rates would have an impact of approximately \$10.5 million on the Province's debt.

Although Newfoundland and Labrador is considered a "Have Province", the Province remains reliant on transfers from the Federal Government in order to fund its programs and services. Of the Province's total revenue of \$8.1 billion for the year ended 31 March 2011, \$1.8 billion or 22% resulted from Federal transfers.

Aside from the risk of fluctuating revenues, Government faces continued demand for expenditures, especially in health and education. Expenses in these two departments over the last ten years increased by \$1.8 billion (or 78%) from \$2.3 billion for 2001 to \$4.1 billion for 2011, and accounted for 54% of total Government expenses for the year ended 31 March 2011.

There are other factors which could also result in changes to the annual surplus or deficit, including an aging infrastructure, an aging population, and changes in population migration. In terms of an aging population, information obtained from the Newfoundland and Labrador Statistics Agency indicates that the number of people in the Province who are 60 years of age or over had increased from 99,509 (or 19.5% of the total population) in 2006 to 119,002 (or 23.3% of the total population) in 2011. The continuing shift in demographics towards an aging population continues to result in increasingly significant levels of expenditures.

Figure 5 provides details of the Province's liabilities, annual surplus (deficit), net debt and debt expenses for the years 1997 to 2011 as reported in the Consolidated Summary Financial Statements of the Province.

Figure 5

**Consolidated Summary Financial Statements
Liabilities, Annual Surplus (Deficit), Net Debt and Debt Expenses
Years Ended 31 March
(\$ Millions)**

Year	Net Borrowing and other Liabilities	Unfunded Pension Liability	Group Health and Group Life Insurance Benefits Liability	Total Liabilities	Annual Surplus (Deficit)	Net Debt	Debt Expenses
1997	6,730	2,943		9,673	(107)	7,254	819
1998	6,373	3,134		9,507	133	7,301	865
1999	6,758	3,352		10,110	(187)	7,851	1,008
2000	6,689	3,309		9,998	(269)	8,087	883
2001	6,801	3,348		10,149	(350)	8,437	951
2002	7,270	3,392		10,662	(468)	8,932	942
2003	7,581	3,557	985	12,123	(644)	10,616	979
2004	8,073	3,746	1,067	12,886	(914)	11,487	982
2005	8,640	3,934	1,159	13,733	(489)	11,888	940
2006	10,336(1)	2,201	1,265	13,802	199	11,684	947
2007	10,334(2)	1,925	1,403	13,662	154	11,558	777
2008	10,393(3)	1,459	1,513	13,365	1,437	10,188	751
2009	9,056	1,704	1,630	12,390	2,350	7,968	745
2010	8,615	2,177	1,767	12,559	(33)	8,220	890
2011	8,527	2,667	1,909	13,103	598	8,129	837
Total					1,410		13,316

- (1) Includes deferral of \$1.678 billion Atlantic Accord (2005) money.
- (2) Includes deferral of \$1.459 billion Atlantic Accord (2005) money.
- (3) Includes deferral of \$1.153 billion Atlantic Accord (2005) money.

As Figure 5 shows, prior to 2006, the Province had substantial deficits and interest costs and an increasing net debt each year. There was some improvement in 2006 and 2007, and a significant improvement in 2008 and 2009. There was a significant decline in 2010, with the Province once again recording a deficit and an increase in net debt and debt expenses. However, for 2011 the Province reported a surplus and a decrease in net debt and debt expenses. The total surpluses (net of deficits) reported over the 15 year period is \$1.4 billion, with total debt expenses over the same period of \$13.3 billion.

Although the Province had a budgeted deficit of \$194 million for 2011, it had an actual surplus of \$598 million. The \$598 million surplus was a significant improvement over the original budgeted deficit of \$194 million, and a significant improvement over the reported deficit of \$33 million for 2010.

Figure 6 provides details on the budget forecast compared to actual results for the year ended 31 March 2011.

Figure 6

**Consolidated Summary Financial Statements
Actual Compared to Budget
Year Ended 31 March 2011
(\$000's)**

	Actual	Original Estimates	Impact on Surplus	% of Impact
REVENUE				
Provincial				
Taxation	2,892,370	2,404,662	487,708	61.57%
Investment	213,496	193,118	20,378	2.57%
Fees and fines	282,063	222,474	59,589	7.52%
Offshore royalties	2,399,444	2,162,200	237,244	29.95%
Other	376,808	355,390	21,418	2.70%
Government of Canada	1,763,485	1,845,375	(81,890)	(10.34%)
Net income of government business enterprises	209,513	206,925	2,588	.33%
Total Revenue	8,137,179	7,390,144	747,035	94.30%

	Actual	Original Estimates	Impact on Surplus	% of Impact
EXPENSE				
General Government Sector	1,805,102	1,754,936	(50,166)	(6.33%)
Resource Sector	418,036	369,204	(48,832)	(6.16%)
Social Sector	5,316,164	5,460,307	144,143	18.19%
Total Expense	7,539,302	7,584,447	45,145	5.70%
SURPLUS (DEFICIT)	597,877	(194,303)	792,180	100%

Financial Indicators

An important role for my Office is to provide Members of the House of Assembly with information on the state of Government's finances. This information is necessary in order to have an informed debate about the issues that Government has to address. Issues include the ability of Government to fund programs and services, where the revenues will come from and the impact of surpluses, deficits, and debt.

The Public Sector Accounting Board of the Canadian Institute of Chartered Accountants has a Statement of Recommended Practice on indicators of financial condition that governments should use that will help the average person understand whether a government is better or worse off than the year or years before.

These indicators demonstrate the financial condition of a government: its financial health as measured by **sustainability**, **flexibility** and **vulnerability**, looked at in the context of the overall economic and financial environment. An explanation of these terms is as follows:

- **Sustainability** - whether a government is living within its means;
- **Flexibility** - whether a government can meet rising commitments by expanding its revenues or increasing its debt; and
- **Vulnerability** - the extent to which a government relies on money from the Federal government or other outside sources to pay for existing provincial programs.

In this section, the indicators are discussed in the Newfoundland and Labrador context. Each indicator can and should be analyzed in detail, combined with other information, and monitored over time.

Sustainability

Sustainability is the degree to which a government can maintain existing programs and meet existing creditor requirements without increasing the debt burden on the economy. Sustainability indicators include a government's:

- annual surplus or deficit;
- net debt and a province's gross domestic product (GDP) in relation to net debt;
- net debt as a percentage of province's GDP;
- Canadian and U.S denominated borrowings;
- borrowings and sinking funds; and
- debt expenses.

Each of these indicators provides useful insight into the sustainability of a government's revenue raising and spending practices.

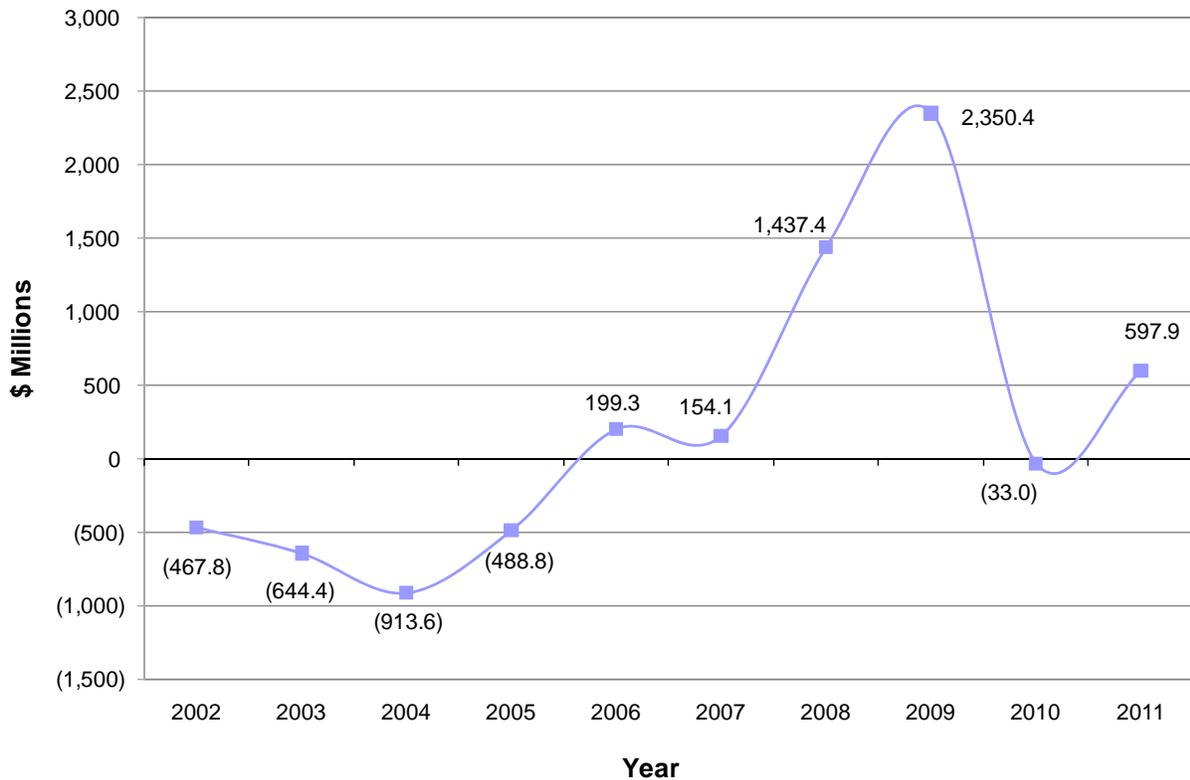
(a) Annual surplus or deficit

The annual surplus or deficit shows the extent to which a government spends less or more than it raises in revenues in one fiscal year. It is an indicator of whether a government is living within its means.

For the year ended 31 March 2011, the annual surplus reflected in the Province's Consolidated Summary Financial Statements was \$598 million. Figure 7 provides details as to the annual surplus or deficit each year from 2002 to 2011.

Figure 7

**Consolidated Summary Financial Statements
Annual Surplus (Deficit)
Years Ended 31 March
(\$ Millions)**



As Figure 7 shows, Government had an annual deficit each year from 2002 to 2005. In 2006, there was a reported surplus of \$199 million, the first surplus since 1998. The Figure also shows that Government's annual deficit grew each year from 2002 to 2004, with the deficit of \$914 million in 2004, representing the largest annual deficit recorded by the Province. Government also had a deficit in 2005; however, it had decreased from the record deficit in 2004, to \$489 million. For 2006, Government had a surplus of \$199 million, which was due in large part to an increase in offshore oil royalties and an increase in Government of Canada revenue. There was also a surplus in 2007; however, it had decreased from 2006 to \$154 million. The surplus in 2008 increased to \$1.4 billion and increased further in 2009 to \$2.4 billion largely due to the increase in offshore oil royalties. In 2010, however, the Province had a deficit of \$33 million followed by a surplus of \$598 million in 2011.

(b) Net debt and a province's gross domestic product (GDP) in relation to net debt

Users of a province's financial statements should look at long-term trends such as net debt to GDP and net debt as a percentage of GDP. Such trends are further indicators of whether a government is living within its means.

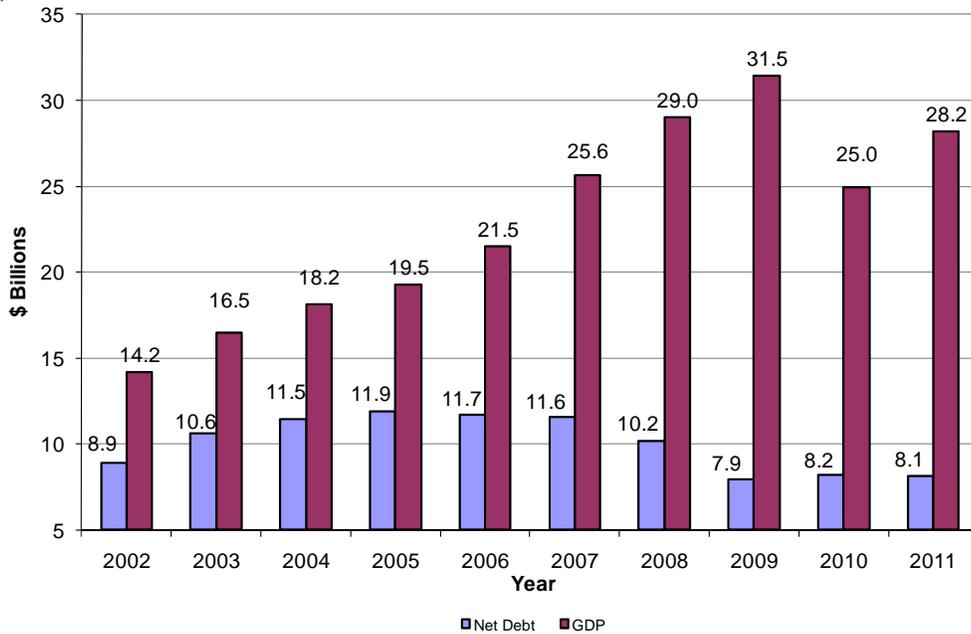
Net debt is the total of all liabilities reduced by financial assets (e.g. cash, temporary investments, and receivables). It is the amount which the government of the day leaves for future governments to either repay or refinance. As at 31 March 2011, the net debt reflected in the Province's Consolidated Summary Financial Statements was \$8.1 billion.

The Province's GDP is a measure of the total value of all goods and services produced in Newfoundland and Labrador in one year. It is the number most often used to indicate the size of a provincial economy. Government must manage its revenue raising and spending practices in the context of the economy of the Province.

Figure 8 provides details as to the net debt in relation to GDP from 2002 to 2011. For purposes of this chapter, GDP for 2011 is reported at \$28 billion, based on information obtained from the Provincial Department of Finance.

Figure 8

**Consolidated Summary Financial Statements
Net Debt in Relation to GDP
Years Ended 31 March
(\$ Billions)**



As Figure 8 shows, the GDP of Newfoundland and Labrador increased substantially from 2002 to 2009. Although the GDP decreased in 2010 because of the global economic downturn, it increased in 2011 to \$28.2 billion. This still represents an increase of \$14.0 billion (98.6%) from the 2002 GDP of \$14.2 billion. Figure 8 also shows that the Province's net debt increased each year from 2002 to 2005, decreased each year from 2006 to 2009, increased again in 2010 and slightly decreased in 2011.

(c) Net debt as a percentage of Province's gross domestic product (GDP)

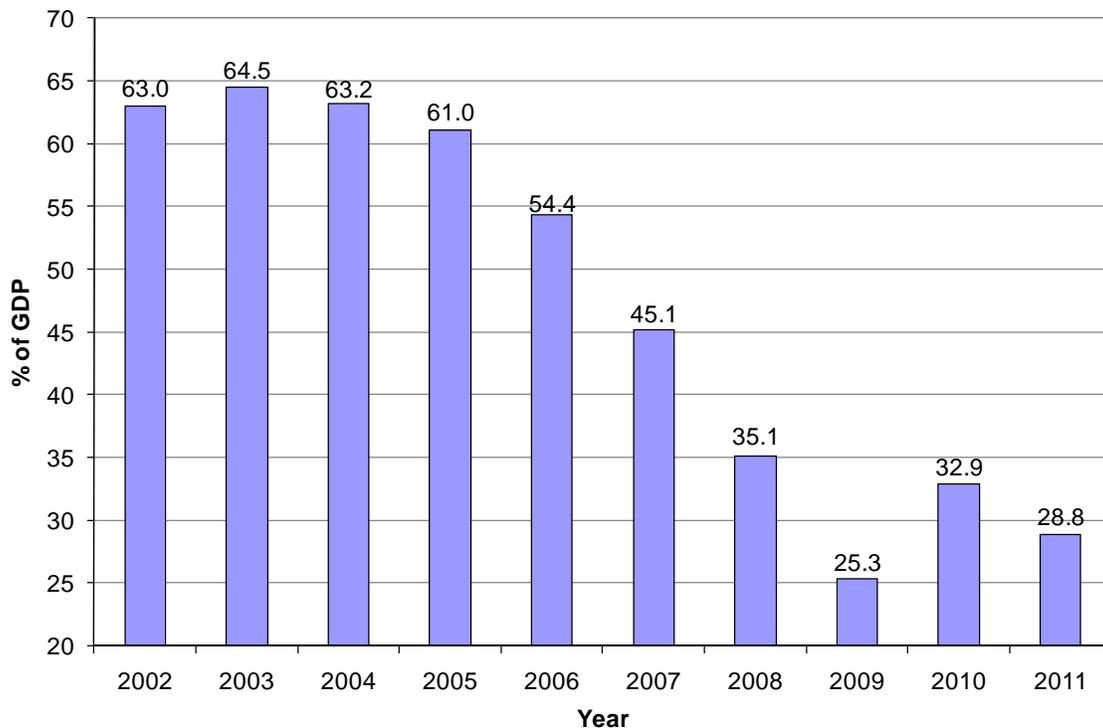
The financial demands placed on the economy by Government's spending and revenue raising practices can be assessed for sustainability by comparing Government's net debt to the Province's GDP. The thinking behind this measure is that the larger the GDP the more debt Government can afford to carry.

The Province's net debt decreased in 2007, 2008, and 2009, increased during 2010 and decreased slightly in 2011. The Provincial GDP increased each year between 2002 and 2009, decreased in 2010 and increased in 2011.

Therefore, as shown in Figure 9, the net debt as a percentage of GDP decreased significantly from 2004 to 2009. While it increased in 2010, the net debt of the Province as a percentage of GDP in 2011 of 28.8%, is still a significant decrease from 63.0% in 2002.

Figure 9

**Consolidated Summary Financial Statements
Net Debt as a Percentage of GDP
Years Ended 31 March**



(d) Canadian and U.S. denominated borrowings

As at 31 March 2011, borrowings were reported in the Consolidated Statement of Financial Position at \$5.7 billion, which represents total borrowings of \$6.6 billion less sinking fund assets of \$935 million. Total borrowings consist of general debentures in both Canadian and foreign currencies, amounts borrowed from the Government of Canada and its agencies, as well as other notes and loans payable by the Province. The \$5.7 billion total borrowings of the Province, net of sinking fund assets for various debentures, is comprised of \$5.250 billion in debt reflected in the Consolidated Revenue Fund, \$170 million in health care organization debt, \$142 million in Student Loan Corporation of Newfoundland and Labrador debt, \$80 million in Newfoundland and Labrador Municipal Financing Corporation debt,

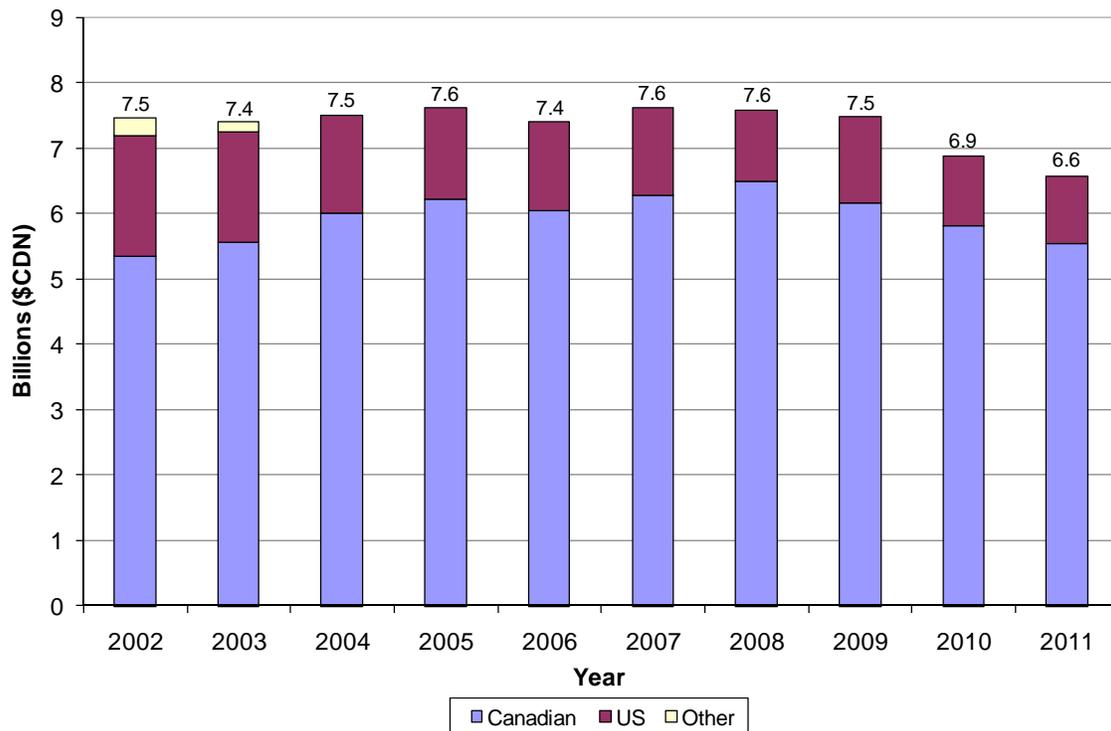
\$26 million in Newfoundland and Labrador Housing Corporation debt, and other miscellaneous debt of \$28 million.

The net borrowings of \$5.7 billion do not include the borrowings of Nalcor Energy. This accounting policy is consistent with the recommendations of the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants which require that the net equity position of a Government business enterprise such as Nalcor Energy be recorded in the Consolidated Summary Financial Statements of the Province. In the audited financial statements of Nalcor Energy for the year ended 31 December 2010, the Corporation reported long-term debt of \$1.1 billion (31 December 2009 - \$1.1 billion).

Figure 10 shows the total borrowings as at 31 March for each year from 2002 to 2011 as disclosed in the Consolidated Statement of Financial Position. The Figure provides a breakdown of Canadian and foreign currency debt.

Figure 10

**Consolidated Summary Financial Statements
Total Borrowings
Years Ended 31 March
(\$ Billions)**



As Figure 10 shows, there were only Canadian and U.S. denominated borrowings as at 31 March 2011. The Canadian denominated borrowings totalled \$5.6 billion and accounted for 85% of total borrowings.

(e) Borrowings and sinking funds

Many of the debentures held by the Province have sinking fund requirements. Sinking funds are a pool of cash and investments accumulated during the life of the debentures to repay the debt at maturity.

Figure 11 provides information on sinking funds as at 31 March 2011 along with the related debenture debt outstanding and the net amount left after reducing the debt by the amount of the sinking funds.

Figure 11

**Consolidated Summary Financial Statements
Borrowings and Sinking Funds
As at 31 March 2011
(\$ Millions)**

	Debt Outstanding	Sinking Fund Balance	Balance net of Sinking Fund
Total Debt with Sinking Funds	4,741	935	3,806
Total Debt without Sinking Funds	1,890	-	1,890
Total	6,631	935	5,696

As Figure 11 shows, Government had approximately \$935 million in sinking funds at 31 March 2011.

Figure 12 shows borrowings net of sinking funds for each of the past ten years.

Figure 12

**Consolidated Summary Financial Statements
Borrowings and Sinking Funds
Years Ended 31 March
(\$ Billions)**

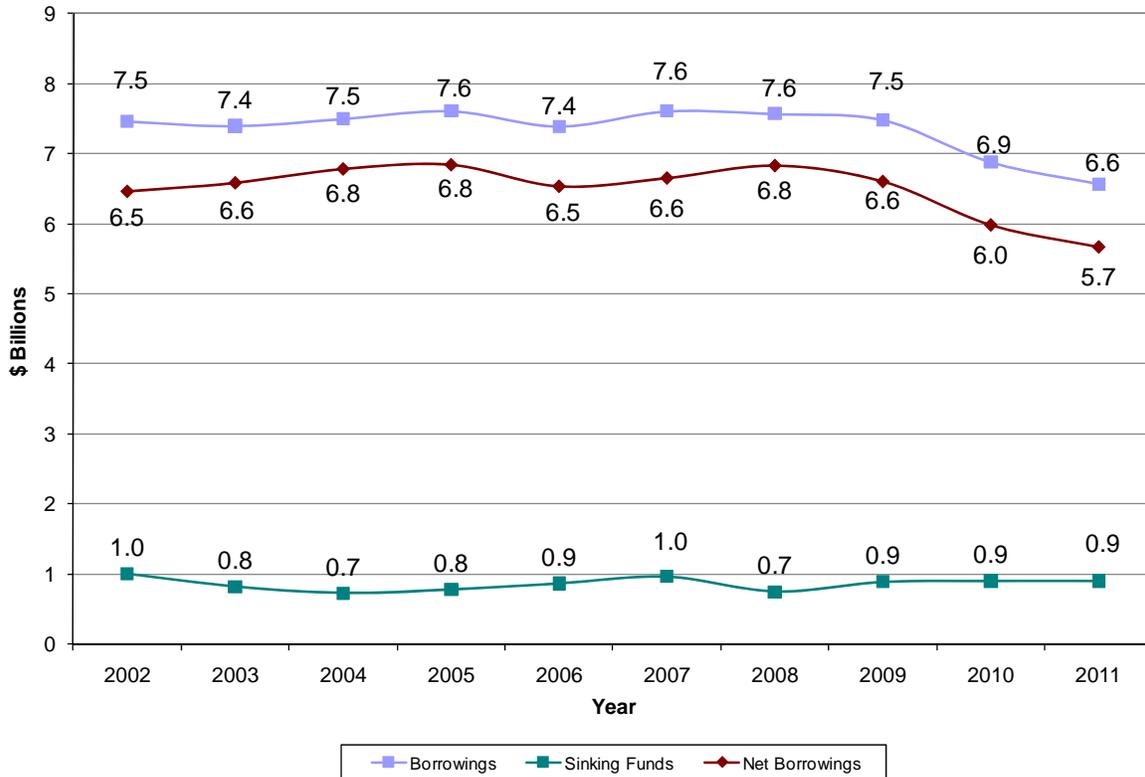


Figure 12 shows that from 2002 to 2009 there was no significant change in these balances; however, borrowings declined by approximately \$600 million during 2010 and \$300 million during 2011.

(f) Debt expenses

Debt expense is the amount the Province has to pay to service its debt. The Province's debt expenses for 2011 as recorded in the Consolidated Summary Financial Statements totalled \$837 million, which consists of approximately \$298 million for the unfunded pension liability, \$103 million for the net liability for group health and life insurance retirement benefits, and \$436 million for the Province's borrowings.

Total debt expenses for the Province for each year from 2002 to 2011 are outlined in Figure 13.

Figure 13

Consolidated Summary Financial Statements
Debt Expenses
Years Ended 31 March
(\$ Millions)

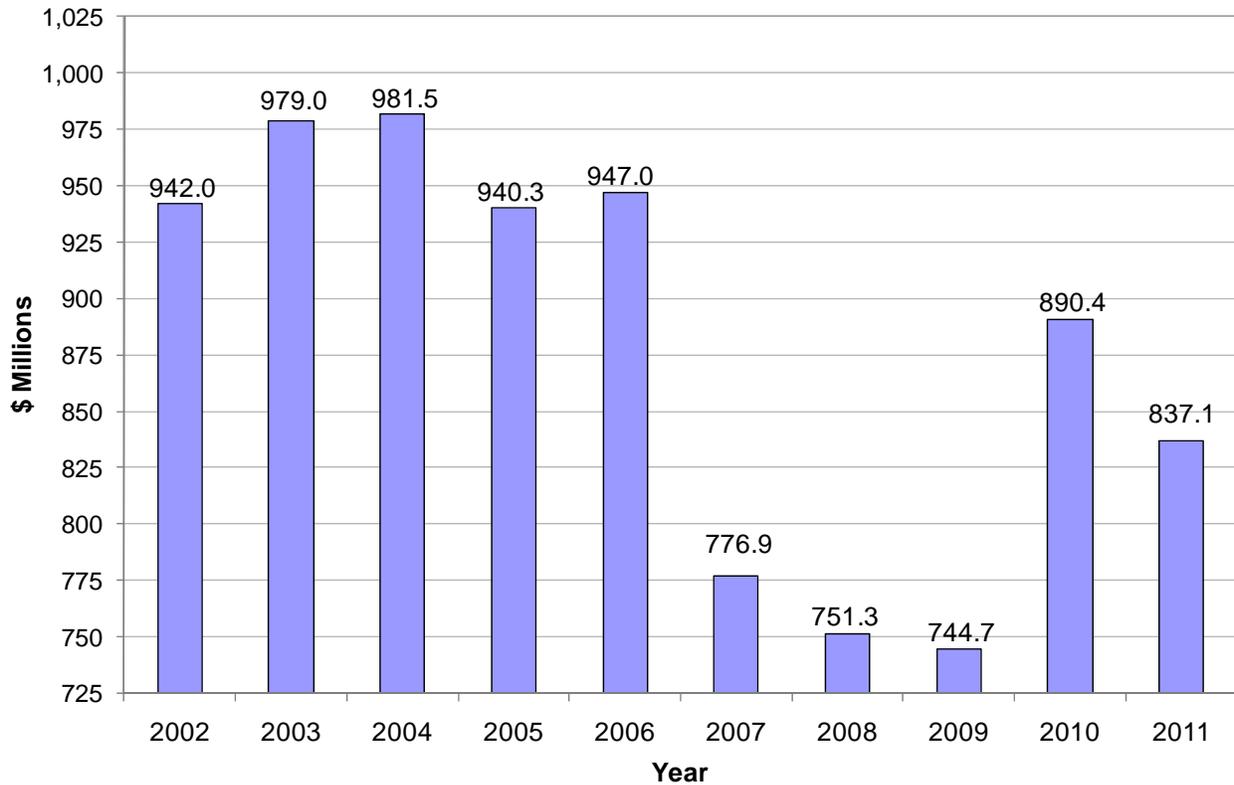


Figure 13 shows that debt expenses decreased significantly during the period of 2007, 2008 and 2009. They increased in 2010 to \$890 million, primarily due to an increase in interest costs on the unfunded pension liability. However, they decreased in 2011 to \$837 million.

Flexibility

Flexibility is the degree to which a government can increase its financial resources to respond to rising commitments, by either expanding its revenues or increasing its debt. Flexibility indicators include:

- interest costs as a percentage of total revenue; and
- own source revenues to GDP.

Together with a government's net debt and a province's GDP, these indicators provide insight into a government's flexibility in responding to rising commitments. For example, when a government has a large net debt and high interest costs, it has fewer resources to allocate to programs and services.

(a) Interest costs as a percentage of total revenue

Government incurs interest costs on its borrowings, as well as on its liabilities relating to retirement benefits. At 31 March 2011, Government's long-term borrowings net of sinking funds was \$5.7 billion, its unfunded pension liability was \$2.7 billion and its unfunded group health and life insurance retirement benefits liability was \$1.9 billion. In 2011, Government's interest costs (debt expenses) totalled \$837 million. The significance of debt expenses is that this money is not available to fund programs and services.

Interest costs as a percentage of total revenue, sometimes called the "interest bite", is an important indicator of the state of a government's finances.

Figure 14 provides the total debt expenses as a percentage of total revenue for the years ended 31 March 2002 to 2011.

Figure 14

Consolidated Summary Financial Statements Total Debt Expenses as a Percentage of Total Revenue Years Ended 31 March

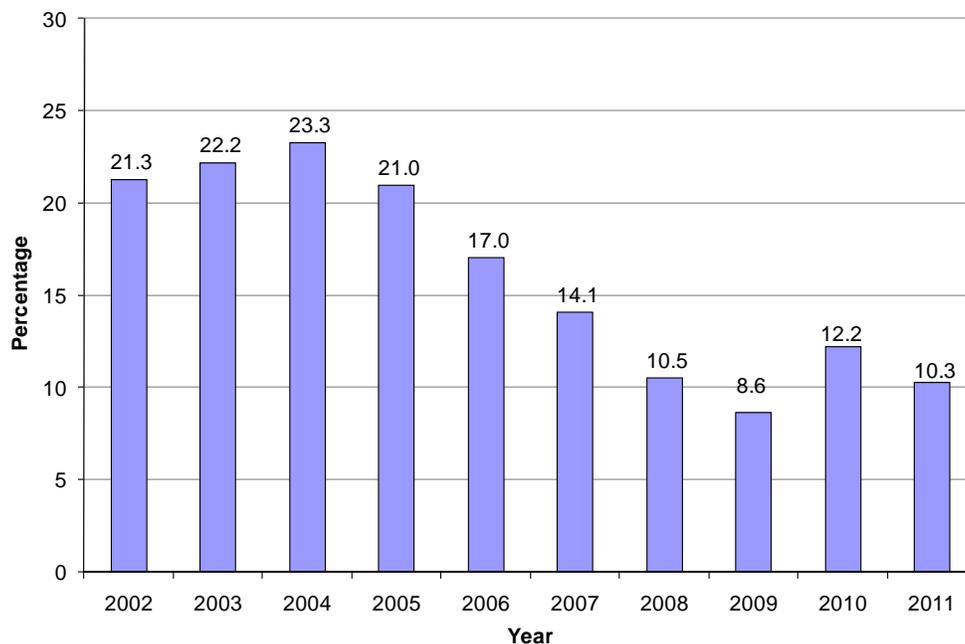


Figure 14 indicates a significant decrease in debt expenses as a percentage of total revenue in 2006, 2007, 2008 and 2009. However, in 2010 there was an increase in total debt expenses as a percentage of total revenue, with a decrease again in 2011. These costs continue to be a substantial burden for government.

Reductions in debt expenses would allow Government to use more of its revenues to pay for programs and services, and use less of its revenues to pay for debt expenses.

(b) Own source revenues to GDP

The Government of Newfoundland and Labrador receives revenue from two general sources. The first revenue source is from within the Province. This source is called "own source revenue". The second source of revenue is transfers from the Federal Government.

Government's own source revenue to GDP reflects how much revenue Government can raise from the Provincial economy e.g. through taxes and fees. It shows the extent to which Government obtains its revenues from the Provincial economy as opposed to transfers from the Federal Government, and the flexibility it has in increasing its financial resources through own source revenues if faced with decreases in Federal Government transfers.

Figure 15 provides information on own source and Federal revenues from 2002 to 2011.

Figure 15

**Consolidated Summary Financial Statements
Revenue by Source
Years Ended 31 March
(\$ Billions)**

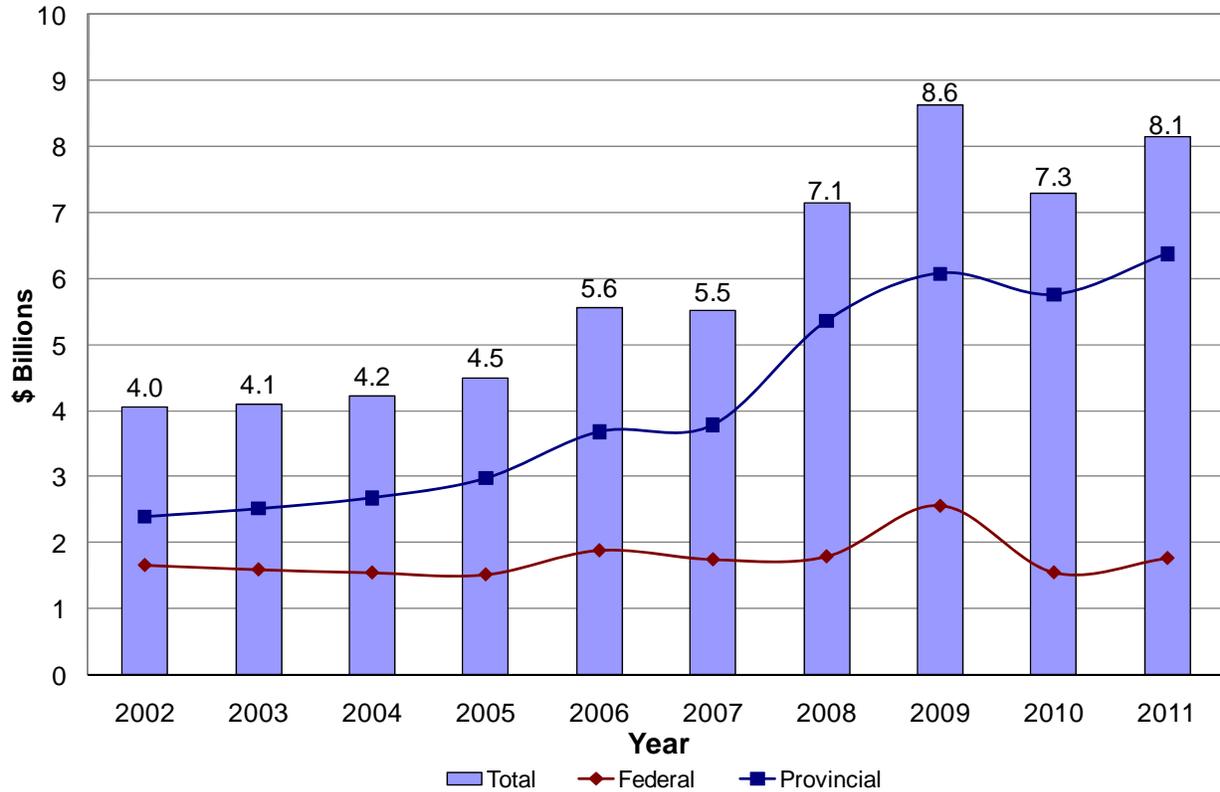


Figure 15 shows, although a substantial portion of our total revenue continues to come from the Federal Government, there was no significant change in this revenue source from 2002 to 2008. There was; however, an increase in 2009, a decrease in 2010 and an increase in 2011. At the same time, however, Provincial revenues have generally increased since 2002, although there was a decrease in 2010.

Another important factor to consider is the comparison of the change in a government's own source revenue to the size of the economy as indicated by the GDP.

Figure 16 provides information on this indicator from 2002 to 2011.

Figure 16

**Consolidated Summary Financial Statements
Own Source Revenue as a Percentage of GDP
Years Ended 31 March**

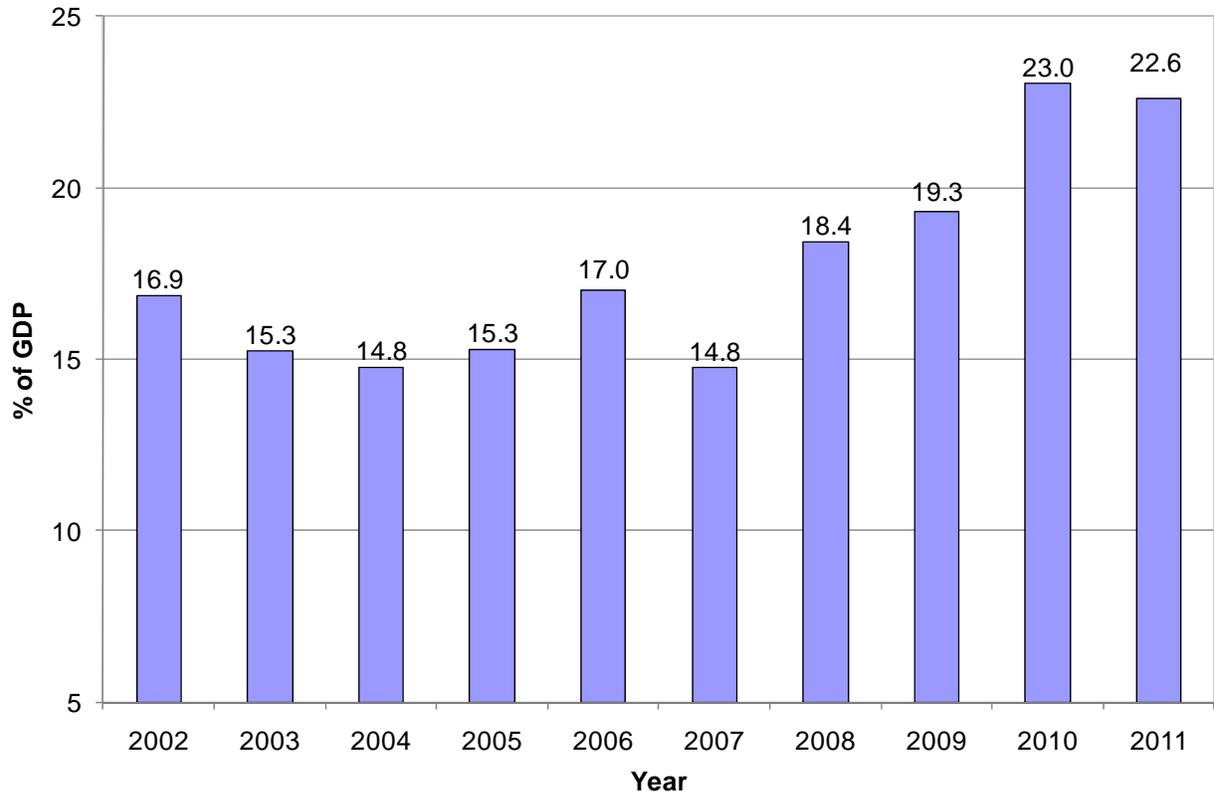


Figure 16 shows, revenue raised from sources within the Province, as a percentage of GDP, generally declined from 2002 to 2004 and increased overall to 2011. In 2002 the percentage was 16.9% while in 2011 it was 22.6%. This means that the Province is now taking more income out of the economy than it was in 2002.

Vulnerability

Vulnerability is the degree to which a government becomes dependent on, and therefore vulnerable to, sources of funding outside its control or influence. This indicator measures the extent to which a government can manage its financial affairs without having to rely on others. Important vulnerability indicators include:

- (a) Federal Government revenues compared to own source revenues;
- (b) foreign currency debt to total government debt; and
- (c) offshore oil royalties as a percentage of own source revenues.

(a) Federal Government revenues compared to own source revenues

A comparison of Federal Government revenues to own source revenues reflects how dependent Government is on transfers from the Federal Government and how vulnerable Government is to changes in these transfers in its ability to finance its programs and services.

A significant portion of Government's revenue in this Province consists of transfers from the Federal Government such as Health and Social Transfers, and cost-shared programs.

In the case of equalization, Newfoundland and Labrador does not currently receive any equalization payments. The Province is now classified as a "Have Province", meaning that we are considered to be financially self-reliant. However, equalization transfers are affected by each province's performance in relation to the performance of other provincial economies, and therefore are subject to change.

Offshore oil royalties have become the single largest own source revenue for Newfoundland and Labrador. The Province is especially vulnerable to changes in world oil prices and production levels. If resource revenues were to decline significantly it could result in the reversal of the status as a "Have Province" to a Province that may possibly once more be a recipient of equalization payments from the Federal Government.

Figure 17 provides information on the percentage of Federal revenues compared to the Province's total revenues from 2002 to 2011.

Figure 17

**Consolidated Summary Financial Statements
Federal Revenues as a Percentage of Total Revenues
Years Ended 31 March**

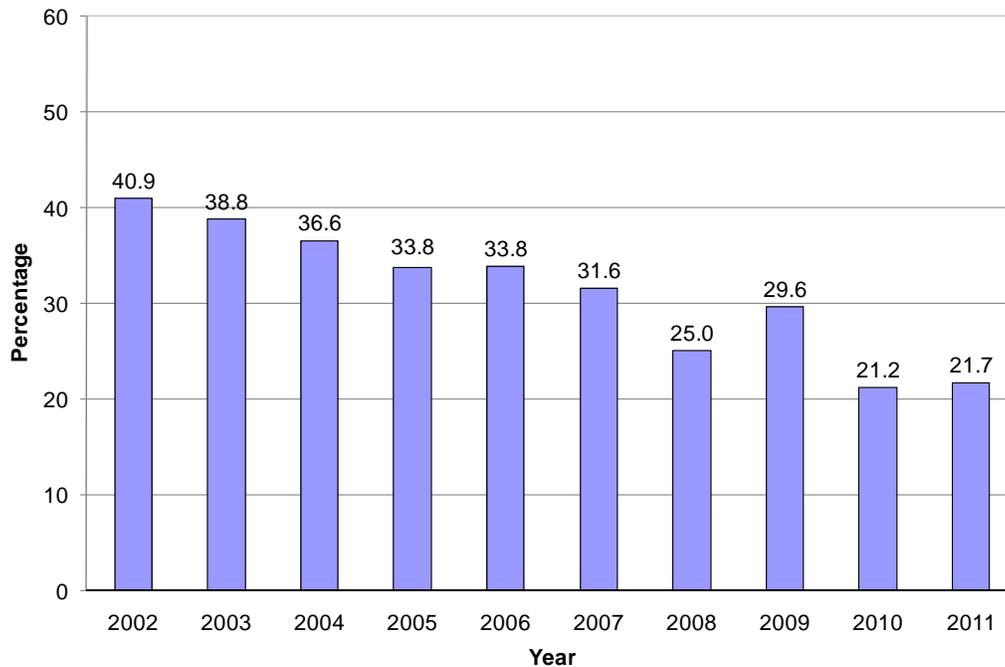


Figure 17 shows that, Federal revenue as a percentage of total revenue has generally declined from 40.9% in 2002 to 21.7% in 2011.

As indicated in Figure 17, over the past ten years, Federal revenue as a percentage of total revenue ranged from a high of 40.9% in 2002 to a low of 21.2% for 2010.

The lower the percentage of Federal revenues as a percentage of total revenues, the less potential impact, i.e. the vulnerability the Province has; related to any change in these revenues.

(b) Foreign currency debt to total government debt

Of the \$5.7 billion in total borrowings (net of sinking fund assets) as at 31 March 2011, \$736 million was foreign (U.S.) debt.

A comparison of a government's foreign debt to its total debt reflects the degree to which it is vulnerable to foreign currency swings.

Figure 18 provides information on the Province's foreign currency debt as a percentage of its total borrowings from 2002 to 2011.

Figure 18

**Consolidated Summary Financial Statements
Foreign Currency Debt as a Percentage of
Total Borrowings (Net of Sinking Funds)
Years Ended 31 March**

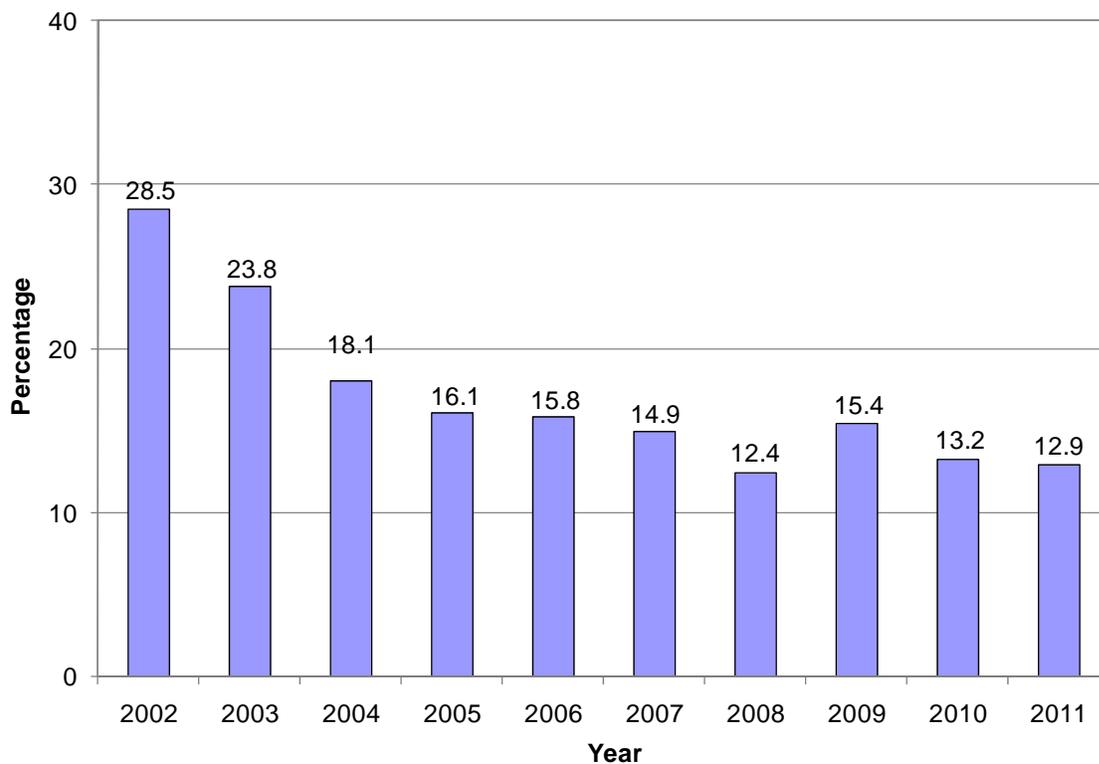


Figure 18 indicates, over the last ten years, foreign currency debt as a percentage of total debt has been generally decreasing from 28.5% in 2002 to 12.9% in 2011.

Although foreign currency debt is decreasing, Government is still vulnerable to currency swings in relation to this debt. To illustrate, as at 30 September 2011 the foreign exchange rate for one US dollar was \$1.0482. As at 31 March 2011, the foreign exchange rate for one US dollar was \$0.9696. If, as at 31 March 2011, the foreign exchange rate had been \$1.0482, there would have been an increase in foreign exchange loss of \$82.5 million.

(c) Offshore oil royalties as a percentage of own source revenues

There is a growing reliance by Government on offshore oil royalties to fund its programs and services. This revenue source as a percentage of Provincial revenues has increased substantially in recent years. To illustrate, in 2005 offshore oil royalties were \$265 million (8.9% of own source revenue) while in 2011, offshore oil royalties were \$2.4 billion or 37.6% of own source revenues.

However, world oil prices are highly volatile and production levels relating to such non-renewable resources can vary significantly. Therefore, changes in these factors can result in significant differences between budget forecasts and actual. As a result, Government's financial position can be significantly impacted by factors such as world oil prices, production and foreign exchange fluctuations, all of which are outside of its control.

Figure 19 shows budget and actual offshore oil royalties from 2005 to 2011, along with budget and revised forecasts for 2012.

Figure 19

Consolidated Summary Financial Statements
Offshore Oil Royalties: Budget and Actual
Years Ended 31 March
(\$ Millions)

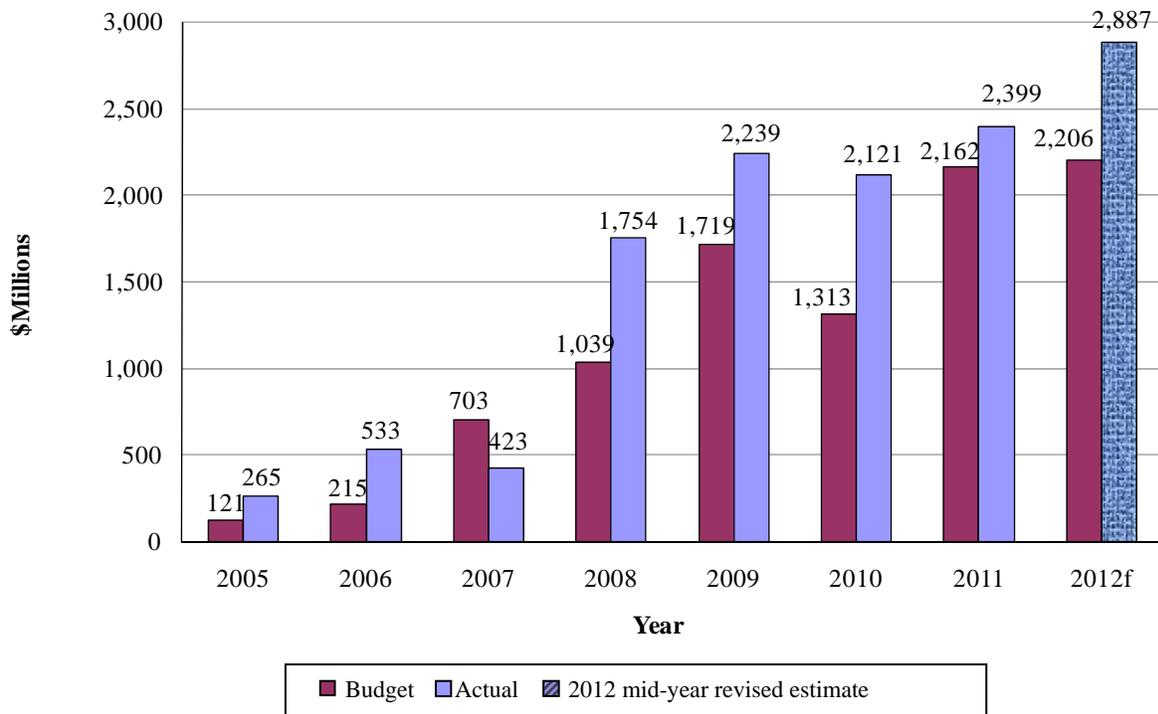
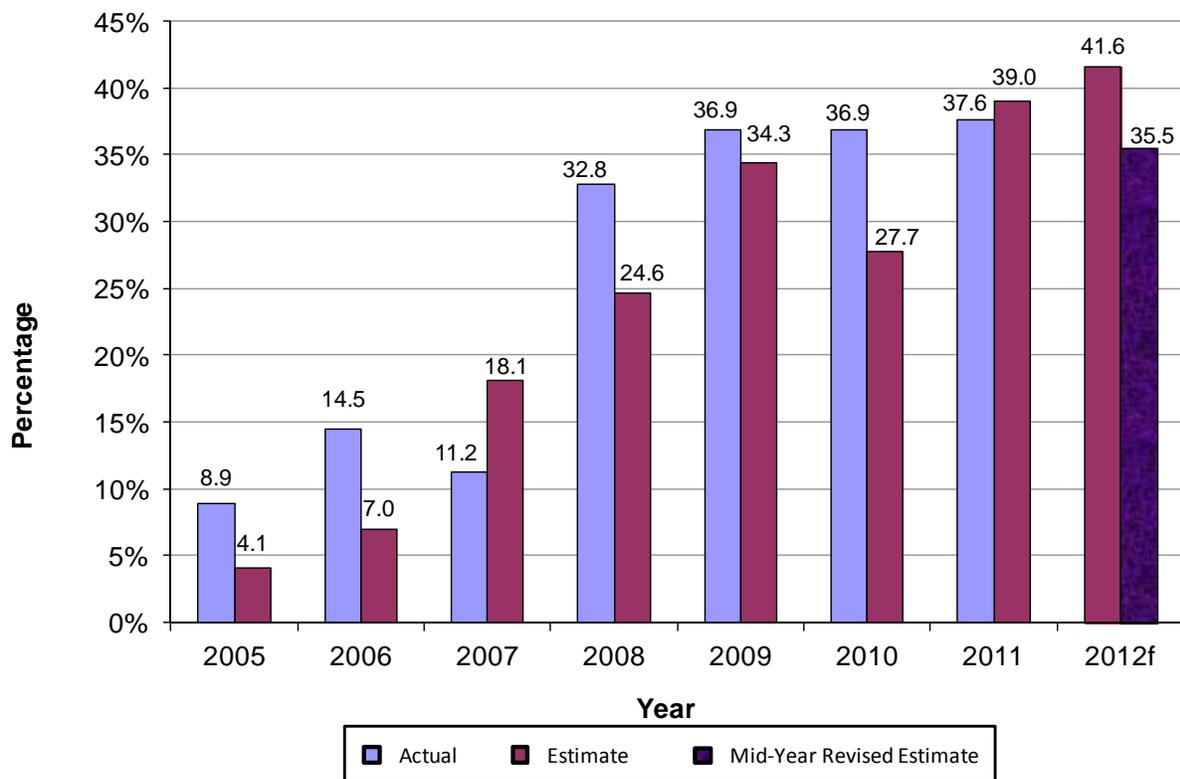


Figure 20 shows budget and actual offshore oil royalties from 2005 to 2011 as a percentage of own source revenue, along with budget and revised forecasts for 2012.

Figure 20

**Consolidated Summary Financial Statements
Oil Revenues: Percentage of Own Source Revenues
Years Ended 31 March**



As Figures 19 and 20 show, oil revenues and the percentage of own source revenues they represent have increased significantly since 2005. The Figures also show that there have been significant differences between budget forecasts and actual offshore oil royalties from 2005 to 2011 (and forecasted for 2012).

The significant increase in offshore oil royalties, for the most part, is attributable to changes in oil prices and/or production levels. For example, in 2009, while offshore oil royalties were budgeted at \$1.719 billion, actual revenue was \$2.239 billion, an increase of \$520 million or 30%. In 2010,

offshore oil royalties were budgeted at \$1.313 billion and actual revenues were \$2.121 billion an increase of \$808 million or 62%. This change could have been in either direction, and highlights the vulnerability associated with this revenue source. In fact, the opposite occurred in 2007 when offshore oil royalties were budgeted at \$703 million, with actual revenues of \$423 million, representing a decrease of \$280 million or 40%. The decrease was due to a longer than anticipated shutdown of the Terra Nova oil production facility. The difference between budget and actual demonstrates the volatility that exists in predicting offshore oil royalties.

Furthermore, although offshore oil royalties were budgeted for 2011 at \$2.162 billion, in November 2010, Government announced an increase in its oil revenue estimates by \$65 million to \$2.227 billion in large part as a result of higher oil prices for a portion of that fiscal year. Also, while offshore oil royalties were budgeted at \$2.206 billion for 2012, in November 2011 Government announced an increase in its oil revenue estimates by \$681 million to \$2.887 billion, related primarily to higher production and an increase in the average oil price.

Given its lack of control over oil prices and production levels, and its increasing dependence on this revenue source, Government has to carefully consider the degree to which it relies on this revenue source to fund its programs and services.

Credit Rating

The Province's credit rating will affect the debt servicing costs over time because the interest that the Province will have to pay on its borrowing will decrease as the credit rating improves, and conversely, the interest costs will increase as the credit rating declines.

The Province's credit ratings as established by Dominion Bond Rating Services, Moody's Investors Services, and Standard and Poor's are outlined in Figures 21, 22 and 23 respectively.

Figure 21

Province of Newfoundland and Labrador
Credit Ratings Established by
Dominion Bond Rating Services

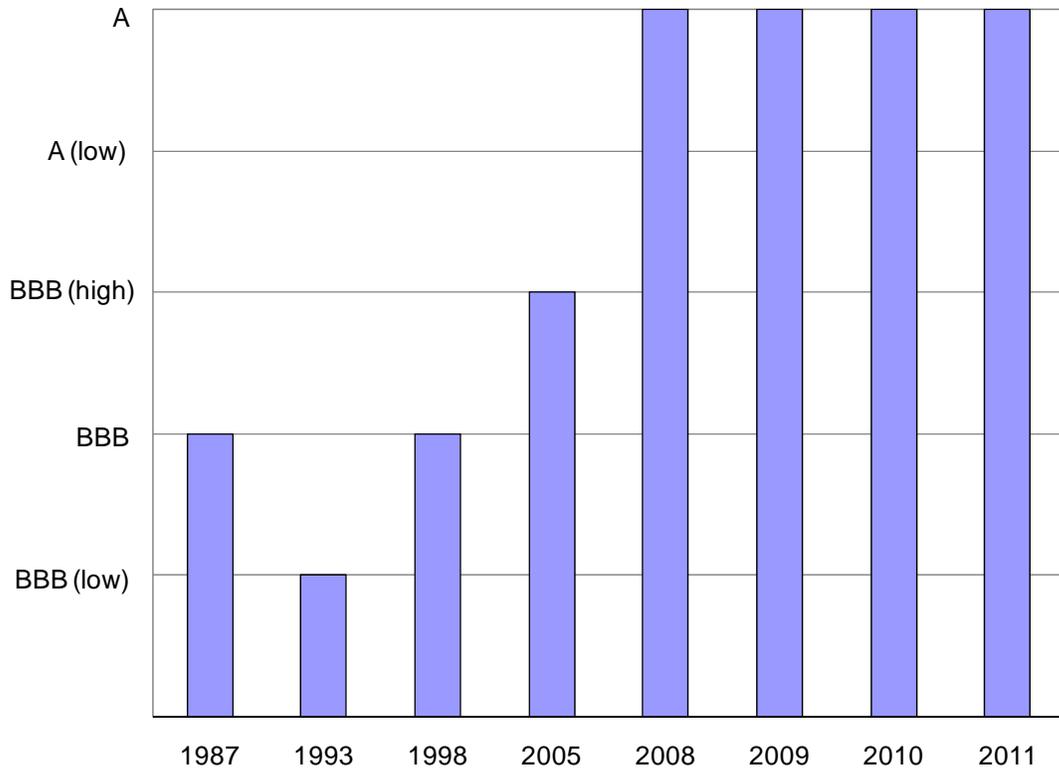


Figure 22

Province of Newfoundland and Labrador
Credit Ratings Established by
Moody's Investors Services

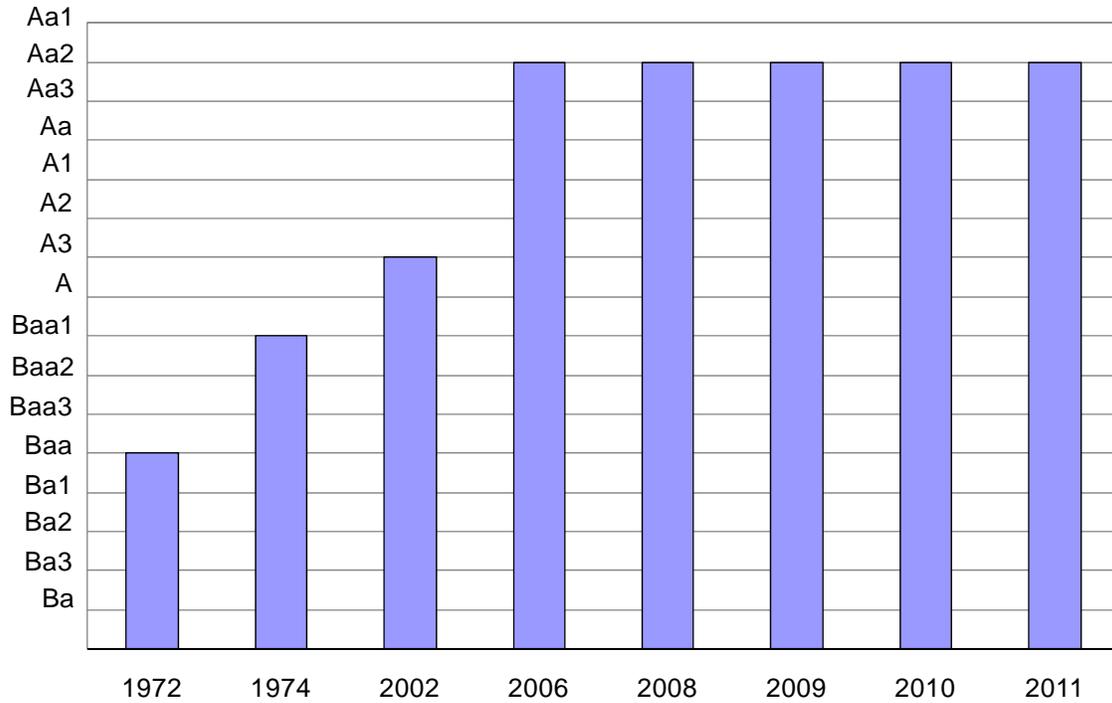
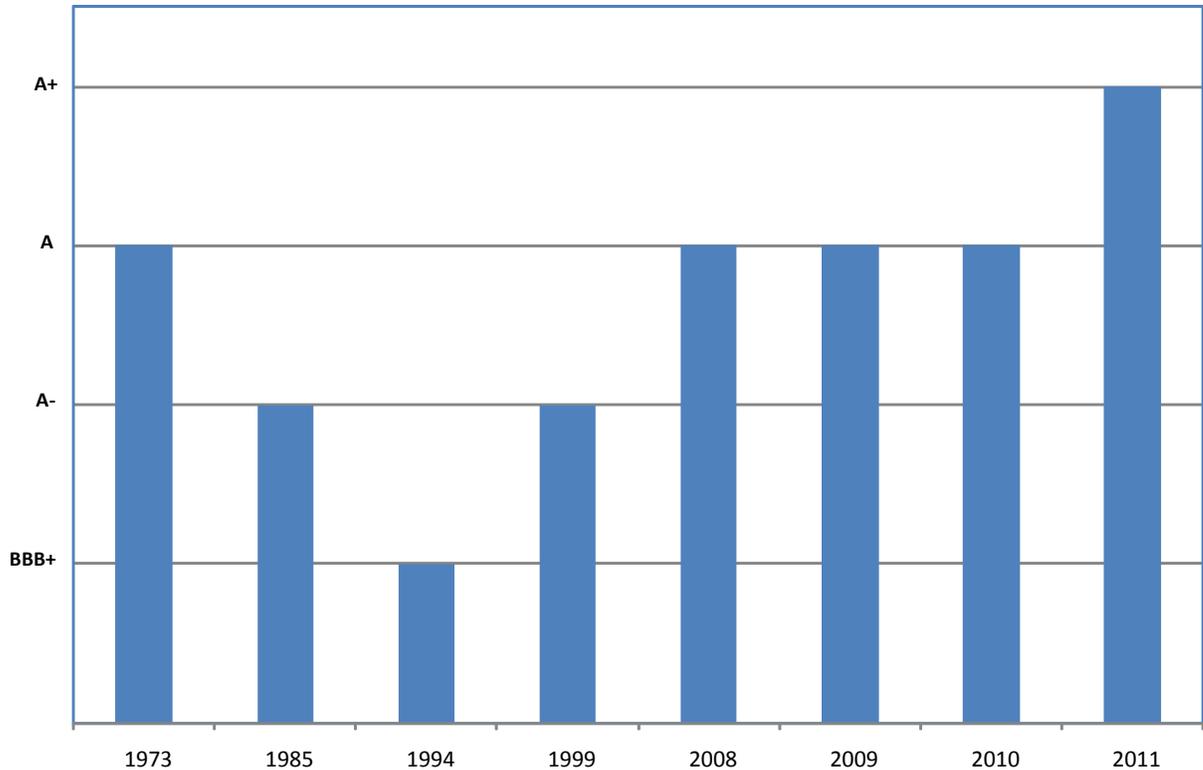


Figure 23

Province of Newfoundland and Labrador
Credit Ratings Established by
Standard & Poor's



These Figures show that the Province's credit rating has improved significantly in the past five years. Figures 24, 25, and 26 which follow show that, while Newfoundland and Labrador is no longer the lowest rated province in Canada, it is still among the lowest rated provinces. Improvements in the credit rating would reduce the debt servicing cost over time.

Figure 24

Credit Ratings Established for Canada and the Provinces by Dominion Bond Rating Services

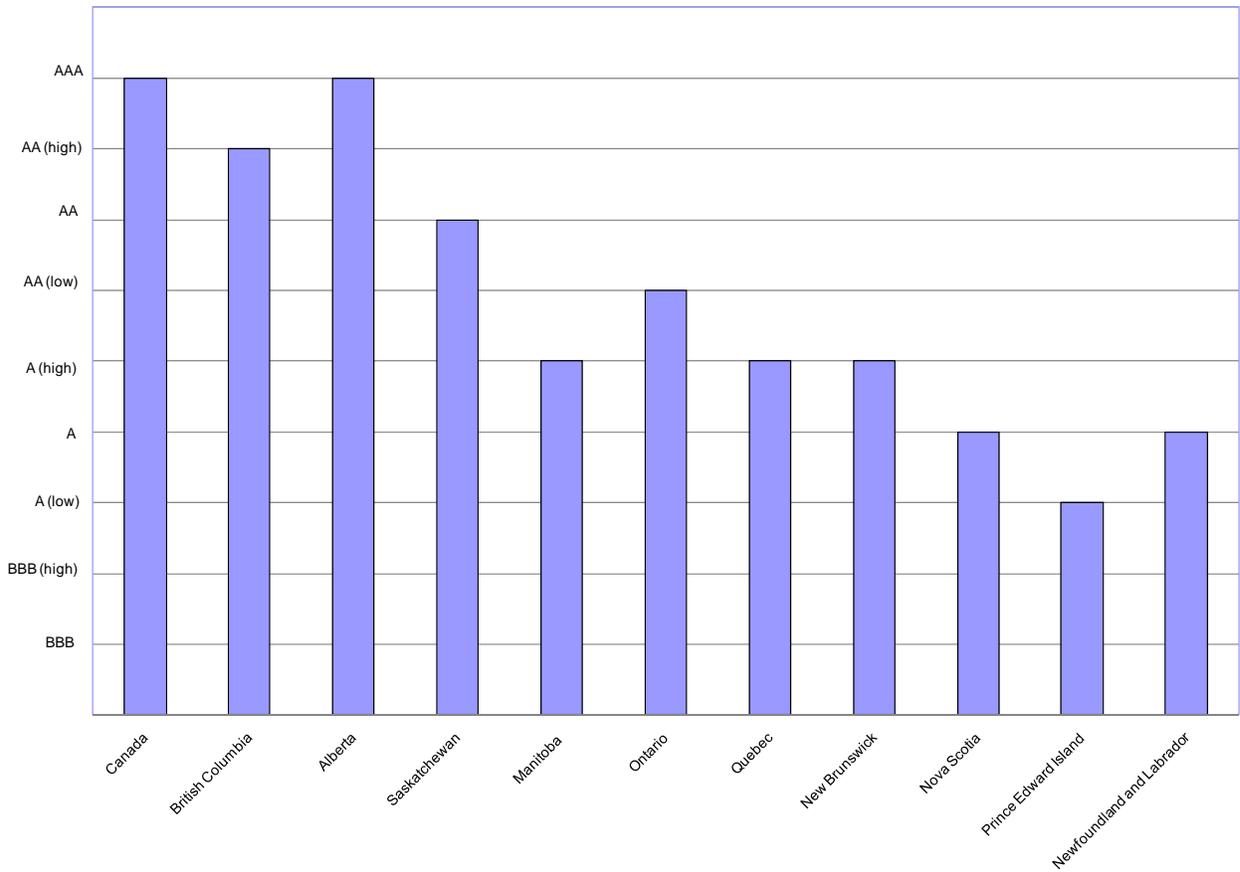


Figure 25

Credit Ratings Established for Canada and the Provinces by Moody's Investors Services

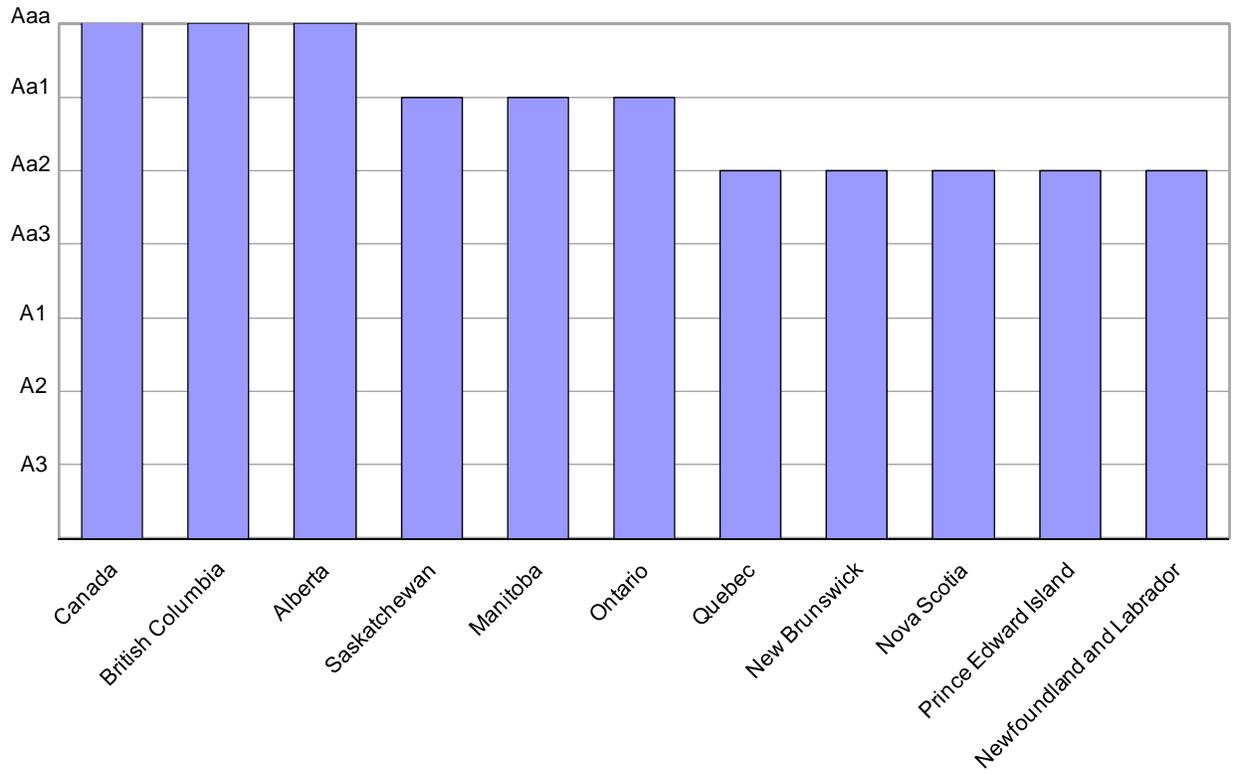
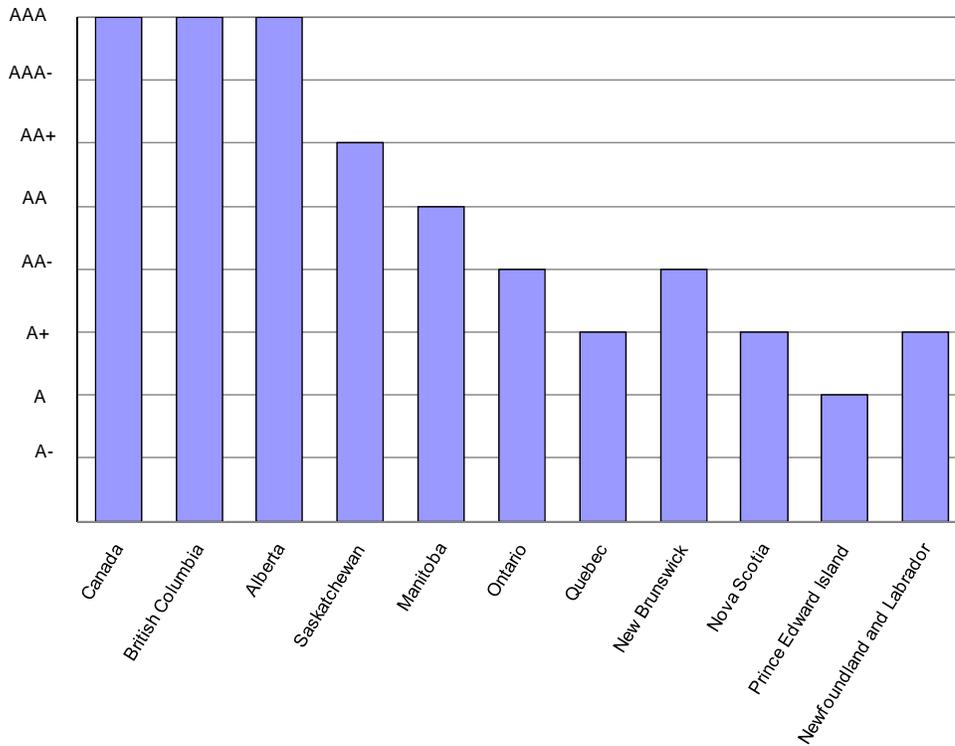


Figure 26

Credit Ratings Established for Canada and the Provinces by Standard & Poor's



3.3 Comments on Selected Financial Information

Retirement Benefits - Pensions

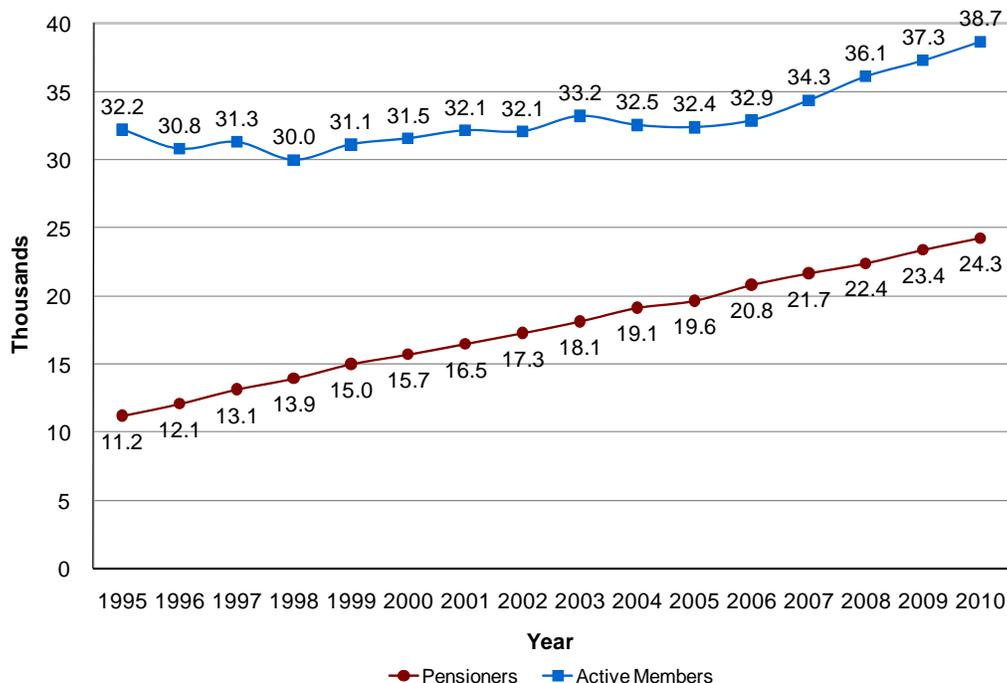
Pensions Administered under the Province of Newfoundland and Labrador Pooled Pension Fund

Prior to 1967, public service salaries and pension benefits were paid under the authority of the *Civil Service Act*. Under that legislation there were no employee or employer contributions to a pension plan and pension benefits were paid out of the Consolidated Revenue Fund. In 1967, legislation was enacted which required that employees contribute to a pension plan. Employees' pension premiums were paid into the Consolidated Revenue Fund and pension benefits continued to be paid out of it.

In 1981, legislation was enacted which created the Province of Newfoundland and Labrador Pooled Pension Fund and required that employee and employer pension premium contributions be paid into the Fund. Subsequent to the establishment of the Fund, pension benefits were paid by the Fund irrespective of whether the employee had contributed pension premiums to it. Figure 1 provides historical data for the Fund relating to pensioners and active members for the past 16 years.

Figure 1

**Province of Newfoundland and Labrador Pooled Pension Fund
Population History: Pensioners and Active Members
Years Ended 31 December
(000's)**



As at 31 December 2010, the Province of Newfoundland and Labrador Pooled Pension Fund was comprised of the following five pension plans:

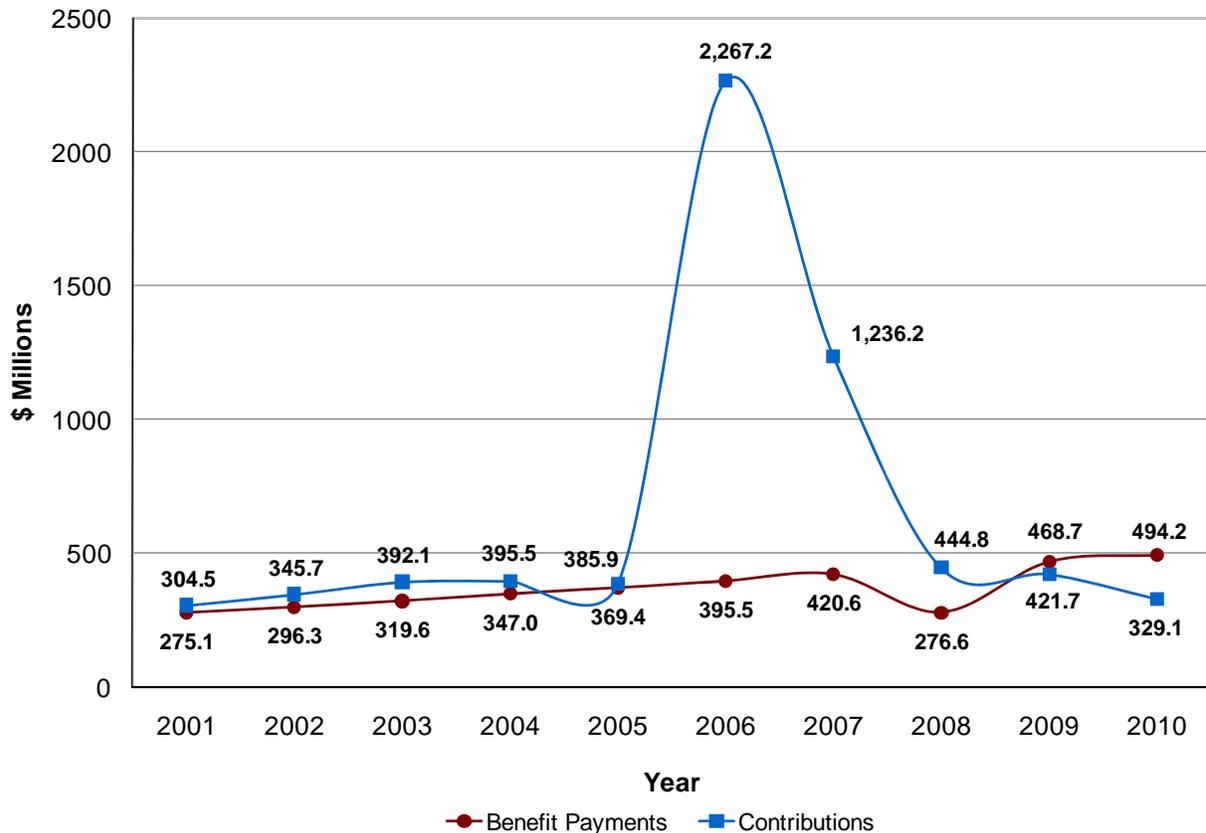
- Public Service Pension Plan;
- Teachers' Pension Plan;
- Uniformed Services Pension Plan;
- Members of the House of Assembly Pension Plan; and
- Provincial Court Judges' Pension Plan.

All employee and employer contributions are deposited into the Fund and pension benefits to plan members and other pension payments are made from it.

For the year ended 31 December 2010, 38,650 employees, Members of the House of Assembly, and the employer paid pension contributions totalling \$329.1 million into the Pension Fund under the five pension plans. During the same period, the Fund provided benefits totalling \$494.2 million to 24,254 retirees. Figure 2 provides historical data for the Fund relating to pension benefits paid and pension contributions received for the past 10 years.

Figure 2

**Province of Newfoundland and Labrador Pooled Pension Fund
Pension Benefit Payments and Contributions
Years Ended 31 December
(\$ Millions)**



As Figure 2 shows, benefit payments exceeded contributions in the last two years. In 2010, benefit payments of \$494.2 million exceeded contributions of \$329.1 million by \$165.1 million.

Memorial University of Newfoundland Pension Plan

Commencing with the year ended 31 March 2006, the Province included Memorial University of Newfoundland (MUN) in its reporting entity.

MUN's pension plan is a defined benefit pension plan for its full-time employees and is administered separately from the plans administered under the Province of Newfoundland and Labrador Pooled Pension Fund.

As at 31 March 2011, the MUN plan had 3,728 active participants and 1,463 pensioners. For the year ended 31 March 2011, the employer and employees paid pension premiums totalling approximately \$78 million, and provided benefits to pensioners of approximately \$39 million.

Unfunded Pension Liability

The unfunded pension liability as at 31 March 2011, including the unfunded liability of the MUN plan of \$79.6 million, totalled \$2.667 billion. This is an increase of \$490 million from the balance of \$2.177 billion as at 31 March 2010.

The \$2.667 billion unfunded pension liability continues to represent a significant debt for Government. Information on the overall unfunded pension liability from 2002 to 2011 is outlined in Figure 3.

Figure 3

**Consolidated Summary Financial Statements
Unfunded Pension Liability
As at 31 March
(\$ Billions)**

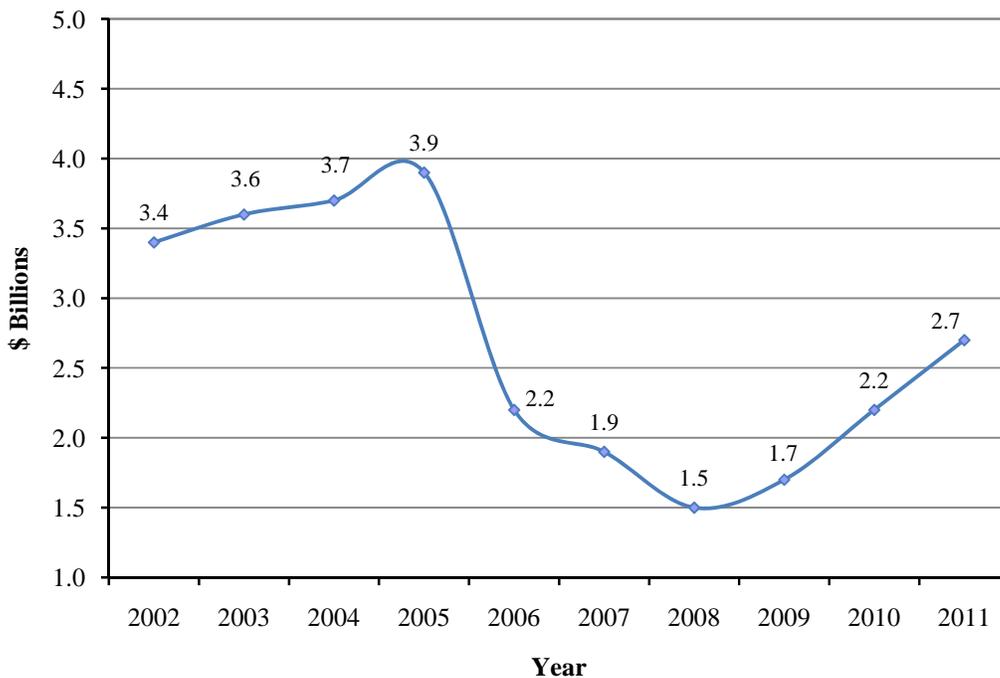
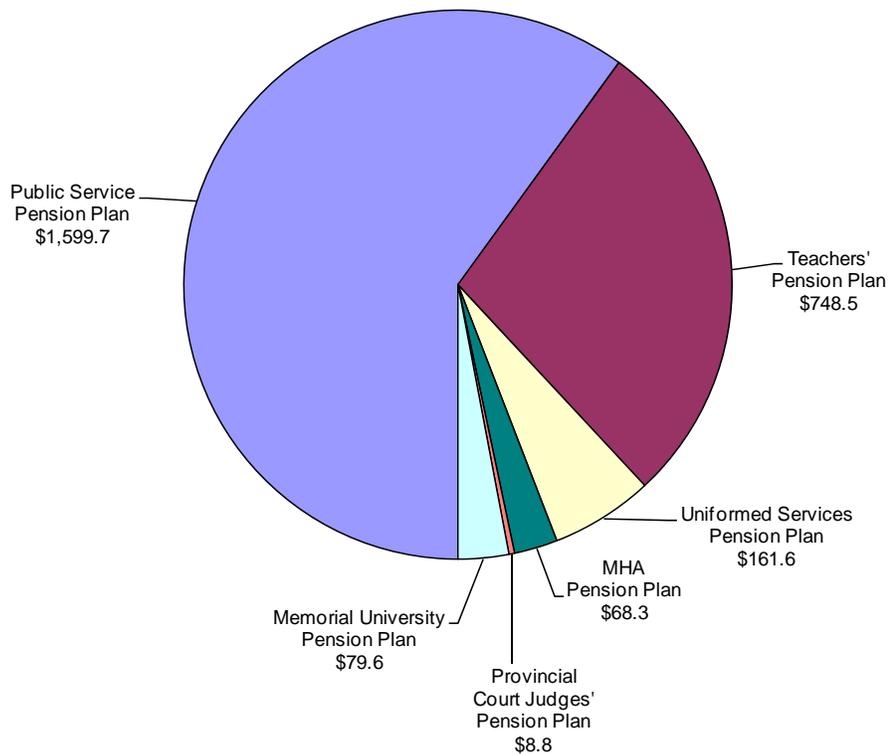


Figure 4 shows the unfunded pension liability by plan as at 31 March 2011.

Figure 4

Consolidated Summary Financial Statements
Unfunded Pension Liability by Plan
As at 31 March 2011
(\$ Millions)

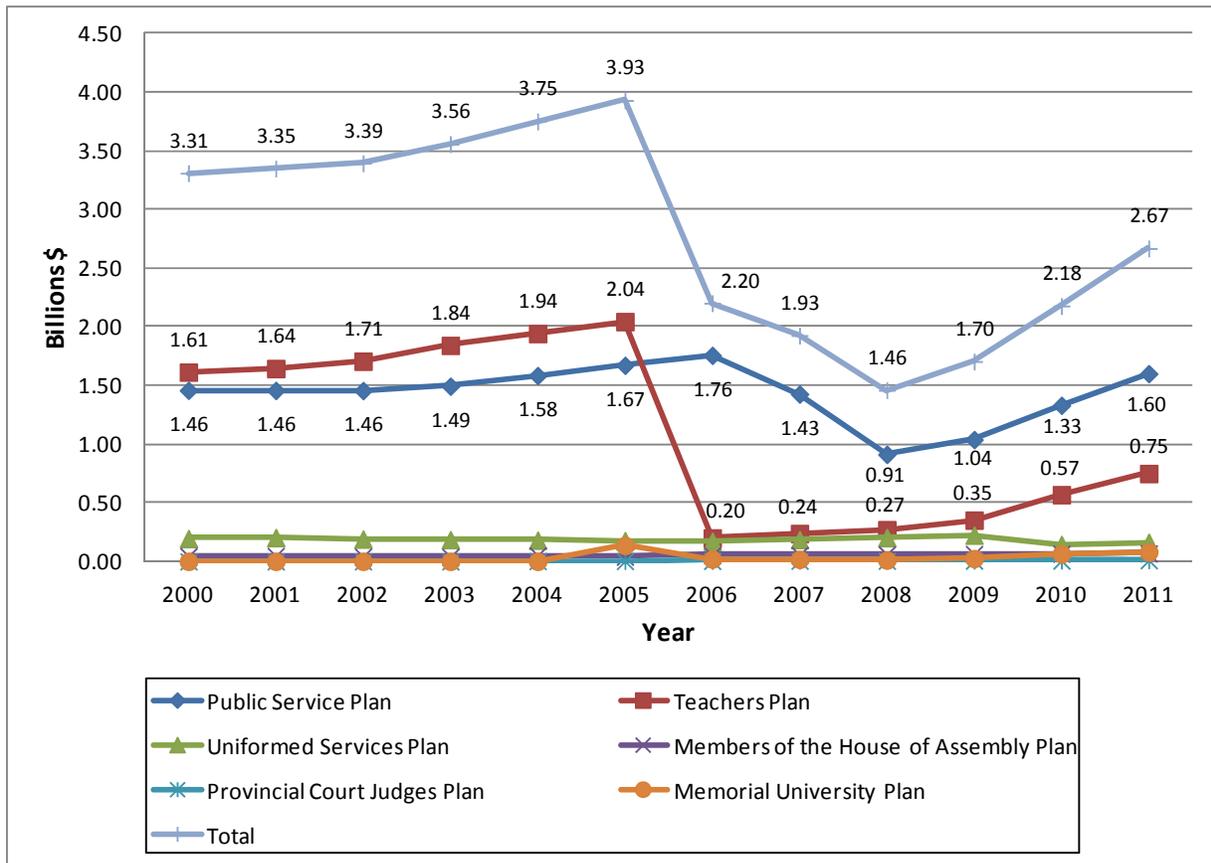


All six pension plans included in Figure 4 had increases in their unfunded pension liability during the year as follows: Public Service Plan (\$269.4 million), the Teachers' Pension Plan (\$180.9 million), Memorial University Pension Plan (\$17.1 million), the Members of the House of Assembly Pension Plan (\$2.6 million), the Provincial Court Judges' Pension Plan (\$1.5 million) and the Uniformed Services Pension Plan (\$17.8 million).

Figure 5 shows the unfunded pension liability of each of the six pension plans from 2000 to 2011.

Figure 5

Consolidated Summary Financial Statements
Unfunded Pension Liability by Plan
As at 31 March
(\$ Billions)

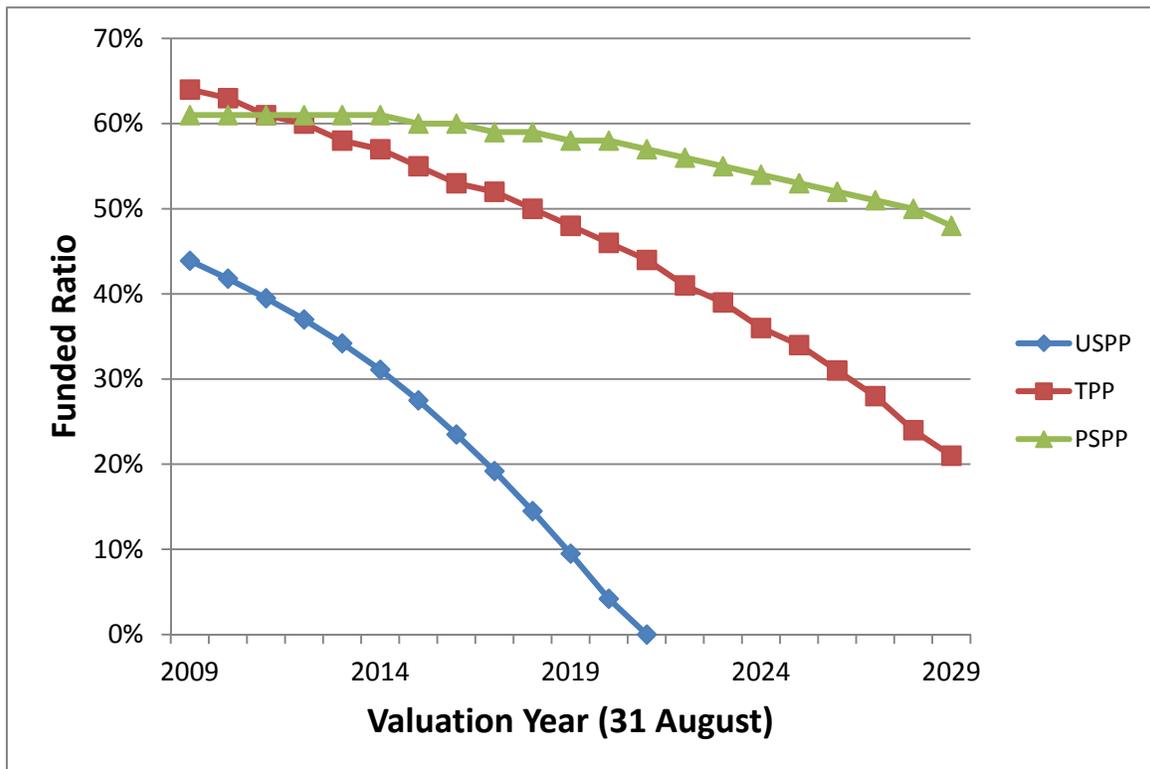


The decrease in unfunded liabilities in Figure 5 were largely attributed to special payments made by Government. As the Figure shows, in years where no special payments were made the unfunded liabilities increased. Unless the Province makes special payments to reduce the unfunded pension liability, the fund assets for each plan will be reduced each year and the liability related to each plan will increase. As the unfunded liability of each plan increases, the funding ratio of each plan will decrease and the interest on the unfunded liability will increase. When the funding ratio is reduced to 0% then the individual plan has no assets with which to pay pensions to its members. As a result, its pensions will have to be funded directly from the Consolidated Revenue Fund.

As Figure 6 shows, if no further special payments are made, information contained in the actuarial valuations for the three largest plans indicate that: the funded ratio of the Uniformed Services Pension Plan, which was 44% in 2009, will be reduced to 0% in 2021; the funded ratio of the Teachers' Pension Plan, which was 64% in 2009, will be reduced to 21% in 2029; and the funded ratio of the Public Service Pension Plan, which was 61% in 2009, will be reduced to 48% in 2029.

Figure 6

**Funded Ratios -
Uniformed Services Pension Plan,
Teachers' Pension Plan and Public Service Pension Plan
Valuation Years 31 August**



Government will have to continue to closely monitor this significant unfunded liability.

Interest Costs

The interest costs relating to the pension plans each year from 2002 to 2011 are outlined in Figure 7.

Figure 7

**Consolidated Summary Financial Statements
Interest Costs on the Unfunded Pension Liability
Years Ended 31 March
(\$ Millions)**

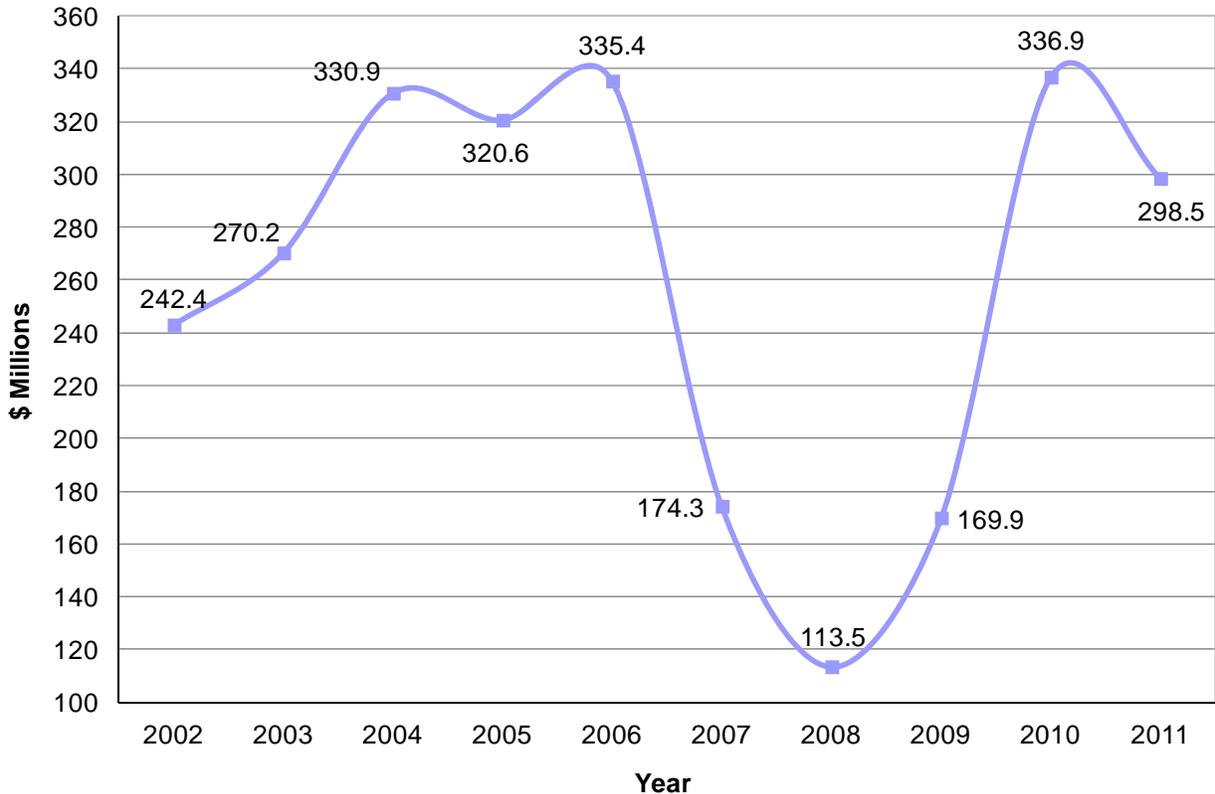


Figure 7 indicates that from 2002 to 2006 there was a significant increase in interest costs associated with the Province's unfunded pension liability. In 2002, interest costs amounted to \$242.4 million while in 2006 interest costs were \$335.4 million, an increase of \$93.0 million or 38%. In 2007 and 2008, there were large decreases in interest costs and significant increases in 2009 and 2010, with a slight decrease in 2011.

Retirement Benefits - Group Health and Life Insurance

Active and retired public sector employees and Members of the House of Assembly are eligible to participate in group health and life insurance plans. Plans for active and retired Government employees, Members of the House of Assembly and Provincial Court Judges are managed by Government. Plans for teachers are managed by the Newfoundland and Labrador Teachers' Association and plans for employees of Memorial University of Newfoundland are managed by the University.

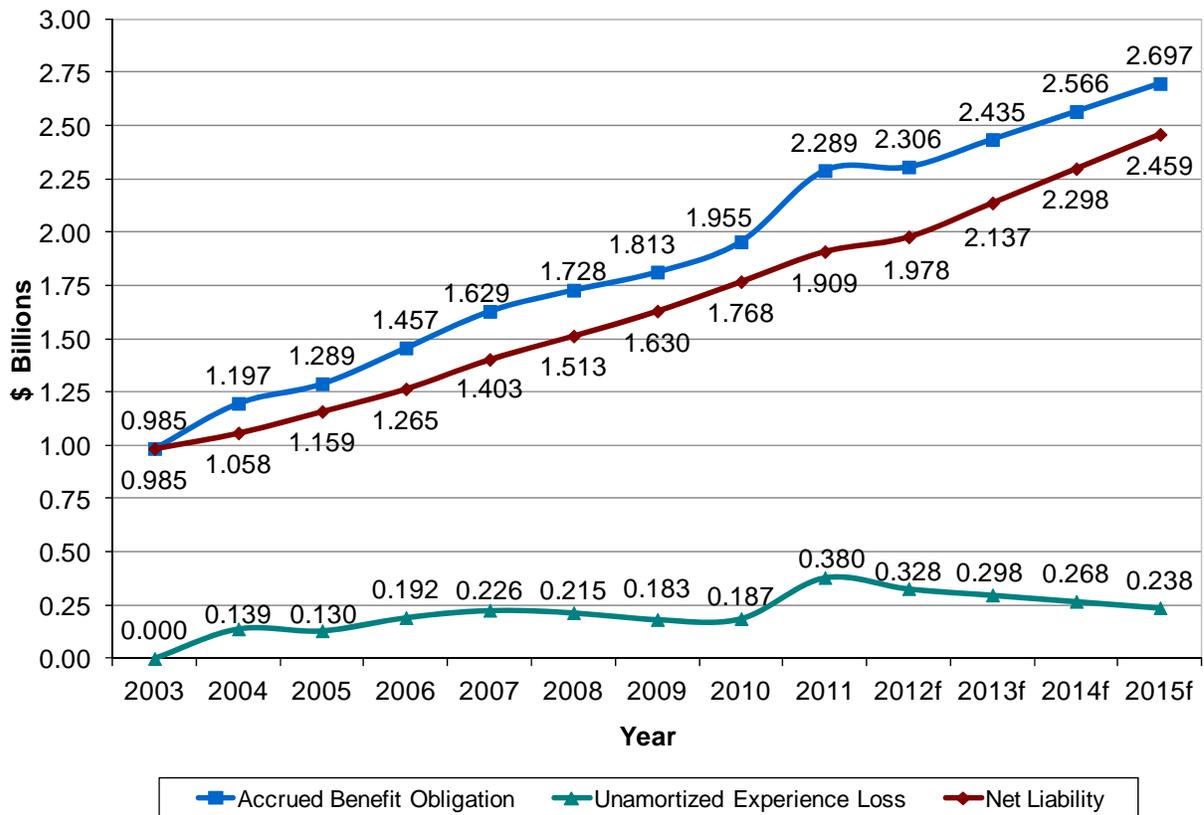
As at 31 March 2011, the plans provided benefits to a total of 20,402 retirees. Obligations for retirement benefits result from a commitment by Government to provide benefits to employees on retirement in return for their current services. Extended health care and life insurance benefits are a form of compensation offered for current services rendered by employees and accrue over the years employees work. The fundamental accounting task is to determine the amount of the total obligation for future retirement benefits and to determine the cost of future benefits for each year of employee service (current service cost).

The net liability relating to group health and life insurance retirement benefits recognized in the Province's Consolidated Summary Financial Statements as at 31 March 2011 was \$1.9 billion (2010 - \$1.8 billion).

Figure 8 provides information regarding the projected net liability as extrapolated to 31 March 2015.

Figure 8

**Province of Newfoundland and Labrador
Group Health and Group Life Insurance
Net Liability
As at 31 March
(\$ Billions)**



f – The forecasted amounts relate to CRF only.
Source: Public Accounts and Actuarial Valuation

The liability for retirement benefits other than pensions has added to the already considerable debt load of the Province and, as Figure 8 shows, is expected to increase in each of the next four years. By 2015 the net liability is expected to total \$2.5 billion, an increase of \$550 million over the 2011 balance of \$1.9 billion, if action is not taken to address it.

Government will have to continue to closely monitor this significant liability.

3.4 Other Matters

Diversification of the Economy

Diversification of the economy is important to the future of the Province. This is especially true given the volatility of oil revenues and the fact that oil is a non-renewable resource. Government has recognized this continuing need for diversification in recent years' Budget Speeches. The Budget Speech for the year ended 31 March 2011 indicated that *"...diversification is the key to long-term economic sustainability and self-reliance in Newfoundland and Labrador. The more opportunities we capture, the broader the foundation on which our economy is grounded."*

In the Budget Speech for each of the five years ended 31 March 2011, Government announced investments in various program areas, *"... in a continuing effort to diversify and strengthen our economy."* During this period, a significant portion of these investments were funded through two activities: the Business Attraction activity in the former Department of Business; and the Comprehensive Economic Development activity in the former Department of Innovation, Trade and Rural Development.

The Comprehensive Economic Development activity, as outlined in the Department's Explanatory Notes supporting the Estimates for the year ended 31 March 2011, indicates that: *"This activity provides for regional and sectoral economic development and diversification initiatives and projects throughout the Province with emphasis on projects that leverage funding from other sources."*

The Business Attraction activity, as outlined in the Department's Explanatory Notes supporting the Estimates for the year ended 31 March 2011, indicates that: *"Appropriations provide for the promotion of the competitive advantages of the Province in target markets for the purpose of attracting inward national and foreign direct investment to match the strengths of key industries and sectors of the provincial economy. Appropriations also provide for the assessment and analysis of identified investment opportunities."*

Details on the original estimates and actual expenditures for these two activities for the five years ended 31 March 2011 are provided in Figure 1.

Figure 1

**Business Attraction and
Comprehensive Economic Development Activities
Actual and Original Estimate
Years Ended 31 March
(\$ Millions)**

	Business Attraction		Comprehensive Economic Development		Totals	
	Actual	Original Estimate	Actual	Original Estimate	Actual	Original Estimate
2007	.358	1.080	5.190	7.926	5.548	9.006
2008	.883	33.992	5.234	8.281	6.117	42.273
2009	10.003	32.554	4.441	9.600	14.444	42.154
2010	4.540	35.243	10.069	16.800	14.609	52.043
2011	4.327	34.505	15.420	20.225	19.747	54.730
Totals	20.111	137.374	40.354	62.832	60.465	200.206

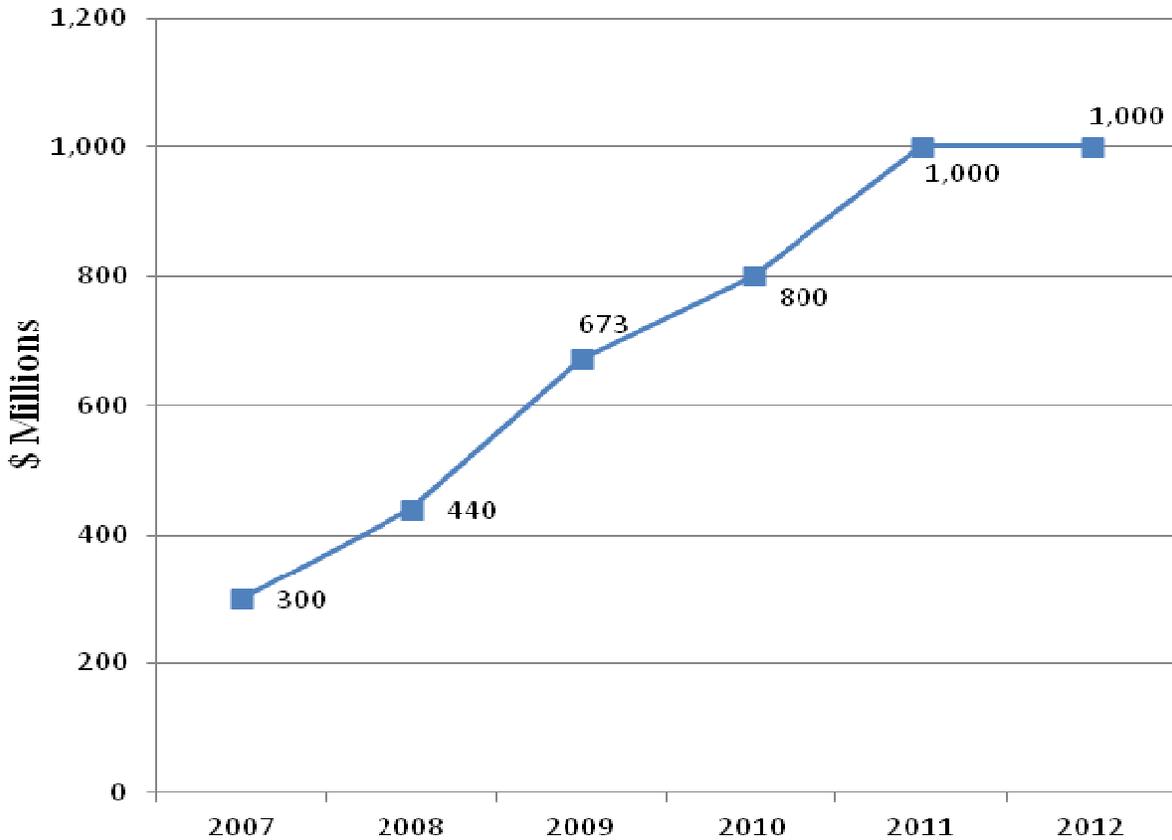
As Figure 1 shows, Government has budgeted a total of \$200.2 million over the last five years in these two activities alone; however, actual expenditures totalled only \$60.5 million, or 30% of the amount budgeted. While much of this funding is application driven, and unspent funding in one year is sometimes budgeted again in subsequent years, Government's objective for these two activities in terms of leveraging such funding to diversify and strengthen the economy, has likely not been fully realized.

Capital Expenditures

Government has increased capital spending dramatically in recent years, in large part due to an announced Infrastructure Strategy. Figure 2 shows planned investments under the Infrastructure Strategy for the years 2006-07 to 2011-12.

Figure 2

**Planned Investments under the Infrastructure Strategy
Years Ended 31 March
(\$ Millions)**



As Figure 2 shows, planned investments under the Infrastructure Strategy have increased, from \$300 million for the year ended 31 March 2007, to \$1.0 billion for the year ended 31 March 2012. While spending on infrastructure is seen as a means to provide better services and to reduce future expenditures, it does come at a financial cost in terms of not utilizing associated funding to reduce debt and related debt servicing charges.

Significant Future Event

A significant future event which may impact Government's financial condition is the proposed agreement to develop Muskrat Falls, a hydroelectric development on the lower Churchill River in Labrador.

Nalcor Energy's consolidated financial statements for the year ended 31 December 2010 disclosed the following in relation to the proposed development. *"On November 18, 2010, a term sheet was executed between Nalcor and Emera Inc. (Emera) to develop Muskrat Falls, a hydroelectric development on the lower Churchill River in Labrador, and related transmission assets. The agreement will result in the development of the 824 MW Muskrat Falls site, with power being transmitted over a new transmission line (the Labrador-Island Transmission Link) to be constructed from Labrador across the Strait of Belle Isle to the Avalon Peninsula on the island of Newfoundland, and the development of a new transmission system (the Maritime Transmission Link) from Newfoundland to Nova Scotia, for the provision of power to Emera in Nova Scotia and the provision of market access to Nalcor. Nalcor will also obtain transmission access in Nova Scotia, New Brunswick, and Maine from Emera. The project has a total estimated capital cost of \$6.2 billion (excluding capitalized financing costs). Emera will fund an estimated \$1.8 billion representing a 49% interest in the transmission assets. The remaining estimated \$4.4 billion will be funded by Nalcor representing a 100% interest in the Muskrat Falls generating facility and its interest in the transmission assets."*

There are several factors associated with the proposed development which may have either a positive or negative impact on Government's financial condition. These factors include whether projected electricity demands, projected costs totalling \$6.2 billion, and the level of anticipated debt expenses go as planned. If these factors do not go as planned, there could be significant issues that the Government of the day will have to face.

Environmental Liabilities

There are many sites in the Province which have environmental contamination resulting from such things as PCBs and old fuel storage tanks. These sites include, for example, the old Harmon air force base, the Marystown Shipyard, former mining properties and the former Abitibi-Consolidated sites.

Government will ultimately have involvement with all contaminated sites in the Province; however, the extent of the involvement and resulting financial costs may vary. Costs associated with remediation are usually significant - for example Government spent approximately \$18.9 million to complete remediation at the former Hope Brook Gold Mine property. While it is possible that the Province may be able to recover some of the remediation costs from other parties, the remaining remediation costs associated with contaminated sites would likely be significant.

In the case of contaminated sites for which the Province has responsibilities, generally accepted accounting principles require that if a reasonable estimate of environmental remediation costs can be determined, and it is likely that the Province will be liable for these costs, the amount should be recorded in the Province's financial statements. Note 9(c)(vi) to the Province's financial statements for the year ended 31 March 2011 reflects this requirement by indicating that *"A liability will be accrued in the financial statements when it has been determined that the Province is liable for a site which has become contaminated and where a reasonable estimate of the remediation costs can be made."* The note also indicates that *"It is the responsibility of the departments and entities to identify any other potentially contaminated sites which are owned by the Province and to collect the information necessary to assess the extent or likelihood of any environmental damage."*

The Province's financial statements include an environmental liability of \$21.6 million as at 31 March 2011, relating to 10 sites reported by the departments of Environment and Conservation, and Transportation and Works. In addition, information is provided in note 9(c)(vi) on other contaminated sites the Province is aware of, but for which the full extent of remediation costs was not readily determinable.

In our 2002 Annual Report to the House of Assembly, we concluded that *"There is no central inventory of contaminated sites The lack of a central inventory makes it more difficult for Government to determine the nature and extent of contaminated sites in the Province, the extent of progress of remediation efforts, and estimated future remediation costs to be incurred by Government."*

In a review conducted in 2010; i.e. eight years later, we found that Government still did not have a central inventory of contaminated sites. While a database was maintained by the Department of Environment and Conservation, it was neither complete nor accurate. The database did not include all contaminated sites in the Province, e.g. we found four contaminated sites that were included in the recorded environmental liability in the Province's financial statements for the 2010 fiscal year which were not included in the database. Furthermore, when contaminated sites were identified, the information was not always properly recorded in the database, e.g. we found sites that were listed as open (active) on the database which were closed (remediated) and sites that were listed as closed which were still open, and active sites where there was no indication as to who owned the contaminated site or no indication as to who was responsible for contaminating the site. We also found that the database was not being updated on a timely basis. In addition, there were no fields in the database to record total estimated remediation costs, costs incurred to date and progress to date, and there was no field in the database to identify who is responsible to pay for remediation costs.

As the Department's database does not contain complete and accurate information, including costs associated with contaminated sites, it cannot be used to provide the Office of the Comptroller General with the information required to determine environmental liabilities for inclusion in the Province's financial statements.

Given the lack of a centralized database which can be used to obtain the information required, the Office of the Comptroller General relies on the departments and Crown agencies to identify any other potentially contaminated sites and to provide the information necessary to assess the extent or likelihood of any environmental damage. However, our review in 2010 indicated that information provided to the Office of the Comptroller General was also incomplete. Therefore, that Office had incomplete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements. For example, even though the Department of Natural Resources incurred a total of \$6.4 million over the previous two years on remediation costs for four sites, and budgeted a further \$4.2 million to be spent for three of these four sites during 2011, it did not initially provide the Office of the Comptroller General with any information for possible environmental liabilities reporting or related note disclosure. In response to our request for information relating to contaminated sites, the Department of Natural Resources indicated that they estimated costs totalling \$136 million for remediation relating to two former mining sites. Based on this information, disclosure related to these two sites was subsequently added to note 9(c)(vi) in the Province's financial statements for the year ended 31 March 2010. Similar information was disclosed in note 9(c)(vi) for the year ended 31 March 2011, with the additional reference that the Province "*...is seeking to complete an inventory and risk based priority list of orphaned and abandoned mines.*"

Government should continue with its efforts to identify all contaminated sites in the Province for which it is potentially liable, determine the estimated liability associated with remediation cost, and comply with generally accepted accounting principles by recording any resulting liability in the Province's financial statements.

Periodic Financial Statements

Periodic financial statements, while not specifically required by generally accepted accounting principles, are considered to be an important component of any financial accountability framework. These statements are important to effectively monitor and control Government's financial operations.

From September 2002 until March 2009, Government had been preparing periodic financial statements to show the Province's results of operations and financial position. Officials of the Department of Finance indicated that these financial statements were only distributed to the Minister of Finance/President of Treasury Board, other Treasury Board Ministers, the Deputy Minister of Finance, the Comptroller General, various officials of the Department of Finance, and the Auditor General. For the year ended 31 March 2010, periodic financial statements were only distributed to the Deputy Minister of Finance. Officials of the Department of Finance advised that for the year ended 31 March 2011, periodic financial statements were only distributed to the Deputy Minister of Finance and the Office of the Auditor General.

While we have commended the Office of the Comptroller General in the past for preparing such financial statements; in my opinion, these financial statements should be more widely distributed. Ideally, these financial statements should be part of accountability information provided on an on-going basis to all Members of the House of Assembly and senior Government officials.

3.5 Expenditures of the Consolidated Revenue Fund

Introduction

As part of our audit of the financial statements of the Consolidated Revenue Fund (CRF), we perform tests and reviews of the expenditures made by the various departments. Figure 1 outlines expenditures, by category, recorded in the Consolidated Revenue Fund financial statements for the years ended 31 March.

Figure 1

**Consolidated Revenue Fund Expenditures
By Category
Years Ended 31 March
(\$ Millions)**

Consolidated Revenue Fund Expenditures					
Category	2007	2008	2009	2010	2011
Salaries and Employee Benefits	371	427	483	516	547
Retirement Costs	146	131	201	362	344
Transportation and Communications (See Figures 13, 14)	40	45	48	49	47
Supplies	84	107	102	97	102
Professional Services (See Figures 9, 10)	304	326	368	387	393
Purchased Services (See Figures 7, 8)	216	253	295	399	426
Property, Furnishings and Equipment (See Figures 5, 6)	17	60	79	70	58
Allowances and Assistance (See Figures 11, 12)	361	368	372	461	484
Grants and Subsidies (See Figures 2, 3, 4)	2,614	2,849	3,138	3,579	3,862
Debt Expenses	711	689	678	824	775
Amortization (tangible capital assets)	87	82	81	94	125
Bad Debts	12	29	2	6	3
Total	4,963	5,366	5,847	6,844	7,166

Source: Consolidated Revenue Fund financial statements

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

Grants and Subsidies

Government has established programs which provide grants or subsidies to various Crown agencies, private corporations and individuals. These payments are made to health boards, to school boards, to the College of the North Atlantic and Memorial University of Newfoundland, and to certain Crown agencies for operational funding. Other grants and subsidies are paid to private corporations and individuals in accordance with Government support programs.

During the year we continued our process of monitoring and reviewing payments made for grants and subsidies. Figure 2 indicates for the year ended 31 March 2011, grants and subsidies amounted to approximately \$3.86 billion or approximately 53.8% of the total expenditures of the Consolidated Revenue Fund. For the year ended 31 March 2010, payments for grants and subsidies were approximately \$3.58 billion and represented approximately 52.3% of the total expenditures of the Consolidated Revenue Fund.

Figure 2

**Grants and Subsidies Expenditures
By Department
Years Ended 31 March
(\$000's)**

Grants and Subsidies Expenditure by Department		
Department	2010	2011
Department of Health and Community Services	2,006,707	2,040,825
Department of Education	1,068,165	1,133,628
Department of Municipal Affairs	242,123	231,678
Department of Child, Youth and Family Services	105	141,994
Department of Human Resources, Labour and Employment	36,301	99,446
Newfoundland and Labrador Housing Corporation	50,356	55,453
Department of Natural Resources	31,018	45,051
Department of Tourism, Culture and Recreation	34,642	33,892
Executive Council	4,365	28,145
Department of Innovation, Trade and Rural Development	61,667	23,128
Department of Justice	14,635	14,787
Department of Fisheries and Aquaculture	7,361	8,854
Department of Transportation and Works	6,771	6,253
Department of Environment and Conservation	11,203	2,966
Department of Finance	1,953	2,007
Department of Business	1,772	1,714
Department of Labrador and Aboriginal Affairs	1,343	1,338
Legislature	91	123
Department of Government Services	66	68
Accrual adjustments	(1,941)	(9,535)
Total	3,578,703	3,861,815

Source: Government's Financial Information System

We also summarized the payments of grants and subsidies by the type of entity for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010. The results of this summary are outlined in Figure 3.

Figure 3

**Grants and Subsidies Expenditures
By Type of Entity
Years Ended 31 March
(\$000)**

Types of Entities Receiving Grants and Subsidies		
Type of Entity	2010	2011
Regional Health Authorities and Related Services	1,962,775	2,132,580
School Boards – Teachers' Payroll	498,398	512,222
Memorial University of Newfoundland	331,771	380,730
Municipalities	240,478	231,678
School Boards and Related Entities – Other Payments	159,966	161,408
Economic Renewal, Labour Market and Industry Support	98,215	123,633
College of the North Atlantic	100,620	98,424
Newfoundland and Labrador Housing Corporation	50,356	55,453
Educational Agencies and Post Secondary Education Support	30,962	42,390
Culture and Heritage	20,699	15,274
Newfoundland and Labrador Legal Aid Commission	13,905	14,117
Recreation and Sport	8,665	13,297
Provincial Information and Library Resources Board	11,606	11,479
Agriculture Development	10,039	10,807
Canada-Newfoundland and Labrador Offshore Petroleum Board	8,700	7,745
Transportation grants	6,090	6,063
Newfoundland and Labrador Hydro	583	5,000
Labrador Agreement and Native Peoples Support	1,343	1,338
Newfoundland and Labrador Film Development Corporation	700	710
Other Miscellaneous Grants	24,773	47,002
Accrual adjustments	(1,941)	(9,535)
Total	3,578,703	3,861,815

Source: Government's Financial Information System

Figure 4 provides the names of all entities which received grants and subsidies funding in excess of \$10 million for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010.

Figure 4

**Grants and Subsidies Expenditures
Payments in Excess of \$10 million
Years Ended 31 March
(\$000's)**

Entities Which Received in Excess of \$10 Million		
Entity	2010	2011
Eastern Regional Integrated Health Board	1,140,668	1,239,199
Teachers Payroll	498,398	512,222
Memorial University of Newfoundland	331,771	380,730
Central Regional Integrated Health Board	285,219	310,175
Western Regional Integrated Health Board	281,416	309,623
Labrador-Grenfell Regional Integrated Health Board	151,521	164,859
College of the North Atlantic	100,620	98,424
Eastern School District	78,000	80,364
Labour Market Development Agreement	568	57,036
Newfoundland and Labrador Housing Corporation	50,356	55,453
Nova Central School District	35,803	34,896
Western School District	33,310	32,924
City of St. John's	61,134	31,667
Central Regional Services Board	11,633	30,079
Municipal Financing Corporation - Payments to Municipalities	34,828	25,445
Research and Development Corporation	784	25,104
Canadian Blood Services	20,580	20,470
Newfoundland and Labrador Centre for Health Information	13,787	19,482
Newfoundland and Labrador Legal Aid Commission	13,905	14,117
Colby Management Inc. (Labrador City CNA campus construction)	951	13,499
Labrador School District	11,259	11,484
Provincial Information and Library Resources Board	11,606	11,479
Corner Brook City Council	17,851	11,460
City of Mount Pearl	11,241	11,416
Nova Scotia Minister of Finance	6,009	11,106
Grant Thornton LLP (Abitibi Severance)	41,998	0
Grants \$10 million and less paid to over 7,800 entities in 2011 (2010 - over 6,440 entities)	362,572	394,260
Accrual adjustments	(29,085)	(45,158)
Total	3,578,703	3,861,815

Source: Government's Financial Information System

Property, Furnishings and Equipment

The Property, Furnishings, and Equipment category generally includes capital items such as equipment purchased for use by Government departments. This category also includes funding provided by the Department of Health and Community Services to the various regional health authorities for the purchase of equipment. During the year ended 31 March 2011, the Province paid \$51.7 million (2010 - \$50.9 million) to the regional health authorities for equipment which is included in the property, furnishings and equipment category. Payments for property, furnishings and equipment totalled \$58.4 million for the year ended 31 March 2011, and \$69.6 million for the year ended 31 March 2010. Figure 5 shows, by department, payments made for property, furnishings and equipment for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010.

Figure 5

**Property, Furnishings and Equipment Expenditures
By Department
Years Ended 31 March
(\$000's)**

Property, Furnishings and Equipment Expenditures by Department		
Department	2010	2011
Department of Transportation and Works	60,676	101,285
Department of Health and Community Services	50,856	51,700
Department of Natural Resources	4,513	37,094
Executive Council	6,212	6,485
Department of Education	2,766	4,461
Department of Justice	5,228	2,997
Department of Fisheries and Aquaculture	449	985
Department of Government Services	1,125	717
Department of Environment and Conservation	1,058	696
Legislature	290	425
Department of Tourism, Culture and Recreation	1,452	232
Department of Human Resources, Labour and Employment	904	194
Department of Child, Youth and Family Services	47	182
Department of Municipal Affairs	410	178
Department of Finance	195	115
Department of Innovation, Trade and Rural Development	129	114

Property, Furnishings and Equipment Expenditures by Department		
Department	2010	2011
Department of Business	106	65
Public Service Commission	50	38
Department of Labrador and Aboriginal Affairs	10	15
Accrual adjustments	(66,871)	(149,619)
Total	69,605	58,359

Source: Government's Financial Information System

We also summarized the payments for property, furnishings and equipment to show all entities which received payments in excess of \$1 million for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010. These entities are listed in Figure 6.

Figure 6

**Property, Furnishings and Equipment Expenditures
Payments in Excess of \$1 million
Years Ended 31 March
(\$000's)**

Entities Which Received in Excess of \$1 Million		
Entity	2010	2011
Bombardier Inc., Canadair Group	28,660	48,790
CHI Hydroelectric Company Inc.	0	32,800
Eastern Regional Integrated Health Board	32,868	29,653
Kiewit Offshore Services	13,359	21,490
Central Regional Integrated Health Board	5,126	8,464
Hawker Beechcraft Corporation	0	7,739
Western Regional Integrated Health Board	6,794	5,887
Labrador Regional Integrated Health Board	3,408	5,275
Harvey & Company Ltd.	414	4,698
Bell Aliant - IT Equipment	2,293	3,109
Unifund Assurance Company	0	2,639
McInnes Cooper	607	2,554
Micro-Tech Computer Centre Inc.	9	2,053
Nortrax Canada Inc.	771	1,564
Stone Valley Equipment & Recreation Ltd.	1,240	1,555

Entities Which Received in Excess of \$1 Million		
Entity	2010	2011
Fraize Law Offices	240	1,380
Newfoundland and Labrador Centre for Health Information	1,689	1,370
Triware Technologies Inc.	723	1,277
Rolls Royce	0	1,124
3D Datacomm Inc.	139	1,081
Memorial University of Newfoundland	617	1,062
Ottenheimer Baker, Barristers & Solicitors	1,274	515
Western Star Trucks Newfoundland Ltd.	5,799	394
J W Allan Co. Ltd	1,019	249
Cargotec	1,919	243
Avalon Ford Sales Ltd.	2,240	113
French, Noseworthy & Associates	1,592	1
Ernest Boone Law Office	1,722	0
Russel Metals Inc.	1,410	0
Payments \$1 million and less to over 710 entities in 2011 (2010 - over 690 entities)	20,544	20,899
Accrual adjustments	(66,871)	(149,619)
Total	69,605	58,359

Source: Government's Financial Information System

Purchased Services

Purchased services include such services as heat and light, general maintenance, printing, vehicle rentals and repairs, advertising, and insurance. As indicated in Figure 1, payments for purchased services totalled \$425.5 million for the year ended 31 March 2011 (\$399.0 million 31 March 2010). Figure 7 shows, by department, payments made for purchased services for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010.

Figure 7

**Purchased Services Expenditures
By Department
Years Ended 31 March
(\$000's)**

Purchased Services By Department		
Department	2010	2011
Department of Transportation and Works	278,625	306,590
Department of Education	112,806	86,797
Department of Health and Community Services	36,182	61,369
Department of Natural Resources	19,453	29,089
Department of Justice	21,491	17,221
Department of Tourism, Culture and Recreation	17,864	16,226
Department of Fisheries and Aquaculture	3,069	12,782
Department of Environment and Conservation	7,324	10,119
Executive Council	6,037	6,631
Department of Human Resources, Labour and Employment	5,092	5,850
Department of Government Services	4,982	5,230
Department of Innovation, Trade and Rural Development	2,046	4,044
Department of Municipal Affairs	1,510	3,411
Department of Finance	1,260	1,666
Department of Business	820	1,577
Public Service Commission	1,347	1,168
Legislature	1,309	1,110
Department of Child, Youth and Family Services	41	438
Department of Labrador and Aboriginal Affairs	231	198
Consolidated Fund Services	22	18
Accrual adjustments	(122,466)	(146,073)
Total	399,045	425,461

Source: Government's Financial Information System

We also summarized the payments for purchased services to show all entities which received payments in excess of \$1 million for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010. These entities are listed in Figure 8.

Figure 8

**Purchased Services Expenditures
Payments in Excess of \$1 million
Years Ended 31 March
(\$000's)**

Entities Which Received in Excess of \$1 Million		
Entity	2010	2011
Johnson's Construction Ltd.	46,740	41,099
Marco Services Ltd.	36,987	31,048
Humber Valley Paving Limited	17,357	28,468
Olympic Construction Ltd.	8,016	23,712
Corner Brook Pulp & Paper Ltd.	4,009	14,876
Labrador Marine Inc.	14,968	14,138
Municipal Construction Ltd.	13,064	13,674
Bluebird Investments	7,991	13,571
Brook Construction Ltd.	3,720	13,013
J-1 Contracting Limited	11,601	12,372
Pomerleau Inc.	24,298	11,229
Northlinks Construction	18,906	11,155
Beton Provincial Ltée	0	11,000
Federal-Provincial Contractors	8,592	10,791
Target Marketing	9,804	10,008
Pennecon Heavy Civil Ltd.	12,308	8,975
Eastern Contracting Ltd.	7,680	8,373
Nortech Construction Company Ltd.	12,799	7,512
Central Regional Integrated Health Authority	5,667	7,055
Farrell's Excavating Ltd.	9,363	6,889
St. John's Dockyard Limited	6,585	6,417
Concord Paving Ltd.	6,338	6,378
Pittman's Enterprises Limited	1,893	5,919
Eastern School District	2,863	5,412

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Entities Which Received in Excess of \$1 Million		
Entity	2010	2011
Goose Bay Airport Corporation	4	5,017
Newfoundland Power Inc.	455	4,668
Coady Construction Ltd.	366	4,437
Marsh Canada Limited	3,433	4,332
Eastern Regional Integrated Health Authority	18	4,307
Penny Paving Ltd.	9,789	4,158
Weirs Construction Co Ltd.	0	4,018
Newfoundland and Labrador Light and Power	7,850	3,755
Bell Aliant	2,426	3,498
College of the North Atlantic	2,989	3,462
P & B Trucking & Rentals Inc.	697	3,261
Piercon Ltd.	263	3,253
Trident Construction Limited	2,678	3,246
Memorial University of Newfoundland	706	3,245
Deer Lake Regional Airport Authority Inc.	2,791	3,219
J & T Construction Ltd.	1,557	3,121
Goobie Rentals & Contracting Limited	613	3,079
Ultramar Ltd.	2,353	2,995
Marine Contractors Ltd.	4,236	2,867
Western Health Care Corporation	1,127	2,814
Chard's Construction Ltd.	1,990	2,763
Mike Kelly & Sons Ltd.	2,963	2,631
Melville Trucking & Excavating Ltd.	405	2,536
Arts & Culture Centre	2,192	2,263
Seagull Construction Ltd.	494	2,198
Station Steakhouse	128	2,129
Granco Construction Ltd.	3,864	2,056
Armtec Ltd.	0	2,047
Enviro Clean (Nfld) Limited	840	1,991
Puddister Trading Company Ltd.	1,434	1,982
Fortis Properties Corporation	1,581	1,698
H J Bartlett Electric Inc.	0	1,601
RSM Mining Services Inc.	1,421	1,576
Southwest Properties Partnership	1,217	1,573

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Entities Which Received in Excess of \$1 Million		
Entity	2010	2011
C Barnes Excavating	792	1,483
Can-am Construction Limited	1,725	1,480
Norcon Marine Services Ltd.	819	1,462
Baine Johnston Insurance	1,384	1,444
Puddister Shipping Ltd.	1,319	1,429
Transcontinental	682	1,428
Island Roofing Company Ltd.	1,739	1,381
AMD Holding Ltd.	449	1,350
Superior Office Interiors Ltd.	208	1,286
B & R Enterprises Ltd.	43	1,283
Challenger Construction Limited	0	1,264
Kelloways Construction Ltd.	1,783	1,250
Academy Canada	1,325	1,243
Newfoundland and Labrador Hydro	1,773	1,227
Integral Energy Services Ltd.	0	1,211
Western School District	1,360	1,187
Moneris Solutions	1,077	1,175
G & R Contracting	64	1,163
Flynn Canada Ltd.	891	1,162
Western Petroleum Newfoundland Ltd.	928	1,078
J & T Welding & Construction	0	1,073
Nova Central School District	2,199	1,033
Sheppard Case Architects Inc.	13	1,021
Tech Construction Ltd.	1,697	986
Mista Shipu Construction Ltd.	8,557	748
Whitestone Group Inc.	1,340	655
Carpenters Millwrights College Inc.	1,174	600
Eastern Demolition & Recyclers Ltd.	1,054	549
Newfoundland Electrical Ltd.	1,059	487
Allied Constructors Inc.	10,730	484
Budgell's Equipment & Rental Ltd.	1,384	326
Hydro-Guard Roofing Systems	1,799	253
Cougar Engineering & Construction	1,103	232
Otis Canada Inc.	1,093	232

Entities Which Received in Excess of \$1 Million		
Entity	2010	2011
Harvey Gale & Son Limited	1,033	228
10736 NF Inc.	2,214	220
Clarke's Trucking & Excavating Limited	1,401	199
Algonquin Bridge Inc.	1,210	103
Clarenville Drydock Ltd.	1,475	74
The Telegram	1,611	34
Bombardier Inc. Canadair Group	1,906	20
Verhagen Demolition Limited	2,784	4
Labrador School Board	1,348	2
Atlantic Catering Ltd.	1,131	0
Payments \$1 million and less to over 6,100 entities in 2011 (2010 – over 6,030 entities)	99,406	111,105
Accrual adjustments	(122,466)	(146,073)
Total	399,045	425,461

Source: Government's Financial Information System

Professional Services

Professional services generally include the fees and expenses of those engaged in a specialty profession such as accountants, doctors, lawyers, and engineers who provide a service, a report or advice to Government. As indicated in Figure 1, payments for professional services totalled \$393.1 million for the year ended 31 March 2011 (\$387.2 million 31 March 2010). Figure 9 shows, by department, payments made for professional services for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010.

Figure 9

**Professional Services Expenditures
By Department
Years Ended 31 March
(\$000's)**

Professional Services By Department		
Department	2010	2011
Department of Health and Community Services	259,185	321,212
Department of Justice	64,907	66,527
Executive Council	35,330	38,400
Department of Transportation and Works	10,469	13,385
Department of Education	9,075	8,832
Department of Human Resources, Labour and Employment	3,380	5,982
Department of Natural Resources	10,409	5,750
Department of Municipal Affairs	568	3,112
Department of Environment and Conservation	2,958	2,952
Department of Fisheries and Aquaculture	1,602	1,031
Department of Innovation, Trade and Rural Development	1,103	846
Department of Tourism, Culture and Recreation	1,027	706
Department of Government Services	311	453
Department of Business	101	438
Department of Finance	354	410
Legislature	1,109	363
Public Service Commission	231	236
Consolidated Fund Services	217	220
Department of Child, Youth and Family Services	26	77
Department of Labrador and Aboriginal Affairs	71	16
Accrual adjustments	(15,213)	(77,801)
Total	387,220	393,147

Source: Government's Financial Information System

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We also summarized the payments of professional services to show all entities or individuals who received payments in excess of \$600,000 for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010. These entities or individuals are listed in Figure 10.

Figure 10

**Professional Services Expenditures
Payments in Excess of \$600,000
Years Ended 31 March
(\$000)'s**

Entities or Individuals Which Received in Excess of \$600 Thousand		
Entity	2010	2011
Receiver General For Canada (RCMP Contract)	59,634	62,723
Eastern Regional Integrated Health Board	18,081	20,380
Bell Aliant	19,508	13,333
Deloitte & Touche Inc.	4,351	11,391
Price Waterhouse Coopers Inc.	2,508	11,147
Medical Practice Associates	18,600	10,632
Lemarchant Medical Imaging PMC	4,984	5,846
AMEC Earth & Environmental Limited	4,500	5,824
Bell Canada	0	5,744
Nephrology Partnership	3,013	4,200
Memorial University of Newfoundland	338	3,658
Hatch Mott Macdonald Ltd.	2,701	3,584
Pediatric Diagnostic Imaging Services	2,811	3,004
MPH Consulting Ltd.	15	2,585
Hearn Fougere Architects Inc.	1,289	1,876
Central Regional Integrated Health Authority	562	1,735
Newfoundland Exchequer Account	1,023	1,699
Gibbons Snow Architects Inc.	1,447	1,688
Dr. Joseph F. Coffey Professional Medical	1,373	1,447
The Idea Factory	439	1,307
Dr. Geoffrey W. Smith	997	1,305
Delcan Corporation	0	1,293
Dr. Kevin N. Melvin Professional Medical	1,037	1,205
BAE Newplan Group Ltd.	1,724	1,119
Dr. Yahya Ismail Professional Medical	743	1,109
Dr. Todd M. McEachren Professional Medical	878	1,100

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Entities or Individuals Which Received in Excess of \$600 Thousand		
Entity	2010	2011
Dr. Richard B. Lush	870	1,087
Retina Services Professional Medical	888	1,027
Dr. Michael Furey	720	971
Dr. Eric W. Stone	722	964
Dr. Kamel Ohson Professional Medical	750	950
Dr. S. B. Pilgrim Professional Medical	683	946
Labrador-Grenfell Regional Integrated Health Board	899	946
AMEC Americas Limited	756	938
AE Consultants Limited	362	931
Design Management Group Limited	1,176	930
Dr. Robert D. Cook Professional Medical	697	928
Dr. Sean P. Connors Professional Medical	120	928
Dr. Yoganathan Wijayanayagam	739	926
Dr. Chandra Sekhar Professional Medical	734	914
Dr. Viki Sahajpal Professional Medical	728	905
Dr. Christopher S. Jackman Professional Medical	799	901
Dr. Thomas Guy Hogan	707	885
Dr. Kenneth J. Burrage	702	868
Dr. Mark O'Driscoll Professional Medical	723	836
Dr. James Sheridan Professional Medical	640	833
Dr. Peter J. Blackwood	724	833
Dr. John McNicolas Professional Medical	625	828
Dr. Kenneth Ringer Professional Medical	688	828
Dr. Tony Batten Professional Medical	682	813
Drs. Robert and Heather Woodland	596	812
Dr. Eng T. Tjan	736	811
Dr. James Coffey Professional Medical	352	794
Dr. Kenneth Brett Williams	635	794
Dr. Syed M. Pirzada	560	789
Dr. John P. Keilty Professional Medical	563	784
Dr. Stephen J. Austin	531	775
Atlantic Engineering Consultants Ltd.	308	762
Dr. Neil J. Pearce	588	761
Dr. Nasir Mahmood Professional Medical	677	754
Dr. Manal Kassem	132	748
Weirfoulds LLP	6,126	740

Audit of the Province's Financial Statements

Entities or Individuals Which Received in Excess of \$600 Thousand		
Entity	2010	2011
Dr. Jerry McGrath PMC Inc.	80	737
Dr. Shoaib Sheikh	248	732
Dr. David Lacey Professional Medical	647	725
T&K Young Medical Professional	305	724
Dr. Pradip Joshi Professional Medical	568	721
Dr. Roger A. Avery	529	721
Dr. Jan Van Wuk Professional Medical	521	719
Dr. Palinder Kamra Professional Medical	700	716
Environment Canada	685	713
Dr. Atamjit Gill Professional Medical	86	708
Dr. Timothy C. Strand Professional	264	707
Dr. Calvin MacCallum Professional Medical	560	706
Susan M. Fagan - Physician PMC Incorporated	538	704
Dr. Thomas E. Poole Professional Medical	738	703
Dr. Bernard Roberts Professional Medical	567	697
Dr. Fakhruddin Essaji Professional Medical	545	692
Dr. Ed Mercer Professional Medical	507	688
Dr. Amin Addetia Professional Medical	355	679
Dr. David E. Pace Professional Medical	71	678
Dr. Jennifer Lombard Professional Medical	516	678
Dr. Barry F. Rose	552	678
Dr. Zohair Tomi Professional Medical	671	675
Bridger Design Associates Limited	889	670
Dr. Paula Marie Kennedy	337	668
Dr. Robert T. Farrell	549	667
Dr. Brad Murphy Professional Medical	570	666
Dr. David D. Jewer Professional Medical	585	666
Dr. Steven Parsons Professional Medical	571	664
Dr. Paul Heneghan Professional Medical	496	662
CBCL Limited	780	659
Dr. Nagappan Suppiah Professional Medical	574	655
Dr. David John Sutherland	536	654
Dr. Fawzi Farhat	424	650
Dr. Surender Singh Manhas	532	649
Dr. M.S. Boodhun Professional Medical	538	643
Dr. Ian D. R. Landells	515	640

Audit of the Province's Financial Statements

Entities or Individuals Which Received in Excess of \$600 Thousand		
Entity	2010	2011
Dr. Thomas Chung Professional Medical	264	637
Crawford Adjusters Canada Incorporated	0	628
Dr. M. Joy Cluett	559	628
Dr. Douglas Drover Professional Medical	539	626
Dr. Gerald P Murray	472	625
Dr. Boyd Lee & Dr. Angela Ridi	366	620
Dr. Heidi Kravitz	399	620
Dr. Esmael M. H. Sebbi Professional Medical	495	609
Dr. Kuljit Grewal Professional Medical	113	609
Dr. Roy Chaulk Professional Medical	422	608
Dr. John Tucker Professional Medical	503	604
Dr. Mothafar Mosawev	458	603
Dr. David Price	488	601
Dr. Wian Lotter Professional Medical	469	600
Sheppard Case Architects Inc.	1,538	587
Ron Fougere Associate Ltd.	965	514
Town of Labrador City	740	474
Grant Thornton LLP	863	392
Dr. John Osi Ozoh	640	284
EWA-Canada Ltd.	1,136	248
Aivek Jacques Whitford Ltd.	691	213
Dr. Kam W. Mong	629	169
White Ottenheimer & Baker	1,103	95
MTS Allstream Inc.	9,554	21
Jacques Whitford Stantec Limited	688	0
Olympic Construction Ltd.	2,207	0
Payments \$600 thousand and less to over 1,900 entities in 2011 (2010 – over 2,000 entities)	176,489	222,445
Accrual adjustments	(15,213)	(77,801)
Total	387,220	393,147

Source: Government's Financial Information System

Allowances and Assistance

Allowances and assistance expenditures include costs relating to such items as: allowances for Members of the House of Assembly, social assistance allowances paid to individuals, out of court settlements, and allowances paid on behalf of individuals to organizations. As indicated in Figure 1, payments for allowances and assistance totalled \$484.2 million for the year ended 31 March 2011 (\$460.5 million 31 March 2010). Figure 11 shows, by department, payments made for allowances and assistance for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010.

Figure 11

**Allowances and Assistance Expenditures
By Department
Years Ended 31 March
(\$000's)**

Allowances and Assistance By Department		
Department	2010	2011
Department of Human Resources, Labour and Employment	301,810	318,068
Department of Health and Community Services	147,455	151,063
Department of Education	6,280	6,394
Department of Child, Youth and Family Services	0	3,277
Department of Transportation and Works	925	1,764
Department of Justice	1,979	1,558
Legislature	1,440	1,482
Department of Municipal Affairs	173	160
Department of Finance	346	127
Department of Government Services	175	123
Executive Council	20	20
Department of Natural Resources	16	19
Public Service Commission	11	0
Accrual adjustments	(107)	134
Total	460,523	484,189

Source: Government's Financial Information System

We also summarized the payments of allowances and assistance to show all entities which received payments in excess of \$500,000 for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010. These entities are listed in Figure 12.

Figure 12

**Allowances and Assistance Expenditures
Payments in Excess of \$500,000
Years Ended 31 March
(\$000's)**

Entities Which Received in Excess of \$500 Thousand		
Entity	2010	2011
Income Assistance	183,485	188,799
Bell Aliant	127,578	136,419
Labour Market Development Agreement	70,000	76,285
Eastern Regional Integrated Health Board	4,695	4,662
College of the North Atlantic	617	4,513
Newfoundland and Labrador Health Boards	2,297	2,839
Minister of Finance (Ontario) (MCP payments)	2,289	1,893
Alberta MCP Payments	1,895	1,700
EBC Inc.	0	1,573
Medical Services Insurance	1,752	1,456
University Health Network	1	1,448
The Salvation Army	891	960
Bay St. George Community Employment Corporation	751	752
Humber Valley Community Employment Corporation	621	723
Newfoundland and Labrador Association of Technology	0	674
Avalon Employment Inc.	634	621
Memorial University of Newfoundland	569	598
Central Regional Integrated Health Authority	363	549
Gambo & Area Employment Corporation	436	504
Sedler Community Employment Corporation	676	433
Learmonth, Dunne & Boulos	841	250
Workplace Health Safety & Compensation	559	160
Morris Budden (In Trust)	600	0
Payments \$500 Thousand and less to over 5,280 entities in 2011 (2010 - over 5,670 entities)	59,080	56,244
Accrual adjustments	(107)	134
Total	460,523	484,189

Source: Government's Financial Information System

Transportation and Communications

Transportation and communications expenditures include costs relating to such items as: postage, freight, ambulance and air services, telecommunication services and travel for ministers, government employees and others. As indicated in Figure 1, payments for transportation and communications totalled \$46.9 million for the year ended 31 March 2011 (\$48.8 million 31 March 2010). Figure 13 shows, by department, payments made for transportation and communications for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010.

Figure 13

**Transportation and Communications Expenditures
By Department
Years Ended 31 March
(\$000's)**

Transportation and Communications By Department		
Department	2010	2011
Department of Transportation and Works	8,907	8,128
Department of Natural Resources	7,389	6,736
Department of Justice	5,398	5,242
Department of Environment and Conservation	5,211	4,937
Executive Council	4,325	4,505
Department of Human Resources, Labour and Employment	3,467	3,829
Department of Education	3,459	3,581
Department of Government Services	2,737	2,740
Department of Tourism, Culture and Recreation	1,827	1,444
Department of Municipal Affairs	974	1,310
Department of Innovation, Trade and Rural Development	1,143	1,208
Department of Health and Community Services	1,219	1,076
Department of Fisheries and Aquaculture	1,080	1,038
Department of Finance	783	848
Legislature	586	493
Department of Labrador and Aboriginal Affairs	384	426
Department of Business	259	355
Department of Child, Youth and Family Services	114	271
Public Service Commission	139	114
Accrual adjustments	(651)	(1,364)
Total	48,750	46,917

Source: Government's Financial Information System

We also summarized the payments for transportation and communications to show all entities which received payments in excess of \$100,000 for the year ended 31 March 2011 with comparative figures for the year ended 31 March 2010. These entities are listed in Figure 14.

Figure 14

**Transportation and Communications
Expenditures
Payments in Excess of \$100,000
Years Ended 31 March
(\$000's)**

Entities Which Received in Excess of \$100 Thousand		
Entity	2010	2011
Bell Aliant	5,911	7,372
Universal Helicopters Newfoundland Ltd.	5,492	4,970
Canada Post Corporation	2,386	2,721
Bell Mobility	2,053	1,853
Postage by Phone	1,249	1,350
Deloitte Inc.	0	1,184
Labrador Marine Inc.	1,212	928
Supermarine Aircraft Inc.	630	915
Harvey's Travel Ltd.	512	781
Newfoundland Helicopters Ltd.	162	702
Eastlink	635	612
Canadian Helicopters Ltd.	1,304	505
City of St. John's	489	463
Legrow's Travel	341	425
Bell Island Radio Equipment Lease	364	397
Newfoundland and Labrador Hydro	369	367
Provincial Airlines Limited	457	192
Rogers Business Solutions	2,030	174
Canadian Aerospace Corporation	351	169
Air Labrador	228	154
Sameday Right Away	149	149
Cougar Helicopters Inc.	61	133
Century 2K Cabling Systems Inc.	105	85
Dynamex Canada Inc.	112	76

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Entities Which Received in Excess of \$100 Thousand		
Entity	2010	2011
Receiver General for Canada	135	54
Rogers Telecom	275	12
Helico Air Services Limited	111	0
Payments \$100 thousand and less to over 8,440 entities in 2011 (2010 - over 8,690 entities)	22,278	21,538
Accrual adjustments	(651)	(1,364)
Total	48,750	46,917

Source: Government's Financial Information System

3.6 Answers to Frequently Asked Questions about the Public Accounts

What are the Public Accounts?

The Public Accounts contain the annual financial statements of the Province of Newfoundland and Labrador. They are a representation by Government, of the Province's financial condition as at the end of a fiscal year, and the results of its operations, the changes in its net debt and its cash flows for that year.

The *Financial Administration Act* requires that the Public Accounts show:

- the state of the public debt;
- the revenue and expenditure;
- all compromises, remissions, refunds and amounts written off; and
- those other accounts and statements that may under good accounting practice be required to show the financial position of the Province at the end of the fiscal year.

Why are they Prepared?

The *Financial Administration Act* requires that the Public Accounts be prepared and tabled in the House of Assembly. The Public Accounts provide an important link in an essential chain of public accountability. In an era where, in Canada and throughout the world, there is a heightened need for transparency and accountability, the preparation and audit of Government's financial statements is of increasing importance. These statements are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

What are the Public Accounts "Volumes"?

The Public Accounts for the year ended 31 March 2011 were published in two volumes:

Volume I - Consolidated Summary Financial Statements

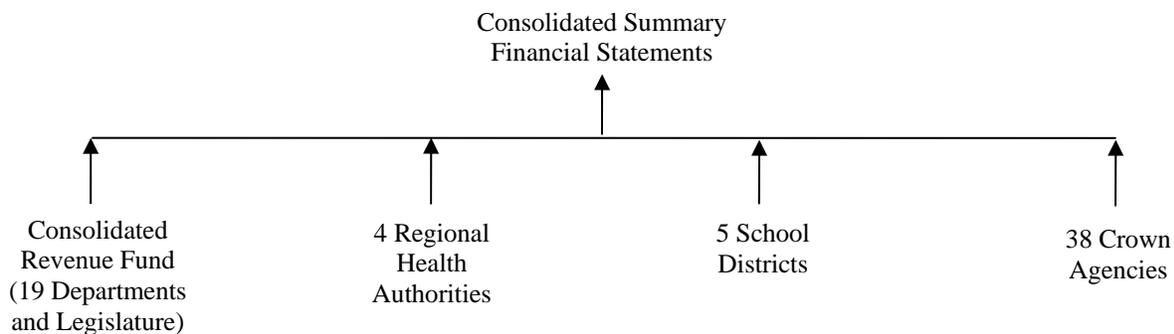
This Volume presents the Consolidated Summary Financial Statements of the Province of Newfoundland and Labrador on an accrual basis of accounting. Information contained in this Volume provides the most complete information about the operating results and financial position of the Province and combines the financial activities of the Consolidated Revenue Fund (which accounts for the financial activities of the 19 Government departments and the Legislature) and the various Crown corporations, boards and authorities which are controlled by

and therefore accountable to the Government of Newfoundland and Labrador. Government departments and Crown agencies are accountable for the administration of their financial affairs and resources through a Minister.

The types of entities included in these financial statements are outlined as follows:

Figure 1

Entities included in the Consolidated Summary Financial Statements 31 March 2011



As Figure 1 shows, the Consolidated Summary Financial Statements include the financial activities of the Consolidated Revenue Fund as well as 47 other entities (4 regional health authorities, 5 school districts and 38 Crown agencies). There are 21 other entities which are not included in the Consolidated Summary Financial Statements as their financial activities are included with either the Consolidated Revenue Fund or with parent entities already included in the 47 entities, or are not considered to be controlled by Government.

Volume II - Consolidated Revenue Fund Financial Statements

This Volume provides information about the operating results and financial position of the Consolidated Revenue Fund only, comprised of the 19 Government departments and the Legislature. These statements are also prepared on an accrual basis of accounting.

What Statements are Included and what do they Show?

Government's financial statements are intended to reflect a fundamental difference between financial reporting for a government and financial reporting for private sector businesses. Governments use public money to provide services through various programs, with no intent to make a profit. As such, a government's financial statements differ from those of business by focusing on net debt - not profit or loss. Simply put, net debt represents the amount Government will eventually have to raise to pay for incurring past liabilities, and is calculated as total liabilities less total financial assets.

The Consolidated Summary Financial Statements are comprised of five main statements:

Statement of Financial Position

This statement shows the Province's financial assets, liabilities, net debt, non-financial assets and accumulated deficit.

Financial assets (such as cash, temporary investments and receivables) are different from non-financial assets (such as roads, schools and hospitals) in that they can be used to reduce liabilities. Liabilities include borrowings as well as liabilities relating to retirement benefits, including the unfunded pension liability. The difference between liabilities and financial assets is the Province's net debt. This is the amount which the government of the day leaves for future governments to either repay or refinance.

Non-financial assets will be used in providing programs and services and therefore are deducted from net debt in calculating the accumulated deficit. It is this accumulated deficit which reflects the difference between past expenses and revenues, i.e. the net accumulation of all annual surpluses and deficits.

Statement of Change in Net Debt

This statement reflects the change in net debt for the year, calculated as the annual surplus or deficit, any changes in the net book value of tangible capital assets and any changes in other non-financial assets.

Statement of Operations

This statement reflects the annual surplus or deficit, along with a comparison of budgeted and actual revenues and expenses. The surplus or deficit is calculated as the difference between revenues and expenses for the year and represents the extent to which Government was able to raise sufficient revenues to provide for the costs of programs and services, and servicing the debt.

Statement of Change in Accumulated Deficit

This statement reflects the change in accumulated deficit primarily resulting from the surplus or deficit for the year.

Statement of Cash Flows

This statement reflects the change in cash (and cash equivalents such as temporary investments) and the source and use of cash through operations, financing and investing activities. It also reflects acquisitions and disposals of capital assets.

In addition to the five main statements, there are also several schedules and notes which are an integral part of the statements, and which provide additional disclosure and explanation regarding significant balances, transactions and events during the year.

What Accounting Policies does Government Follow?

The Consolidated Summary Financial Statements are prepared on the accrual basis of accounting in accordance with the accounting standards established for governments by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA), and as outlined in the significant accounting policies of the Province. Revenues are recorded when earned with expenses being recorded when incurred, in accordance with the applicable significant accounting policies.

Since PSAB's recommendations relating to financial reporting by governments are generally accepted within Canada, section 59 of the *Financial Administration Act* requires compliance with these recommendations to properly present the financial position, results of operations and changes in the financial position of the Province at the end of the fiscal year.

The accounting policies used by Government in preparing its financial statements are included in Note 1 to the statements and deal with such things as the method of consolidation and how assets, liabilities, revenues and expenses are recognized. The Province fully complies with PSAB recommendations and standards.

When preparing its financial statements, Government makes significant estimates, as not all information is available or determinable at the time of finalizing the statements. In these cases, estimates are based on the best information available at the time the statements are prepared. Examples of where estimates are used include the accrual of retirement benefits, the amortization of foreign exchange gains or losses, and the allowance for guaranteed debt. As well, estimates have been used in recording some tangible capital assets given that only limited information is available on some older assets. These estimates are audited and are provided for under generally accepted accounting principles.

Who Audits the Public Accounts?

The Auditor General is responsible for auditing the Public Accounts. Section 11 of the *Auditor General Act* requires that the Auditor General express an opinion as to whether the financial statements included in the Public Accounts present fairly the financial position, results of operations and changes in the financial position of the Province in accordance with Government's disclosed accounting policies and on a basis consistent with that of the preceding year, together with any reservations the Auditor General may have.

Why are they Audited?

The House of Assembly is responsible for overseeing the activities of Government and holding Government accountable for its handling of public resources. To assist this process, Government provides information about how it used public resources entrusted to it. One of the main ways Government does this is through the annual preparation, and tabling in the House of Assembly, of the Public Accounts of the Province.

What assurance do Members of the House of Assembly have that the information provided in the Public Accounts is appropriate, credible and complete? How can Members know that the information they receive accurately reflects the results of the activities of Government?

The answer is that the House of Assembly uses the services of the Auditor General to assist it in carrying out its oversight responsibilities.

Consequently, the Auditor General's fundamental role in auditing the Public Accounts is to bring an independent audit and reporting process to bear upon the manner in which the financial statements are prepared and presented.

An audit provides reasonable, but not absolute, assurance that the Province's financial statements are free of material misstatement. Material misstatement refers to an item or group of items that if omitted or misstated, would alter the decisions of reasonably knowledgeable financial statement users. The tolerable level of error or misstatement is a matter of judgment.

We obtain reasonable assurance on the financial statement figures because it would not be cost effective to obtain absolute assurance - we cannot audit every transaction. By applying audit procedures to test the accuracy or reasonableness of the figures appearing in the financial statements, we achieve our desired level of assurance. We use audit procedures such as tracing samples of transactions to supporting documents, testing the effectiveness of certain internal controls, confirming year-end balances with third parties and reviewing the reasonableness of estimates.

We also obtain assurance on the financial information of Crown agencies which are consolidated in the Province's financial statements, by reviewing the agencies' audited financial statements and, in the case of agencies which are not audited by the Auditor General, by obtaining and reviewing information from the auditors of the agencies.

3.7 Glossary

Accumulated surplus/deficit	This equals the net accumulation of all annual surpluses and deficits experienced by the Province.
Accrual basis	A method of accounting whereby revenues are recorded when earned and expenses are recorded when incurred.
Annual surplus/deficit	The difference between a government's annual revenues and expenses.
CICA	The Canadian Institute of Chartered Accountants.
Consolidated Revenue Fund	All revenues over which the Legislature has power of appropriation form one Consolidated Revenue Fund. This includes the financial operations of Government departments and the Legislature.
Consolidated Summary Financial Statements	Summary financial statements which consolidate the financial statements of the Consolidated Revenue Fund with the financial statements of various Crown Corporations, Boards and Authorities which are controlled by the Government and which form part of the Province's reporting entity.
Debt expenses	Also known as the cost of borrowing, or debt servicing costs, this is the interest cost incurred by a government on its borrowings and liabilities associated with retirement benefits.
Environmental liability	An estimate of the cost of remediation that the Province will have to incur in the future.
Federal transfers	Funds received by a province from the Federal Government, such as the Canada Health and Social Transfer (CHST) and cost-shared programs.
Financial assets	Assets of a government (such as cash, investments, loans and accounts receivable) that can be converted to cash in order to pay government's liabilities or finance its future operations.
Generally accepted auditing standards (GAAS)	This refers to the auditing standards that the Office of the Auditor General follows in order to be consistent in its auditing practices with similar organizations and to comply with the standards as proclaimed by the CICA. The authority for GAAS is the CICA.

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Gross domestic product (GDP)	The money value of goods and services produced within a geographical boundary. It can be reported without adjusting for inflation (known as market value, current or nominal GDP) or it may be discounted for the effects of inflation (real GDP). <i>In this report, GDP information is obtained from the Department of Finance, and is not adjusted for inflation.</i>
Interest bite	The extent to which a government must use revenue to pay interest costs, rather than to provide new or expanded programs and services, reduce taxation levels or repay debt.
Interest cost	Interest on the Province's debt (e.g. borrowings, unfunded pension liability), as well as other debt-related expenses.
Net borrowings	Total borrowings (debentures, treasury bills, etc.) less sinking funds. Also referred to as Provincial debt.
Net debt	Government's liabilities less its financial assets. This is the residual liability amount that will have to be paid or financed by future taxpayers.
Non-financial assets	Assets consumed in the delivery of government services, but not intended to reduce existing or future liabilities. Non-financial assets are primarily comprised of tangible capital assets.
PSAB	Public Sector Accounting Board of the CICA. The Board issues standards and guidance with respect to matters of accounting and financial reporting in the public sector.
Public Accounts	Annual financial accountability document of the Province. It includes Volume I - Consolidated Summary Financial Statements and Volume II - Consolidated Revenue Fund Financial Statements.
Public debt	Borrowings of a government. Debt generally consists of debentures, notes payable and mortgages.
Tangible capital assets	Non-financial assets which are held for use in the production or supply of goods and services and have useful economic lives extending beyond an accounting period. Examples include buildings, roads, infrastructure, marine vessels and heavy equipment and machinery.