

*House of Assembly
Newfoundland & Labrador*



*Colonial Building
1850-1959*

*Confederation Building
1960-present*



**3rd Report
Standing Committee
of
Public Accounts
47th General Assembly
December 16th, 2014**



Standing Committee of Public Accounts

House of Assembly, Newfoundland and Labrador

47th General Assembly

Chair

Jim Bennett, MHA, St. Barbe

Vice-Chair

Ray Hunter, MHA, Grand Falls-Windsor - Green Bay South

Members

Eli Cross, MHA, Bonavista North

George Murphy, MHA, St. John's East

Tom Osborne, MHA, St. John's South

Kevin Parsons, MHA, Cape St. Francis

Calvin Peach, MHA, Bellevue

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Introduction

The Standing Committee of Public Accounts for the 47th General Assembly of the House of Assembly of Newfoundland and Labrador was struck on April 3, 2012. The Chair, Jim Bennett, M.H.A., and former Vice-Chair, David Brazil, M.H.A. were elected on April 26, 2012.

The following changes in the composition of the Committee have taken place during the current General Assembly: On January 23, 2014 Tom Osborne, MHA was appointed to the Committee; on February 3, 2014 Tracey Perry, MHA, and George Murphy, MHA were appointed and on February 26 Calvin Peach, MHA was appointed. Ms. Perry was elected Vice-Chair on February 18, 2014. On May 6, Keith Russell, MHA replaced Ms. Perry on the Committee and on May 21, 2014 Mr. Parsons was elected Vice-Chair. Mr. Parsons resigned as Vice Chair on December 9th, 2014. Mr. Hunter was elected Vice-Chair on December 9th.

Pursuant to Standing Order 65(5), the Committee, in consultation with the Auditor General, selected the following sections of the Auditor General Report 2014 for review:

- Part 3.1 Eastern Regional Health Authority - Department of Health and Community Services
- Part 3.2 Fee-For-Services Physicians: Audit Process - Department of Health and Community Services
- Part 3.3 Fines Administration - Department of Justice
- Part 3.4 Waste Management Strategy - Department of Municipal and Intergovernmental Affairs
- Part 3.5 Cranberry Industry Support - Department of Natural Resources
- Part 3.8 Contracted and Chartered Air Services - Department of Transportation and Works

In accordance with subsection 47(a) of the *House of Assembly Accountability, Integrity and Administration Act*, the Committee reviewed the Annual Report of the House of Assembly Management Commission as prepared by the Speaker of the House of Assembly pursuant to section 51 of the *House of Assembly Accountability, Integrity and Administration Act*.

The Committee met on the following occasions to discuss the report of the Auditor General, the Report of the Committee and other Committee matters:

February 24, 2014
April 4, 2014
May 21, 2014
October 17, 2014
October 23, 2014
December 9, 2014
December 16, 2014

The Committee held public hearings on the following dates to review items from the *Report of the Auditor General on Reviews of Government Departments and Agencies 2014* with representatives of the Departments or Agencies concerned and the officials of the Office of the Auditor General:

July 23, 2014 – Fines Administration
July 23, 2014 – Fee-For-Service Physicians: Audit Process
July 24, 2014 – Eastern Regional Health Authority
July 29, 2014 – Waste Management Strategy
July 30, 2014 – Cranberry Industry Support
July 31, 2014 – Contracted and Chartered Air Services

The Committee thanks the representatives who appeared at the hearings on behalf of their Departments and Agencies, and the Ministers for their answers to the Committee's written questions. The Committee thanks the staff of the Committee, the Clerk of the House of Assembly and the staffs of the Broadcast Centre, Hansard and the Clerk's office, for their assistance.

The Committee is indebted to the Auditor General and his officials for their guidance.

Finally the Committee thanks the Speaker of the House of Assembly, the Honourable Wade Verge, M.H.A., for his support and cooperation.

The Standing Committee of Public Accounts has the honour to present this, its Third Report of the 47th General Assembly, to the House of Assembly.

Respectfully submitted,

Jim Bennett, M.H.A.
Chair
December 16th, 2014

Witnesses appearing before the Committee:

Office of the Auditor General

Terry Paddon, Auditor General
Sandra Russell, Deputy Auditor General
Cayla Hillier, Auditor III
Stephanie Lewis, Audit Senior
Jayme Martin, Audit Senior
Pauline Reynolds, Audit Senior
Lindy Stanley, Audit Manager
Brad Sullivan, Audit Senior
Scott Walters, Audit Manager

Department of Health and Community Services

Part 3.1 – Eastern Regional Health Authority

Don Keats, Interim President and CEO
Reece Bearnes, Director of Medical Services
George Butt, VP, Corporate Services
Sharon Lehr, Chief Performance Officer
Debbie Molloy, Interim VP, Human Resources
Carmel Turpin, VP, Communications

Part 3.2 – Fee-For-Service Physicians: Audit Process

Bruce Cooper, Deputy Minister
Michelle Jewer, Assistant Deputy Minister
Tony Maher, Executive Director, Audit and Claims Integrity
Barry Stanley, Manager, Medical Audit and Compliance
Larry Alteen, Director of Physician Services

Department of Justice and Public Safety

Part 3.3 – Fines Administration

Heather Jacobs, Assistant Deputy Minister, Corporate and Strategic Services
Virginia English, Director of Fines Administration

Department of Municipal and Intergovernmental Affairs

Part 3.4 – Waste Management Strategy

Colleen Janes, Deputy Minister

Cluney Mercer, Assistant Deputy Minister, Municipal Engineering & Planning Branch

Hugh Donnan, Director of Communications

Multi - Materials Stewardship Board

Mike Samson, CEO

Service Newfoundland and Labrador

Donna Kelland, Assistant Deputy Minister

Department of Environment and Conservation

Jamie Chippett, Deputy Minister

Martin Goebel, Assistant Deputy Minister

Department of Natural Resources

Part 3.5 – Cranberry Industry Support

Jim Evans, CEO, Forestry & Agrifoods Agency

Keith Deering, ADM, Agrifoods Development Branch

Dave Jennings, Director, Production and Market Development Division

Department of Transportation and Works

Part 3.8 – Contracted and Chartered Air Services

Brent Meade, Deputy Minister

Gary Gosse, ADM, Transportation

Paul Smith, ADM, Strategic and Corporate Services

Ben Farrell, Air Services Manager

Report of the Auditor General, January 2014

**Part 3.1 – Eastern Regional Health Authority
Department of Health and Community Services**

Auditor General's Findings

Summary of Findings

Introduction

The Eastern Regional Health Authority (the Authority) is a Crown agency reporting to the Department of Health and Community Services (the Department).

The Authority is responsible for the delivery and administration of health services and community services in its health region and provincially as designated by the Minister.

Our review was completed in December 2013 and covered the period April 1, 2011 to March 31, 2013.

The objectives of our review were to determine whether:

1. absenteeism was properly monitored and effectively managed and leave and overtime were properly monitored and recorded;
2. compensation and recruitment practices were in accordance with Government and Authority policy;
3. purchases complied with the *Public Tender Act and Regulations*;
4. the Authority was adequately monitoring its financial position and operations; and
5. capital assets were monitored and controlled.

Findings

Monitoring of Financial Position

1. The Authority required \$74.9 million in additional funding by the Province and incurred an \$8.3 million budget deficit, despite the approved budget increasing 22% during the past five years.
2. Position approval processes are not consistent with Government policy, despite the Minister's direction to align them.

3. The creation of a new position does not require the Authority to ensure that funding is available for the new position.

Compensation and Recruitment

4. Non-physician job competition files did not contain evidence of Director/Site Administrator approval to recruit an employee and were missing screening documentation and applicant assessments resulting from the interview process and were, therefore, not in accordance with Authority policy, Government policy, and best practices.
5. During 2012, there were 132 individuals in receipt of both a Provincial Government pension and a salary from the Authority. In fact, two of these individuals held two positions with the Authority while in receipt of a Provincial Government pension. Where individuals were employed by the Authority while receiving a pension, we found instances where no documentation was available to show that preference had been given to hiring persons other than those in receipt of a pension, as directed by Cabinet.
6. The Authority provided signing bonuses that were beyond that allowed in the *Department's Salaried Physician Quick Reference Guidelines (2006)* and the *Physician's Services Memorandum of Agreement (2009-2013)*. In addition, the Authority provided a signing bonus to a physician beyond the date at which they were told to discontinue the practice by the Department of Health and Community Services.
7. No return-in-service agreements are in place for physicians who received reimbursement of relocation costs. Therefore, the costs would not be recoverable if the physician were to leave before the end of their two year term.
8. The relocation policy is not being followed for both physicians and non-physicians. Therefore, individuals are being reimbursed for amounts higher than to which they are entitled.
9. The classification of some management positions subsequent to the amalgamation of the health boards in the eastern region in 2005 did not occur until 2013. The significant delay resulted in 123 employees being paid at higher than necessary amounts for more than six years after they were placed in management positions with the Authority at the end of 2006, at a cost in the range of \$3.6 million to \$4.7 million. Because red circling was delayed, other compensation benefits such as pensions and severance will also be higher.

10. Additional workload benefits are compensation payments provided to physicians for additional workload due to vacancies. One physician received \$1,473,528 in additional workload payments over a period of approximately 11 years relating to a vacant position that the Authority had never advertised and does not intend to fill. Authority officials indicated that the physician had the same workload as other physicians, in this specialty, employed by the Authority.
11. Educational differentials were being paid to executive and management employees although the education requirements were part of the position requirements and, therefore, would already have been included in the pay scales. This is inconsistent with Government policy.
12. An employee received reimbursement for personal vehicle usage related to travel to and from work, resulting in reimbursement of \$2,364 for the year ended March 31, 2013. This is not in compliance with Authority policy.
13. An employee received reimbursement for personal vehicle usage without approval.
14. The Authority was not always declaring positions redundant on a timely basis.

Leave and Overtime

15. There is a lack of effective oversight to ensure that employees annual and paid leave is properly approved and documented. Without this oversight, there is a risk that the leave balance is overstated and will cost the Authority more than which the employees would have otherwise been entitled.
16. Annual and paid leave are not being adequately monitored to ensure required leave is taken, carry forward and usage complies with policy and collective agreements, and the leave accruals database is accurate. The Authority has recorded approximately \$8.5 million in unused leave to be carried forward and used or paid in subsequent years, which is inconsistent with collective agreements.
17. At March 31, 2013, 712 employees have taken annual or paid leave beyond which they are entitled with a total cost of \$192,541.
18. There is a lack of effective oversight to ensure that employee sick leave is properly approved and documented.

19. Sick leave expense of the Authority is approximately 20% higher than that of Government on a relative basis.
20. There is a lack of effective oversight to ensure that overtime is properly approved and documented such as to decrease the risk of unauthorized overtime worked and the risk that employees are being compensated for overtime hours beyond those worked.
21. Callback overtime is when employees are called back to work outside their regular shift hours. Employees receive a minimum of three hours overtime pay at the prescribed overtime rate. Callback unworked is the portion of a callback shift that is unworked. Callback unworked was 48% of the total callback overtime. This resulted in an expense of \$1.7 million (2012 - \$1.6 million) for overtime hours that were not actually worked.
22. Of 229 callback shifts we reviewed, there were 106 shifts (46%) in which employees had, for example, multiple callback shifts within 90 minutes. In one instance, for example, an employee whose annual salary was \$61,831 received overtime pay of \$51,887 that was unworked overtime.
23. The management overtime policy is not consistent with Government policy, despite the Minister's direction to align policy with that of Government policy. The Authority incurred a \$0.9 million expense related to leave in lieu provided to management. This was not in accordance with Government policy.
24. The education leave policy of the Authority is not consistent with Government policy.

Internal Controls

25. Current Authority controls are not adequate to prevent or detect fraud or error in areas of purchasing. For example:
 - inadequate authorization and review of purchase orders;
 - lack of monitoring of final tender costs compared to awarded costs;
 - lack of controls over user access to purchase orders;
 - no dollar limits on spending authorization for employees; and
 - an overall lack of oversight of the purchasing process by the Materials Support Department
26. The purchasing function was being performed by individuals outside of the Material Support Department. There were 243 users that are able to create purchase orders, however, there were only 140 employees in the Materials Support Department

27. Internal controls over cheque processing are inadequate. As a result of improper segregation of duties and authorization requirements, there is an increased risk of fraud and error occurring.
28. There was no functioning Internal Audit Department during the period of our review. An effective internal audit function can help ensure that preventative and detective controls are implemented and functioning properly.

Tendering of Goods and Services

29. We found instances where purchases made were not in compliance with the *Public Tender Act (PTA)* and where there was insufficient support in tender files. As a result, the Authority could not demonstrate that bids were reviewed for compliance with tender specifications. We also found instances where the purchasing policy of the Authority was not being followed.
30. Form Bs, which document exceptions to the *PTA*, are not always being submitted on a timely basis. As a result, the Authority is not in compliance with the *PTA* and is impacting the timeliness and relevancy of the information being reported to the House of Assembly. Some pressing emergency exceptions and sole source exceptions may not be appropriate. As a result, the Authority may not be getting the most economical price in these instances.
31. We found instances where contract change orders did not comply with the *PTA*.
32. We found instances where the Authority was not in compliance with the *Consultant Guidelines* pertaining to the hiring of external consultants.

Monitoring of Capital Assets

33. During the period covered by our review, there was no policy to conduct annual capital asset inventory counts. This increased the Authority's risk of not detecting lost or stolen capital assets. Also, there is no policy to conduct asset listing reconciliations to the general ledger. This would help ensure the accuracy of both systems by highlighting differences in asset information.
34. The system, which ranks biomedical capital assets for priority replacement, has inaccurate priority rankings. These rankings are a key factor in determining which biomedical assets need to be replaced.

35. The Authority was not monitoring maintenance expenses to provide information pertaining to the efficiency of the biomedical capital assets to assist in decisions regarding the replacement of existing equipment.
36. There was no segregation of duties between asset removal and record keeping and there are no authorization requirements on the biomedical database. Therefore, there was an increased risk that the database contains inaccurate information and assets are not protected against misappropriation.

Public Accounts Committee Review

Reference:

Part 3.1 of the Report of the Auditor General of Newfoundland and Labrador to the House of Assembly on Reviews of Departments and Agencies, January 2014

<http://www.ag.gov.nl.ca/ag/annualReports/2013AnnualReport/AR2013.pdf> pp. 5-80

Proceedings of the Public Accounts Committee, July 24th, 2014

<http://www.assembly.nl.ca/business/committees/ga47session3/2014-07-24PACHealthandCommunityServicesERHA.html>

SUMMARY OF EVIDENCE

Opening remarks of Interim President and Chief Executive Officer

The President gave the Committee an overview of the history and status of the Authority: Eastern Health was created in 2005 by the amalgamation of seven health boards and is one of the largest such entities in Atlantic Canada. The Board has a budget of approximately \$1.3 billion and provides a wide range of services to a clientele numbering approximately 306,000.

The Board received Accreditation Canada's designation *Accreditation with Commendation* in March, 2014.

The Authority's latest strategic plan continues its focus on quality, safety, access, sustainability and population health, as set out in its previous strategic plan, and will focus, in addition, on performance measures which will enable it to monitor progress made in achieving new goals and objectives on which they will report annually.

The Authority does face challenges however, the President stated, not the least of which is the deficits it has experienced since its last balanced budget in 2007-08. The authority is taking action to address the budgetary instability. For example Eastern Health has developed initiatives to improve its performance without permanent employee layoffs or programme or service reductions in order to achieve savings of \$43 million. The authority has so far achieved savings of \$30 million through attrition and initiatives such as work hours reduction for overtime and constant care.

Eastern Health expects to save \$6.8 million by reducing management positions through attrition.

By focussing on spending the Authority has reduced its deficit from a high of \$27.6 million to \$8.6 million; however, the Authority, like similar boards across the country, is facing escalating costs in the provision of services.

The Authority is also engaging in lean training for employees. Lean capacity building focusses on improving efficiency in various areas. As a result, the Authority has improved patient flow, patient safety and cost efficiency.

The Chief Performance Officer, who is responsible for finding efficiencies, told the Committee that the Authority uses Cognos, a business intelligence tool, to provide reports to management and help them identify initiatives which will improve efficiency, such as budget monitoring, variance reports, labour distribution reports, utilization reports, statistical analysis etc. The Chief Performance Officer added that the Authority is putting a great deal of effort into returning the organization to a balanced budget position.

Eastern Health has carried out a clinical utilization review of six key areas comparing its operations with those of other Canadian jurisdictions. As a result of the review the Authority estimates that it has the potential to reduce operating costs by \$4.6 million.

The President assured the Committee that the organization will remain vigilant and continue its efforts to reduce costs and operate efficiently. In light of the fact that 75 per cent of the provincial related budget is spent on direct care and 66 per cent on compensation the task is not an easy one. The President pointed out that budgeting for success is not always a matter of increasing expenditures as savings can be effected, for example, when patients are dealt with and put through the system more quickly than has been the case.

MONITORING OF FINANCIAL POSITION

Budget Deficit

In response to a question about the measures being taken to address the budget deficit officials informed the Committee that the Authority

- has eliminated or reduced the number of discretionary initiatives which did not have an impact on patient care;
- has reduced the amount of overtime usage, thereby saving the equivalent of the cost of forty-two full time positions;

- expects, through various efficiencies, to save the equivalent of 550 full time positions;
- at the time of the hearing had saved \$30 million of an anticipated saving of \$43 million;
- has reduced the number of managers in the organization by 40, of an expected reduction, of 70, resulting in savings of \$4 million;
- has introduced efficiencies in areas such as vehicle travel and call back;
- has introduced a lean process which has resulted in improvements in patient flow and cost and ensures that staff are assigned in ways that reduce overtime and extra workload;
- has compared its operations with those of its peers throughout the country and has made changes where the Authority fell short;
- is no longer hiring people in unfunded positions and
- has engaged Ernst & Young to carry out a review of the organization's controls to ensure it follows best practices.

A Committee member enquired whether the Authority employed a person or persons whose job it is to find inefficiencies and if not whether such a position or division would pay for itself. The Chief Performance Officer, who is responsible for this area, explained to the Committee that the Authority uses Cognos, a business intelligence tool, to provide reports to management and help them identify initiatives for improving efficiency such as budget monitoring, the creation of variance reports, labour distribution reports, utilization reports, statistical analysis etc. The Chief Performance Officer added that the Authority is putting a great deal of effort into returning the organization to a balanced budget position

The Authority is projecting a deficit of \$16 million this fiscal year which the President attributed to the use of attrition to make operational changes, a process which takes a little longer than might otherwise be the case.

When asked by a Committee member whether Eastern Health had sufficient funding the President replied that he thought it had enough money but was not spending it as effectively as it could.

Position Administration

A Committee member asked whether the Authority was complying with the direction, given by the Minister in a letter to the Chair, in which he directed Eastern Health to ensure the processes for creating and/or filling positions were consistent with Government's processes.

The Vice- President, Human Resources, explained the hiring for unfunded positions to which the Auditor General referred: In 2010 there was a nursing shortage; the Authority hired full-time permanent nurses in float positions; the positions were funded through relief budgets. The Authority is in the process of making changes to ensure procedures for hiring conform with Government policy. A decision to hire in such circumstances would now have to be approved at the executive level. Eastern Health will have a position control system in place this year which will allow officials to ascertain whether there is funding available for positions they wish to fill.

Compensation and Recruitment

Individuals Employed by Authority while receiving a Pension

The President informed the Committee that there were 119 persons working at Eastern Health who were in receipt of a pension, 105 of those working on a casual or temporary basis. 55 percent of the 105 are nurses, none in a permanent position. The Authority now has a mechanism now for identifying persons in receipt of a pension and is following policy in respect of approvals for these hires. Mr. Keats added that the Authority was exploring other models of care in order to enhance services while spending its money effectively.

Relocation and return-in-service policy

The Auditor General reported several instances of failure of the Authority to enter into return-in-service agreements with physicians and non-physician employees in contravention of Authority policy, and other instances in which relocation policy was not being followed. As a result there were payments made to employees to which they were not entitled.

The President informed the Committee that Eastern Health had introduced a new return-in-service agreement policy which is the same as that of Government. Mr. Keats added that there was no evidence that anyone had left before his/her term was finished so there was no financial implication.

Mr. Keats suggested to the Committee, however, that there were instances in which the Authority had to make exceptions to policy requirements. By way of illustration the President mentioned the case of a sole lab and X-ray technician at a rural facility. There was a person who could fill in, and would, if he were given mileage for his travel to and from work. The alternative to employing this technician would have been to close down the emergency department. The Authority does not like to make such exceptions but, Mr. Keats suggested, there would always be instances in which it has no choice.

Delays in classification

A Committee member pointed out that classification delays had resulted in 123 employees being paid overtime and enquired whether the delays had been

addressed. The President acknowledged the delays which he attributed to the transition when the amalgamation took place. Now however there is a validation committee which ensures that classifications are carried out within six months.

Educational differentials

The President explained that the differentials were first put in place by the Nurses' Union in the course of their collective bargaining process. The Authority extended the additional payments to nurse managers, and from there to all managers, to encourage employees to further their education. The payments were extended beyond nurse supervisors to those with Masters degrees who supervised nurses but were not nurses themselves. The President agreed with the Auditor General that the Authority had failed to go through the process required to give differentials to these employees although it seemed the equitable thing to do. As of April 1, 2013 educational differentials along with time off in lieu of overtime, and supervisory benefits paid to non-nurses supervising nurses, were eliminated.

Signing bonuses

The Auditor General reported that the Authority had provided signing bonuses for physicians which were not in accordance with departmental guidelines and the Physicians' Services Memorandum of Agreement. The Director of Medical Services informed the Committee that Eastern Health no longer provides physicians with signing bonuses. If the Authority finds it necessary to use the bonus incentive it work through the Department's signing bonus programme. The current programme creates a consistent approach provincially the Director stated.

Mileage reimbursement policy

In the instances identified by the Auditor General of reimbursement for personal vehicle usage contrary to policy and without proper approval, the Authority advised that it is now in compliance. Mileage is paid through the payroll system. If a claim is deficient the lack of information is picked up at the point of payment.

An official noted that in the last two years, through austerity measures, Eastern Health had reduced the number of kilometres paid for from five to four million.

Additional Workload Benefits

A Member raised the matter of payment to physicians for additional workloads. The Auditor General had identified an example of a physician who was paid \$1.4 million over an 11-year period for taking on the work related to a vacant position which the Authority had not intended to fill. An official stated that the pay was predicated on the need for a second position which was created on the basis of an analysis of the workload in the area in 2002. The Auditor General posited that the arrangement did not appear to be a short-term provision as there did not appear to have been any attempt to fill the position. The President explained that, in other cases when the Authority had recruited a second specialist, the person

recruited had not stayed. Patients had booked appointments with the new physician and forfeited their priority with the other. The Authority found that in certain cases it could not recruit for a position and were better off paying a physician in the community to take on the extra work.

Leave and Overtime

A member questioned officials about the findings of the Auditor General regarding the approval, documentation and oversight of leave and overtime. The President told the Committee, using specific examples, that in a hospital setting it is sometimes difficult to avoid the use of overtime taking into consideration the particular circumstances, union agreements, emergencies and the like. One example given was that of a technician called back to perform a test which takes five minutes. The person is paid for three hours. If he/she leaves the place of work and is called again he/she is paid for three hours again and so on. In some circumstances a person could accumulate nine hours pay for work performed in an hour or less. However, the Committee was told, officials will talk to those concerned, including physicians, to ensure they understand the consequences the decisions they make and time requests to fit in with employee working hours as best they can.

The Authority has reduced overtime usage in the past several years by an amount equivalent to the cost of 42 full time positions an official told the Committee.

In certain areas the Authority has minimum staffing requirements. If a staff member is sick the department or division must find a substitute. Overtime builds up in such circumstances but there is no alternative an official told the Committee.

The President pointed out, with respect to the finding that 712 persons had taken paid leave to which they were not entitled, that such leave might have been taken on an anticipated basis but that the days taken in advance are deducted from the next block of leave.

In the case of leave not taken and carried forward, contrary to policy and to the provisions of collective agreements, the CEO explained that it is sometimes not possible for employees to take leave in a timely fashion because of staffing problems so they must be allowed to carry it forward.

The Committee heard that the Authority has eliminated the management week off in lieu of overtime mentioned by the Auditor General as inconsistent with Government policy. The CEO stated, however, that he thought the system was a good one and that in the long run the change would be detrimental to the organization. The Auditor General, when asked his opinion on the effect of the change stated that he does not comment on policy but conceded the CEO's

suggestion that there might be behavioural changes among employees as a result of the decision.

A Committee member suggested to the officials that they consider instituting incentives for employees to encourage the optimum use of overtime for all concerned. The Interim Vice-President, Human Resources stated that the Authority was carrying out a pilot project by way of joint staff/management committees which are exploring ways of recognizing those who use less sick leave than they had in the previously.

When questioned about whether there was a correlation at the individual level between someone taking leave and someone working overtime on a unit an official replied that the Authority had carried out a review to ascertain whether there was such a correlation and that the finding was negative.

The Auditor General stated in his closing comments, with respect to anecdotal evidence about misuse of overtime, that the auditors had investigated the matter and found no systemic problems.

The Interim Vice-President told the Committee that officials believed that they were doing quite well in ensuring that documentation existed but acknowledged that they did not always follow the same processes as the Public Service Commission. The Authority has undertaken a review of Human Resources processes and plans to introduce a pilot programme which mirrors the policies of the Commission.

Internal Controls

A Committee member questioned officials about the Auditor General's finding of inadequate controls for the prevention of error and fraud in a number of areas of the organization. The President agreed that the Authority needed to ensure proper controls were in place. To that end the Authority has engaged the accounting firm Ernst & Young to review the organization's control procedures and report on their efficacy. The firm will review human resources, payroll, leave, overtime and call back tracking authorization, purchasing, cheque processing, segregation of duties and risk control, among other things.

Purchasing

The Auditor found that there were 243 employees listed as authorized to create purchase orders within the Authority's purchasing system although there were only 140 who were actually entitled to do so. An official speculated that the error would have had to do with turnover in the Department. Officials told the Committee that none of the individuals who had left the Department had authorized purchasing after they had left. The Authority has now changed the controls in the purchasing area. An official acknowledged that the purchasing

area needed work but that the organization would delay making substantial investments until a decision had been made about consolidating a number of services of the four health authorities in the Province. The Vice-President added that the Ernst & Young review would consider the question of segregation of duties and access within the system in the course of their review.

Internal audit

The Authority has no internal audit division as the Auditor General noted. The Vice-President, Corporate Services, stated in response to a question on the subject that the Eastern Health should have an internal audit function. The Vice-President informed the Committee that the Authority was considering an internal audit function as part of a process for examining risk management in the organization. Mr. Butt pointed out that the Authority's financial statements are audited by an accounting firm, currently Ernst and Young, adding that he was aware that external audit is not the same as internal audit. The board has a finance committee which will become a finance, audit, risk-management committee and the internal audit division will report through the committee to the board. The Authority understands that there is a need for the internal audit function and Vice President told the Committee that they plan to pursue the idea.

Tendering of Goods and Services

The Auditor General reported that the Authority failed to submit documentation relating to public tender exceptions (Form B) in a timely fashion and in another instance failed to apply an exemption provision correctly. Regarding the first instance the official responsible said that he was not aware of the deadline and that since becoming aware of the requirement the Authority has submitted the forms on time.

In the case of the pressing emergency provision of the *Public Tender Act* an official explained that the time constraint, which dictated expeditious action related to accommodation for a flight crew from Labrador which was expected in the St. John's area for training. In the event the travel was delayed but the purchase order had been issued for the accommodations. Officials had sought three quotes and selected the lowest.

The Auditor General also noted several instances in which the Authority had failed to comply with legislation in issuing change orders for infrastructure projects. The Vice-President, Corporate Services, explained that the board which would have to approve the changes meets only six times a year. In order to comply with the process, which requires approval in advance, the organization would have to stop their projects. The Authority acknowledges that they are not complying and will seek an amendment to the legislation to enable the CEO to approve change orders.

In its written response to the Report Eastern Health has stated that it will take immediate remedial measures where it has been found lacking in its tendering practices.

Monitoring Capital Assets Inventory

A Committee member asked officials to address the Report finding that the Authority did not have a policy of conducting annual capital asset inventory counts. The Vice-President, Corporate Services, pointed out that Eastern Health has a computerized maintenance management system for its 5000 biomedical capital assets, many of them mobile, distributed over more than ninety sites. Mr. Butt explained that the staff tags the assets and assigns them to a home location and documents maintenance done on the assets. Many of the assets are in ORs and other locations which are not readily accessible. While the Authority acknowledges the importance of the finding officials are not sure how they can carry out the monitoring given the circumstances described. Mr. Butt explained that much of the equipment is subject to maintenance annually so that through the maintenance process the Authority keeps track of assets but does not locate them all in a particular time frame. Mr. Butt added that it might be feasible to monitor groups of items periodically. The Committee heard that the Authority plans to implement a new computerized maintenance management system which might make monitoring easier.

Cheque Processing

In response to a question about improper segregation of duties and authorization requirements in cheque processing the CEO agreed that there was a need for an internal audit to mitigate risk and complement the work being done by the external auditor.

OTHER

Hospital beds for long term care patients

A member brought up the question of the use of hospital beds for long-term care patients who need an alternate level of care. The member suggested that the absence of alternatives for these patients results in costs which could be reduced if these persons were cared for at home until long-term care elsewhere becomes necessary and available. The Chief Performance Officer told the Committee that one of the goals of the Authority's 2014-2017 strategic plan, which bears on the management of seniors' care, is the provision of the "right intervention for the right client at the right time and in the right place." In keeping with its 'Home First' philosophy the Authority will strive to support and provide the services necessary to enable clients to remain in their own homes the Committee was told.

Professional Development

The Authority provides a leave-of-absence for employees who wish to further their education and a tuition reimbursement programme for management personnel who attend an educational institution on a part-time basis. The CEO stated that he believed they could never do enough to enhance professional development but added that when funding is at a premium further education is usually not considered a priority. Nevertheless Mr. Keats stated, the organization is doing more than was done in the past and its philosophy is that it is a 'continuously learning' organization.

Risk and Discharge Management

In response to an enquiry from the Committee the Vice-President stated that the Authority has a risk management division and a discharge manager. The risk management division includes several in-house lawyers who work with the legal department to deal with claims.

Eastern Health, using Canadian Institute for Health Information, works with front-line staff and care facilitators to ensure the optimum length of stay for each patient.

Recruitment of Physicians and Nurses

Members questioned officials generally on their success in recruiting physicians and nurses to work in rural areas of the Province. The Authority has 196 approved salaried positions and 500 fee-for-service or alternative-payment-plan physicians. There are 15 salaried position vacancies. The organization also supports recruitment in rural communities as reduced access to family physicians has an impact on emergency services in clinics. Eastern Health has a full-time recruiter as do other Health Authorities. Eastern Health works with Memorial University to attract graduates as Memorial graduates tend to remain in the Province once recruited. The Medical school has added twenty seats which should increase proportionately the number of physicians recruited for the Province.

Newfoundland and Labrador has the greatest number of nurses per capita in the country, however, it is difficult to find relief in rural communities for those who wish to take holidays in the summer. The difficulty for the Authority and all health institutions is that a permanent hire must have a six-week schedule. Most people want to take their holidays in the summer. It is difficult to give relief nurses a schedule as one never knows where the need might be an official pointed out.

The CEO stated that in the Personal Care Attendant category, despite the unemployment rate, it is not easy to attract people as the position requires a thirty-week programme while in the trades the pay is higher and there is no training requirement in some cases.

FINDINGS

The Committee is aware of the challenges of running an organization as large and complex as a health authority and is not surprised that an audit should identify a number of weaknesses. In an entity which deals with health care and often with life and death decisions which must be made without delay it is inevitable that some deviation from policy and procedure will occur. Many of the failings related to administration, documentation, approvals and the like, some of which are more easily avoided than others.

We note that Eastern Health has received the national designation of Accreditation with Commendation.

It appears to the Committee that the Authority has considered the findings and recommendations of the Auditor General and is making an effort ensure it corrects the weaknesses identified in the Report.

The deficit is one of the most troubling matters. If efficiencies are not found and the escalation in health care expenditures continues the health care costs of the Province will be unsustainable, in the opinion of the Committee. The Committee recognizes that Eastern Health is taking action to address the deficit as stated by the CEO in his opening statement and in answer to a member's question at the beginning of the hearing. It appears to the Committee that many of the recommendations of the Auditor General have been or will be implemented.

Witnesses informed the Committee that the Authority

- plans to introduce measures to ensure requirements relating to recruitment are followed and conform to Government policy;
- is addressing documentation weaknesses relating to mileage claims;
- is working to re-educate managers and others to ensure that documentation relating to payroll is in order, and has asked Ernst & Young to make recommendations on how to improve controls in this area;
- is following Government guidelines in relation to the hiring of persons in receipt of pensions;
- has discontinued signing bonuses;
- has abolished educational differentials;
- has made changes which should ensure that classifications are carried out in a timely fashion;
- has introduced changes to ensure mileage claims are accurate, properly documented and in compliance with policy and has asked Ernst & Young to make recommendations on payroll tracking which should help enhance mileage claim processes;
- is in the process of eliminating the practice of hiring for unfunded positions and now requires such hiring to be approved at the executive level;

- is complying with Government policy regarding return-in-service agreements;
- has implemented the recommendation relating to management overtime policy;
- plans to introduce a pilot programme relating to human resources processes which would align the processes with those of Government;
- has made some changes to address the weaknesses identified in the purchasing process;
- agrees with the Auditor General that the Authority should have an internal audit function and will introduce an internal audit function and
- agrees that it is not complying with legislation in issuing change orders for infrastructure projects and will seek the amendment to the legislation which they consider necessary to correct this deficiency.

Given such widespread issues and since health care, a critical public service, consumes approximately 40 percent of the Province's budget these matters should be addressed frequently and diligently.

The Committee acknowledges the difficulty of controlling leave and overtime in a health care environment and notes that the Authority has reduced overtime usage in recent years and has eliminated management time off in lieu of overtime.

We find however that there are some weaknesses in the paid leave processes which could lead to losses if employees left their employment before anticipated leave could be recovered.

While officials stated that they believed the Authority was ensuring that documentation was in order they acknowledged that they were not fully aligned with Public Service Commission recommendations.

The Committee notes with approval that the Authority will introduce a pilot programme which will align documentation requirements with Commission policies.

RECOMMENDATIONS

While many shortcomings have been or being addressed there were several areas in which the Committee believes which the Authority might consider additional changes and accordingly recommends that the Authority

- request amendments to policy, guidelines or legislation where needed and for limited periods, for example in assigning extra workloads to physicians when a position cannot be filled;

- review the overtime/callback rules with the union and physicians with a view to reducing the practice of pyramiding;
- make purchase order authorization valid for one year and renewable thereafter;
- authorize the board to hold meetings by teleconference;
- create an internal audit division within the organization;
- institute periodic checks of capital assets;
- put in place more effective oversight of call back overtime and investigate the possibility of amending collective agreements to address the costs associated with the practice;
- seek an amendment to legislation to enable the CEO and another official, pre-approved by the Board, to authorize change orders;
- institute longer periods of respite home care for patients waiting for admission to long-term care facilities and
- amend rules, legislation or collective agreements, as the case may be, to enable the Authority, when faced with no alternative, to take action they consider necessary in specific circumstances.

Report of the Auditor General, January 2014

Paragraph 3.2 – Fee-For-Service Physicians: Audit Process
Department of Health and Community Services

Auditor General's Findings

Summary of Findings

Introduction

The Newfoundland and Labrador Medical Care Plan (MCP) is a comprehensive plan of medical care insurance designed to cover the cost of physician services for bona fide residents of the Province.

Physicians are paid in one of three different ways:

1. Fee-For-Service (FFS) - Payments are made for each service performed by the physician;
2. Salary - Physicians are considered employees of the Regional Health Authorities and are paid a salary set through the Memorandum of Agreement between Government and the Newfoundland and Labrador Medical Association; and
3. Alternate Payment Plan (APP) - The amount in payments the physician receives is supported by individual contracts which are based on block funding arrangements. This payment method contains elements of the FFS and salary payment methods.

Payments to physicians represent a significant cost to the Province. In 2013, total payments made to physicians totalled \$443.1 million. Of that amount, \$310.9 million (70%) were payments made to physicians under the FFS and the APP payment structures.

The Audit Services Division (the Division) is responsible for auditing FFS payments made to physicians.

The objectives of our review were to determine whether the policies and procedures governing the MCP audit function are effective in identifying overpayments made to physicians and to determine whether the overpayments identified are being recovered in a timely manner.

Findings

Audit Selection

1. The Division does not use available reports to the fullest extent as a means of identifying audits. As a result, the Division may be missing opportunities to identify appropriate physician claims to audit.
2. Only 11% of FFS physicians who earned salaries above the average of FFS physicians in their category were selected for audit during the 6½ year period of our review. As a result, the Division may be missing opportunities to identify appropriate claims to audit that may result in increased recoveries.
3. There are no safeguards in place to prevent double billing of services to MCP and the Workplace Health, Safety and Compensation Commission of Newfoundland and Labrador. As a result, physicians could be paid twice for the same service.

Audits of Claims

4. During the 6½ year period of our review only 87 audits were started by the Division. In comparison to the FFS physician expenditures, the number of audits started is small. As a result, the Division may be missing opportunities to fulfill their mandate of ensuring that only legitimate and accurate claims are paid which may prevent future incorrect billings.
5. FFS physician audits are taking a long time to complete. As a result, the Division is increasing the risk of not collecting the full amount of the recovery identified and missing opportunities for corrective action.
6. The Division does not consistently pursue audits when high error rates are detected. This is inconsistent with Division policy. As a result, the Division maybe missing opportunities to maximize recoveries.
7. Recoveries of overpayments are not always pursued. As a result, the Division is missing opportunities to maximize recoveries.
8. The Medical Consultants' Committee is not meeting on a regular basis. This results in delays in issuing assessments and also delays in recoveries which increases the risk of not collecting the full amount of the assessments.
9. The Alternate Dispute Resolution process, which is intended to be completed within 90 days, is taking considerably longer to conclude. As a

result, identified recoveries are taking longer to recover which increases the risk of not collecting the full amount.

10. There was no Audit Review Board in place for a period of three years even though its existence is required by legislation. As a result, physicians could not avail of this function as part of the audit process and consequently were denied due process.
11. The Division is not consistently applying the criteria for placement into the Physician Claims Intervention Program. Therefore, not all physicians who meet the criteria for placement are entered in the program. As a result, incorrect billings could go undetected and potential overpayments may not be identified.

Audit Recoveries

12. The Department is not collecting recoveries in a timely manner. As a result, they are increasing the risk of not collecting the full amount identified.

Audit File Documentation

13. The Division does not have formalized policies that outline documentation requirements for audit files. As a result, the audit files include findings and conclusions without adequate support and documentation which may impede the Division in ensuring that only legitimate claims are paid

Performance Measurement and Reporting

14. The Division does not have an operational plan in place. As a result, they have no plan to guide their work or to encourage the achievement of their mandate.
15. The Division has not established performance measures or reporting requirements specific to the MCP FFS audit function. As a result, the Division has no goals or targets against which to measure the amount and quality of work completed.

Public Accounts Committee Review

Reference:

Part 3.2 of the Report of the Auditor General of Newfoundland and Labrador to the House of Assembly on Reviews of Departments and Agencies, January 2014

<http://www.ag.gov.nl.ca/ag/annualReports/2013AnnualReport/AR2013.pdf> pp. 81-113

Proceedings of the Public Accounts Committee, July 23rd, 2014

<http://www.assembly.nl.ca/business/committees/ga47session3/2014-07-23PACHealthandCommunityServicesFeeforServicePhysicians.html>

SUMMARY OF EVIDENCE

Mandate of Audit Services Division

Officials of the Audit Services Division of the Department of Health and Community Services described their mandate as follows: The Division is tasked with ensuring that only legitimate claims by fee-for-service physicians are paid. There are approximately 750 physicians in this category in the Province. The system has 4500 fee codes and deals with about 5 million claims annually. The annual budget for these payments is about \$320 million. The audit staff of five comprises two employees trained on the job in MCP claiming procedures, two with accounting designations and one administrator.

Selection of Audits and Audits of Claims

The report of the Auditor General noted that the Division was not making maximum use of reports available to it in selecting claims to audit. The Deputy Minister pointed out that the division did use reports but that its processes were not as well structured as they should be. As a result, the Deputy Minister informed the Committee, the Division had implemented a system which addresses this finding: statistical reports are used at monthly staff meetings; practice profile reports are reviewed by the manager and auditors quarterly and other reports from the Medical Care Commission (MCP) system are reviewed at the monthly staff meetings.

The Auditor General reported that during the six-and-a-half year period reviewed the Division had started 87 audits. The Deputy Minister of Health informed the Committee that there had been a considerable improvement in the number of audits started as they had started 61 audits and carried out approximately sixty physician file reviews since December, 2013. The Deputy Minister was not able to tell the Committee how many audits had been completed.

The Deputy Minister told the Committee as well that the Department is working to ascertain the optimum percentage of above-average earners to audit and the indicators, other than income, to use in determining its approach

The Auditor General reported that the Division does not pursue audits when high error rates are detected. The Deputy Minister explained that in some cases there may be a small number of billings, that the percentage may be high but the materiality low. Quite often the claimant is new to the system and has made

honest mistakes the Deputy Minister said. In such cases the Division works with the physician to ensure that the errors do not recur. In deciding whether to proceed to recovery the Division must make a judgment about the cost/benefit of doing so.

In answering a question from a Committee member the Deputy Minister advised that in response to the Auditor General's report the Division is reviewing its methodology for selecting accounts to audit and expects the percentage of audits of physicians earning above-average salaries to rise.

The Committee discussed the question of expanding the two-year audit period with which the Division works with the officials. The Deputy Minister pointed out that if the preliminary audit indicated the need to audit outside the two-year window the Division would do so. The Auditor General, when asked if the two-year period was acceptable, replied that, given the resources available, and in the absence of evidence in the two-year audit of the need to go further back, there would not be much to be gained by expanding the window. The Division plans to refine its policies to clarify the obligation/right to investigate matters falling outside the two-year audit the Deputy Minister said.

When asked whether he thought the Division was adequately staffed the Deputy Minister replied that it was on a par with the rest of the country in its ratio of staff members to fee-for-service physicians in the Province. The Deputy Minister added that before the organization considered employing additional staff it would need to ensure that it was being as efficient as possible. The Deputy Minister told the Committee that during the period of the review carried out by the Auditor General the Division had experienced a significant turnover in staff.

Double Billings of Services to the Medical Care Plan (MCP) and the Workplace Health Safety and Compensation Commission (WHSCC)

The Auditor General reported that the absence of safeguards to obviate billings to both entities could result in physicians being paid twice for the same service. The Deputy Minister in reply to a question about this possibility said that the Division was discussing the matter with the Commission and had identified some options it might follow, one of them being that of using the MCP system to help run some of the Commission's claims. Officials are hopeful that they will be able to implement the change in the next fiscal year. The Department is also trying to reinstate, with the agreement of the WHSCC, an information-sharing agreement that was discontinued by the Commission because the Commission found it administratively burdensome. Regarding retro-audits the Deputy Minister stated that the Department had not considered taking that step although it was one it might consider.

Division's Response to Overbilling

If the Division becomes aware of an inaccurate claim it has the option of recovering the amount owed from future claims submitted by a physician. The

Auditor General questioned the Department's legislative authority to take this action while the Department believes that the Minister has the authority to do so by ministerial order. In light of the Auditor General's comments however the Department will review the legislation to determine whether an amendment is necessary.

Further the Committee were told, if the auditors become aware of a pattern of overbilling they have the discretion and the obligation to review a physician's historical claims notwithstanding the 2-year period covered in their routine audits, and they do perform out such audits.

If there is a pattern of overbilling, the Deputy Minister stated, the Division performs a comprehensive audit. Depending on the result the matter might be referred to the Medical Consultants' Committee; might be referred for consideration through the Alternate Dispute Resolution process (if requested by the physician) or could (if requested by the physician) be reviewed by the Audit Review Board. The Minister could then order that the physician repay the overpayment.

The Department also has the option of placing a recalcitrant physician in the Physician Claims Intervention Programme which would entail an assessment of all claims before payment was made to the physician.

If the behaviour of the claimant appeared to be fraudulent the Department would refer the matter to the College of Physicians and Surgeons or to the police, the Deputy Minister stated.

When asked if the Department could remove a physician's billing number in the case of chronic misbilling the Deputy Minister replied that he was not aware of the Department having taken such action unless there had been criminal activity and the Deputy Minister did not know if such action had ever been taken.

In response to a Committee member's question about the time it takes for the Alternate Dispute Resolution process to play out the Deputy Minister stated that the Department ensures to the best of its ability that the ninety-day dispute resolution time frame is met. The Department is exploring the option of having the matter referred automatically to the audit review board once the ninety days have elapsed. In the written response to the Auditor General's findings the Department advised that it would ensure that providers understand the implications of adherence to the ninety-day policy the

Legislative changes

The operational plan that was tabled at the hearing includes, as a goal, ensuring that legislation supports the Division's mandate. A member enquired about the changes that might be anticipated in legislation. The Deputy Minister replied that the Division was undertaking a legislative review, in part, as a result of the

Auditor General's report comments on the recovery of overpayments to physicians. The Report stated that the Division did not have legislative authority to deduct against future claims. The Deputy Minister stated that while the Minister may order a recovery against future billings the Division has asked staff to discuss the matter with a view to requesting legislative changes which might enhance its ability to carry out its mandate.

Medical Consultants' Committee

A Committee member questioned the officials about the failure of the Medical Consultants' Committee to meet regularly, which was a factor in the Division's delays in issuing assessments and in recovering overpayments. The Deputy Minister stated that the Department was now scheduling meetings in advance for the whole year and was reviewing the Committee's processes to ensure that it put through more files which will expedite the review of cases.

Performance Measuring – Operational Plan

In accordance with a recommendation of the Auditor General the Division created an operational plan which was tabled at the hearing. The Deputy Minister told the Committee that the plan encompasses every element of their work: policy, organizational structure, systems and processes.

Auditor General's Comments

In response to a Committee member's question as to his reaction to the Department's response to the Report the Auditor General stated that it appeared at first blush from the operational plan tabled at the meeting that the organization was trying to make changes to address the Report findings. The Auditor General referenced the increase in the number of audits which he described as positive. Mr. Paddon added that there was much to be done and it remained to be seen how successful the Department would be in addressing the weaknesses identified in the audit.

FINDINGS

It appears to the Committee that the Department has considered and acted upon many of the recommendations of the Auditor General. The Committee did not touch on every finding/recommendation in the Report during the hearing. However, regarding the matters discussed at the hearing officials informed the Committee as follows: The Department

- reviews statistical reports, practice profile reports and other reports from the MCP system regularly;
- is addressing the finding that relating to the selection of above-average earners for auditing;
- has started more audits;

- is undertaking a legislative review to determine whether changes are necessary in order to permit the deduction of overpayments from future billings;
- plans to clarify the policy relating to investigating findings outside the two-year audit period;
- is working with the WHSCC to address double billings;
- has undertaken to ensure that the ninety-day time limit for completing the Alternate Dispute Resolution Process is respected;
- has created an operational plan and
- ensures that the Medical Consultants' Committee now meets regularly.

It is the view of the Committee that the Department is taking action to comply with many of the recommendations of the Auditor General and notes that the Auditor General commented positively on the response of the Department to the recommendations in the Report. However given the number, complexity and importance of the matters under consideration, it is the view of the Committee that follow up should be undertaken very soon, and repeated regularly, to ensure the effectiveness of the measures now being taken to correct the deficiencies that were identified.

RECOMMENDATIONS

The Committee believes that the Department should consider changing its policy in three matters relating to the physician billing/recovery process and therefore recommends that the Department

- recover all overpayments made to physicians;
- conduct retro-audits on WHSCC billings and
- investigate the possibility of removing the billing number of physicians who misbill frequently.

Report of the Auditor General, January 2014

**Paragraph 3.3 – Fines Administration
Department of Justice**

Auditor General's Findings

Summary of Findings

Introduction

The Fines Administration Division (the Division) of the Strategic and Corporate Services Branch within the Department of Justice (the Department) is the Provincial processing, billing and collection centre for court imposed fines, for fines imposed through a ticket and for the related penalties and surcharges.

There are 81,771 identifiable accounts totaling \$33.1 million of Provincially owed tickets, court fines, and penalties and surcharges as at March 31, 2013.

The Division is responsible for the effective and efficient functioning of the ticket processing system in the Province, including ensuring that a proper control system is implemented, maintained and monitored.

The objectives of our review were to:

- determine the growth, composition and age of fines receivable held by the Department;
 - assess if collection efforts have improved the overall collection rates of fines receivable since the previous review completed in 2008; and
- assess Departmental efforts to collect or dispose of fines receivable

Findings

Planning, Performance Measurement and Monitoring

1. There was no operational plan in place for the Division nor were there any performance measures or reporting requirements established. As a result, an effective planning and reporting process is not in place for the administration of fines receivable.

Fines Receivable

2. The fines owed to the Province have grown by \$5.6 million in the five years since 2008 to \$37.3 million, an increase of 17.7%. Approximately 75% of the outstanding fines receivable are considered uncollectible by the Department.

3. In 2013, 142 accounts had balances owing greater than \$20,000, an increase of 106% since 2008. In fact, 46% of the accounts receivable are owed by 2% of the accounts.
4. A total of 54,400 transactions, totaling \$1.5 million, are unidentifiable or have incomplete information. As a result, these receivables are difficult or impossible to collect.
5. The age of Provincial fines receivable has deteriorated significantly since 2008. At March 31, 2013 approximately 72% of Provincial fines receivable had remained uncollected in excess of three years.
6. Provincial fines receivable are increasing while receivable collection rates remain relatively constant at less than 30%. Collection efforts are not keeping pace with the volume of fines being imposed.

Collections

7. There is no evidence to suggest that the current level of penalties is an effective inducement to ensure early payment.
8. At March 31, 2013, there were 8,640 accounts totaling \$26.8 million registered with the Judgment Enforcement Registry being actively collected by eight collections officers, approximately 1,100 accounts per collections officer. As of April 24, 2013, the Division lost two collections officers due to Government budgetary restraint. Collection activity will be negatively impacted by the reduction in staff.
9. Renewals of hunting licenses, requests for birth certificates, MCP re-registration, and registry of companies and deeds are not utilized as collection instruments. As a result, the Province is not using the option of refusing to issue licenses and permits, in an effort to collect fines receivable, to its fullest extent.
10. Although legislative authority exists, a Fines Option Program (credit in exchange for work) has not been established and there has not been a proposal to the Lieutenant-Governor in Council for the introduction of a Fines Option Program. As a result, this option is not being used to reduce fines receivable.
11. The Judgment Enforcement Registry, payment arrangements and the Canada Revenue Agency collection options are not being used to their fullest extent because these options are only used for accounts with balances greater than or equal to \$400. As a result, there are 73,131 identifiable accounts with a balance less than \$400, totaling \$6.3 million, that are not being actively pursued for collection.

Public Accounts Committee Review

Reference:

Part 3.3 of the Report of the Auditor General of Newfoundland and Labrador to the House of Assembly on Reviews of Departments and Agencies, January 2014

<http://www.ag.gov.nl.ca/ag/annualReports/2013AnnualReport/AR2013.pdf> pp. 115-136

Proceedings of the Public Accounts Committee July 23rd, 2014

<http://www.assembly.nl.ca/business/committees/ga47session3/2014-07-23PACJustice.html>

SUMMARY OF EVIDENCE

Collection of fines

The discussion between the Committee and officials of the Fines Administration Division centred on persons owing significant amounts in fines imposed for traffic violations, the initiatives being taken by the Division to collect fines owing and the difficulties frequently encountered by the Division in collecting from the debtors.

Large balances owing

A member questioned the officials about the instances, which are frequently reported by the media, of individuals stopped by the police who owe amounts in the tens of thousands of dollars. The Director explained to the Committee that these individuals have no insurance, licence or registration. The fines for these offences are high so offenders in these categories quickly accumulate high-dollar-value fines. They are put through the court system but continue to drive when released.

Age of balances owing

The Auditor General reported that approximately 72 percent of fines receivable were at least three years old. A member questioned the officials on this finding. The Director said that these amounts related to debtors who had died, had left the Province, may not have a licence or may have a second driver's licence number. The Director added that officials were working with Vital Statistics to obtain reports on drivers who had died. The Division concentrates on the newer fines imposed each year which amount to \$10 or \$11 million and the amount it collects is roughly equal to the amount imposed in fines annually.

The Director mentioned that many motorists believe that they do not have to pay a fine until they go to register a vehicle or renew a licence.

Deterrence

A member asked the officials what was being done to deter persons from accumulating and continuously adding to various court-imposed fines. The Assistant Deputy Minister stated that the offenders are put through the criminal system, do jail time and in traffic-related offences have their cars impounded. An official pointed out that some offenders do attempt to pay their fines, entering into agreements with the Division. It was suggested to the Division that it should publicize the identities of repeat offenders who owe large amounts and appear to have no intention of obeying the law. The Director replied that they had not

considered this option as protection of privacy would be a factor. There is also the matter of distinguishing those who cannot pay from those who will not pay Ms. English said. The Director added that some of those who have outstanding fines are attempting to pay them by entering into arrangements with the Division.

A Committee member expressed the view that given advances in technology it should be possible for all agencies which issue permits and collect fines to interconnect in order to enhance their ability to track persons who owe fines.

In some cases, the Committee heard, the various Departments which issue permits refuse a permit to an applicant who has not paid a fine. The Division is considering collaborating with the Department of Environment and the Department of Vital Statistics, in respect of the permits they issue, in order to collect fines owed. The official pointed out, however, that the Division has to adhere to privacy protection legislation which would apply in respect of the information in the possession of certain agencies.

Another consideration advanced by the Division, regarding the idea of working with other agencies which issue permits and licences, is the potential cost of identifying the large number of persons who owe fines, as the work would have to be done manually. Also, the Director suggested, quoting officials of the Department of Environment, those who ignore the law in respect of offences relating to driving would be unlikely to be concerned about the requirement to have a licence for hunting, fishing etc.

The Assistant Deputy Minister informed the Committee that attendees at a meeting of Deputy Ministers here in June heard that the non-payment of fines is a problem across the country both provincially and federally, and internationally. In Ontario the amount of outstanding fines is \$1 billion, in Newfoundland \$33.3 million, which is lower on a per capita basis.

Options for collecting fines, existing and under consideration

A Member asked the Department officials about options they are considering to improve fines collection. The Member noted that the Minister, in response to written questions from the Committee, had mentioned that the Department was considering instituting an operational plan to document policies and procedures in place as recommended by the Auditor General in his Report. The Director stated that the Division is working on the plan and expects to have it completed by the end of the fiscal year pointing out that policies and procedures exist although they have not been made formal in an operational plan.

In addition the Division has reduced the dollar amount of fines for which it can use the Judgment Enforcement Registry to \$300 from \$400. This change has resulted in more collections. In response to a question about options for recovery the Director stated that the Division can seize assets but that many of those who owe fines are in receipt of Income Support and have social problems, minimal education and a history of incarceration. It was pointed out that if a

person is working the Division can garnish wages. In many cases, however, the persons will have moved or for some other reason the Division cannot locate them.

A Committee member questioned the cap on the dollar amount of fines registered with Judgment Enforcement suggesting that it be dropped entirely. The Director stated that registering a fine has an impact on one's credit rating and could have serious repercussions for the person affected. Additionally, the administrative work involved in registering fines is significant. The Division has no plan at the moment of reconsidering the amount the Director said.

Another recourse the Division is considering, the Committee heard, is the Fines Option Programme which allows for the payment of fines by means of credit for work performed in accordance with section 38 of the *Provincial Offences Act*. There is a number of variables in relation to the Programme which the Division is canvassing such as the funding, human resources and administrative resources the programme would require.

The Division is also engaged in discussions with the Royal Newfoundland Constabulary to enlist its help in locating people the Division has not been able to locate in order to enter into payment arrangements with them if they are able to pay the Director stated.

Further, the Fines Administration Division avails of the Federal Refund Set-Off Programme with the Canada Revenue Agency through which the Division collects \$1 million a year.

Collaboration with agencies in other jurisdictions

In discussing the collection of fines imposed in this Province on residents of other jurisdictions a Committee member enquired whether the Province had reciprocal agreements with agencies in these jurisdictions such that these persons are refused licences and permits if they have outstanding fines in this Province. An official stated that there was no such agreement and that it would be a matter for the Motor Vehicle Division and Service NL to consider.

A member suggested that there should be technological means of enabling different agencies to interconnect which would obviate the need to use manual systems. The Division agrees that it should be possible but added that even if it were confidentiality requirements would apply. A member suggested that the exchange of information to enhance fines collection should not impair the right to confidentiality in other matters. The Director did say, however, that the Division has an agreement with the Motor Registration Division (MRD) of Service Newfoundland and Labrador regarding access to the records of drivers and registered owners of vehicles and that MRD in turn has arrangements with its counterparts in other jurisdictions.

Uncollectible fines

The Committee were told that the Division requests permission to write off uncollectible fines but that even when written off they remain on the books so that the obligation of the person to pay the fine remains. A debtor cannot get a licence if a fine has been written off as uncollectible for example. Even in the event of the death of a debtor the obligation perdures: the Division has collected payments from the estates of debtors.

A member enquired why there had been an 18 percent increase in uncollectible fines since 2008. The Assistant Deputy Minister explained that while eight per cent of fines imposed are collected a small percentage of those who owe fines fail to pay and these amounts are added to, and causing an increase in, the receivable balance each year. In addition there are more police officers on the street with the result that more fines are being imposed. Also, the dollar value of fines has been raised.

Staff complement

The Auditor General reported that the Division had lost two collections officers and suggested that the reduction in staff has an impact on collections activity. A Committee member enquired if there had been a reduction in the amount collected in fines since the lay-offs and was told that there had been: in fiscal year 2013-2014 the Division had collected \$11.9 million and in 2012-2013 it had collected \$11.5 million.

In response to the question of a Committee member the Auditor General said that judging from the written responses of the Minister to the questions of the Committee and the discussion at the hearing he thought that the Division was moving in the right direction. The Auditor General said as well that he did not underestimate the challenges facing the Fines Administration Division.

FINDINGS

The Committee finds that the Fines Administration Division of the Strategic and Corporate Services branch of the Department of Justice appears to have given consideration to the recommendations of the Auditor General and is taking action to address some of the weaknesses identified in his annual report. The Committee appreciates the difficulties facing the Division in collecting fines from certain individuals and agrees with the Auditor General that it is making some of the necessary changes.

Officials informed the Committee that the Division

- is in the process of developing an operational plan;
- has reduced the dollar amount of fines eligible for submission to the Judgment Enforcement Registry;

- is making use of the Federal Refund Set-Off Programme of the Canada Revenue Agency;
- is exploring the Fines Option Programme with a view to requesting that regulations be enacted to enable the Division to make use of this option to satisfy fines and penalties;
- is engaged in discussions with the Royal Newfoundland Constabulary with a view to enlisting the Force's help in identifying persons who have outstanding fines and
- intends to follow up on informal discussions they have had with the Wildlife Division of the Department of Environment to explore the possibility of collaboration between the two entities regarding the denial of licences to debtors of the Division.

RECOMMENDATIONS

The Committee recommends that Government consider reinstating the collections officers laid off in 2013 and that the Division

- pursue more vigorously the idea of attaching fines balances to government issued permits;
- consider requesting permission to write off amounts which are uncollectible;
- consider removing the cap on the dollar amount of fines eligible for submission to the Judgment Enforcement Agency;
- explore the possibility of entering into inter-provincial arrangements for the recovery of amounts owed by residents of other jurisdictions;
- consider requesting an increase in the dollar amount of fines, and the penalty for non-payment, to increase the deterrent and
- institute a publicity campaign to educate drivers about the rules relating to fines to encourage timely action.

Report of the Auditor General, January 2014

Paragraph 3.4 – Waste Management Strategy
Department of Municipal and Intergovernmental Affairs

Auditor General's Findings

Summary of Findings

Introduction

In 2002 the Government of Newfoundland and Labrador released, through the Department of Environment and Conservation, the *Newfoundland and Labrador Waste Management Strategy* (the Strategy). Estimated at a capital cost of \$200 million, it was designed to result in long-term solutions for modern waste management in the Province. The implementation of the Strategy stalled, mainly due to a lack of funding. The Strategy was re-released in 2007. The estimated cost remained unchanged from the 2002 Strategy at \$200 million.

The goals set out in the Strategy are to:

- divert 50% of materials currently going to disposal by 2015;
- eliminate open burning at disposal sites by 2012;
- phase out the use of incinerators by 2008;
- reduce the number of disposal sites by 80% by 2020;
- phase out the use of unlined landfill sites by 2020; and
- have full Province-wide modern waste management by 2020.

The entities responsible for overseeing the Strategy are the Department of Environment and Conservation, the Department of Municipal and Intergovernmental Affairs, Service NL and the Multi-Materials Stewardship Board.

The objectives of our review were to determine the progress made towards implementing and achieving the goals and objectives of the Strategy and to determine whether there are systems in place to monitor and report on waste management activities.

Findings

Goals of the Strategy

1. The Strategy goal of 50% diversion of materials being disposed by 2015 will likely not be met.
2. The goal of eliminating open burning by 2012 has not been achieved.
3. The goal of phasing out the use of incinerators was achieved by 2013.

4. It is expected that the goal of reducing the number of waste disposal sites by 80% by 2020 will be met with an anticipated reduction of 94% of disposal sites.
5. It is expected that the goal of phasing out the use of existing unlined landfills by 2020 will likely be met.
6. Consideration is being given to construct an unlined landfill in Labrador that is not in accordance with existing environmental standards.
7. Specific waste management standards for Labrador have not been developed since the directive to do so in 2007.
8. The Province expects to achieve its goal of full Province-wide modern waste management by 2020, however, considerable work is required over the next seven years which may challenge the timing of achieving this objective.

Cost of the Strategy

9. There was no proper cost estimate prepared at the beginning of the Strategy, therefore, there is no appropriate measure against which to compare actual expenditures and thus monitor whether costs are on budget.
10. The original estimated cost of \$200 million to complete the Strategy is now expected to be \$315.8 million - an overrun of 58%.
11. Support for the projected cost of the Strategy, relating to composting, is currently being developed and remains uncertain. As a result, the Department cannot ensure that the projected cost is reasonable which may lead to an increase in the overall cost of the Strategy.

Oversight of the Strategy

12. The interdepartmental Steering Committee has been inactive for a period of approximately two years. As a result, the implementation of the Strategy as a whole may not be effectively monitored.
13. There is a lack of reporting completed for the Strategy as a whole. Not having a proper reporting function in place does not allow the entities to determine the progress made towards the implementation of the Strategy.

Public Accounts Committee Review

Reference:

Part 3.4 of the Report of the Auditor General of Newfoundland and Labrador to the House of Assembly on Reviews of Departments and Agencies, January 2014

<http://www.ag.gov.nl.ca/ag/annualReports/2013AnnualReport/AR2013.pdf> pp. 137-163

Proceedings of the Public Accounts Committee July 29th, 2014

<http://www.assembly.nl.ca/business/committees/ga47session3/2014-07-29PACMunicipalandIntergovernmentalAffairs.html>

SUMMARY OF EVIDENCE

Opening Comments

The Deputy Minister of the Department of Municipal and Intergovernmental Affairs, in making her opening remarks, informed the Committee that she was speaking for all the entities which share responsibility for the Waste Management Strategy: the Departments of Municipal and Intergovernmental Affairs, Environment and Conservation, Service NL and the Multi-Materials Stewardship Board (MMSB)

The Deputy Minister informed the Committee that the original goals to be achieved by 2020 encompassed the limitation of open burning, closure of teepee incinerators, consolidation of curbside collection and disposal sites and the establishment of lined or similar landfills.

Ms. Janes said that some changes had been made in the original plan – for example the decision was made to reduce the number of landfills on the Island from three to two, as improved transfer station technologies favour this option, and said that further changes could be made as technology improved.

The Deputy Minister added that Government was continuing to invest in infrastructure and was also addressing recycling and composting, later phases of the strategy, which will enhance its diversion goals.

Goals of Strategy

A Committee member questioned officials about the Department's goal of 50 percent diversion of materials being disposed of by 2015. The Deputy Minister stated that the Department had achieved 27.6 per cent diversion at the time of the hearing.

In response to a question regarding the growth in the amount of diversion that has taken place since 2007 the CEO of the (MMSB) said that since 2007 curbside collection has been introduced in the Eastern region for 17,000 homes; organics diversion has been introduced on the Burin Peninsula and elsewhere and significant advances have been made in the Industrial, Construction and Institutional sector.

The goal of eliminating open burning by 2012 has not been achieved as the Auditor General reported. The Deputy Minister of Environment and Conservation advised that there were still thirty-six open burning sites in the Province including six teepee incinerator sites, which are located in remote areas. The Deputy Minister added that the plan allowed for the continuation of the sites in remote areas.

It was suggested by a Member that the percentage of diversion would be greater if the Department were to encourage composting in Labrador. An official pointed out that the plan was to focus on the more populated areas and to work on landfill development and curbside collection moving on to composting in the later stages of the process. The Assistant Deputy Minister informed the Committee that Government had commissioned a composting study which it would use in its development of the composting aspect of the Strategy.

In Wabush the Department has established a landfill and has closed a teepee incinerator. The plan is to introduce composting in the near future.

Officials have met with community representatives on the North Coast of Labrador with a view to engaging a consultant to consider options for the area and the Department has finished a study for the Happy Valley- Goose Bay area which will help them plan their approach in that area.

In Southern Labrador the Department expects to consolidate a number of landfills into one and introduce curbside collection and a combination of recycling and composting.

The Auditor General stated in his report that consideration was being given to constructing an unlined landfill in Labrador which was not in accordance with environmental standards. The Deputy Minister of Environment and Conservation stated that a major amendment to the Strategy in 2007 made allowance for the existence of unlined landfills if they functioned similarly to lined landfills.

In response to a question regarding the amount of composting taking place in the Province an official said that 30,000 back yard composters had been distributed pointing out however it was difficult to measure the amount of material individuals put into their composters.

When asked where the Province might be in respect of the goal of 50 percent diversion by 2015 the CEO of the MMSB stated that the numbers depend on the completion of the infrastructure and that the next advances would be made through the extension of curbside collections and the implementation of organics processing decisions.

Cost projections

A Committee member questioned the officials about cost projections for the composting segment of the Strategy which were in progress and therefore uncertain at the time of the Auditor General's Report and asked if the figures would be included in a report on options for organic waste expected by the end of May. The Deputy Minister informed the Committee that the Department had found it necessary to send the report back to the consultants for additional work and expected to receive the next version by the end of July. The Assistant Deputy Minister explained that cost projections were based on numerous studies and analyses. Mr. Mercer told the Committee that the Department believes the estimated cost of \$76 million for composting referred to by the Auditor General is conservative.

In response to a question about the increase in the estimated cost of the Strategy from \$200 million at its inception in 2002 and at its re-release in 2005 to the current estimate of approximately \$316 million. The Deputy Minister replied that the original \$200 million figure was conceptual and had been carried forward to 2007 as the Department had not completed any studies, nor progressed far enough in its work with interested parties, to be able to arrive at a more precise cost projection. The ADM stated that they had applied a five percent inflation allowance to the original estimated cost of \$200 million which would have brought the final cost to approximately \$400 million. The reduction of the planned number of landfills to two would account for the current estimate of \$316 million.

The Assistant Deputy Minister said that when the infrastructure requirements had become clearer as the project progressed he had created a cost plan which has varied over the six-year period of his involvement with the Strategy.

In response to a question about the accuracy of the estimate of \$316 million the Assistant Deputy Minister replied that there was always a risk of escalation in cost but that the Department believed it to be reliable in light of past practice, good science and past tender results. Mr. Mercer added that the sooner the infrastructure was completed the less risk there would be of inflation.

West Coast status

As the Deputy Minister mentioned in her opening remarks the original plan to have three landfills on the Island was changed to reduce the number to two, one in Central Newfoundland and one on the East Coast. In response to a Member's question on the reason for the change an official explained that the decision was made by the Western Regional Service Board as the cost to the taxpayer would be lower and the result would be preferable from the environmental perspective.

Collaboration with stakeholders

A member asked officials what they had done to ensure the cost of creating infrastructure was not unduly burdensome for the user population. The Deputy

Minister pointed out that the Department was working collaboratively with Regional Service Boards and committees composed of residents of the various communities affected.

Extended Producer Responsibility (EPR) programme

In answer to a question about the EPR programme the CEO informed the Committee that the programme in Newfoundland is the same as that in the rest of the country: it is not a deposit/refund arrangement; rather the purchaser pays a fee at the time of the purchase of an electronic product which fee covers the cost of its disposal. The Province also has an EPR programme for paint and used oil and is doing further work on a programme which will include oil, glycols and associated products. The next step in this area will be the diversion of printed paper and packaging material.

Tire diversion

A member suggested that the Province should consider making use of old tires rather than shipping them to Quebec for disposal. The Chief Executive Officer of the MMSB pointed out that the volume of the product in the Province is not large enough to make alternative utilization economical. Mr. Samson stated however that the Board was always interested in finding alternatives to the current practice although it has not been successful in this quest to date.

Funding

A member expressed the view that the Department did not have adequate funding to complete the project. Officials advised as follows: there will be \$44.24 million available from the Federal Gas Tax Programme; they have spent \$62 million from an earlier agreement and \$60 to \$70 million will be required from the provincial budget and other sources.

Steering committee/Oversight

A member enquired whether the Department had addressed the Auditor General's finding that there was insufficient oversight of the Strategy as the multi-agency Steering Committee for the project appeared to have met only once between 2008 and 2013, the period of the review carried out by the Office of the Auditor General. The Assistant Deputy Minister told the Committee that the Oversight Committee had met three times since January 2014. He stated further that at certain times in the life of the project, for example as decision points approached, meetings were held while, at other times, there is no need for inter-agency meetings. The Assistant Deputy Minister stated further that in his six years with the project there were times when meetings had been held several times in a month, others when there had been none. As well, the Committee was told, there would have been consultations within the Department, albeit they would not have been structured meetings. In addition, officials would have made submissions to Cabinet providing periodic updates on the project.

The Deputy Minister acknowledged that there had been no comprehensive, formal, public reporting on the Strategy other than press releases on various elements of the process. Ms. Janes said that the Department intended to address the recommendation on this matter.

The Deputy Minister told the Committee that the Department now produces an annual performance monitoring report matching achievements to objectives.

Garbage collection fees

A member questioned the fairness of charging garbage collection fees to cabin owners who are not year-round residents in. The member suggested that these individuals should have an exemption from the fees as do certain property owners from property taxes when they are not living in the area all year round. An official explained that if people were allowed to opt out the service it would not be economical to provide the service to the year-round residents.

Waste to energy

An official stated that the idea of using waste materials to generate electricity had been considered but that there was risk associated with it. Where such facilities exist they serve populations significantly larger than the population of this Province. While the world is moving in the waste to energy direction, especially in Europe, the technology does not exist yet to make this option feasible for a smaller population the Deputy Minister said.

FINDINGS

The Committee finds that while there is progress being made in the attainment of the goals of the Waste Management Strategy much remains to be done.

The Committee notes that the Department has addressed the Auditor General's finding regarding insufficient oversight in that the Steering Committee is now meeting more frequently.

The Committee finds that the failure to prepare proper cost estimates at the beginning of the project was a significant weakness. However it appears that the Department is now preparing cost plans.

The Committee notes that the Department plans to provide public reports on the Strategy as recommended by the Auditor General.

RECOMMENDATION

The Committee recommends that the Department ensure support documentation is developed for cost projections as the project continues.

Report of the Auditor General, January 2014

**Paragraph 3.5 – Cranberry Industry Support
Department of Natural Resources**

Auditor General's Findings

Summary of Findings

Introduction

The Production and Market Development Division (the Division) of the Department of Natural Resources (the Department) is responsible for supporting the development of the cranberry industry. The Cranberry Industry Development Program (CIDP) was a 5-year program established in 2008 to facilitate cranberry site development. The CIDP was expected to contribute \$12.2 million to the cranberry industry from 2009 to its completion in 2013. In addition to providing grants under the CIDP, the Department also operated the Wooddale Provincial Tree Nursery (the Nursery) for growing cranberry plants for producers and operated a research site at Deadman's Bay.

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

- administered the Cranberry Industry Development Program (CIDP) in accordance with established guidelines; and
- adequately recorded, monitored and reported on the revenues and expenditures for other Department activities related to the cranberry industry in the Province.

Findings

Program Assessment and Approval

1. The Department did not always obtain information that was required by the CIDP guidelines from an applicant before funding was approved or ensure that all the required checks and assessments were completed before approval of funding. We found the following instances where guidelines were not always followed:
 - business plans received after funding provided;
 - incomplete financial information provided;
 - good standing checks not completed;
 - other funding sources not confirmed;
 - arrears checks not completed;
 - no documentation that environmental farm scans completed;

- internal applicant assessments not completed; and
- CIDP Committee meetings not adequately documented.

Program Payments

2. Payments were made to applicants when inspection certificates, which were intended to ensure that the applicant had developed the property in accordance with program guidelines, were not on file or when the inspection certificate indicated that the minimum requirements for acreage development were not met.
3. We found instances where minimum program requirements were not being met. Documentation was not always in the minutes of the CIDP Committee, which approved the applications, to indicate whether these issues were discussed or if they were addressed.
4. Project claims forms were not on file for 4 payments totaling \$200,800.

Program Monitoring

5. The Department did not adequately monitor and document producer activities or development costs to evaluate the success of the CIDP, to determine whether its objectives were being met, or to determine whether changes were needed to the CIDP policies to ensure its success.
6. The Department only disbursed \$727,000 of the \$5.2 million (or 14%) in approved funding during the five years of the CIDP. Given the significant shortfall in funding provided under the CIDP, it would be difficult for the Department to meet the objectives of the program.
7. The Department did not comply with Cabinet directives related to the CIDP. The Department did not recover 50% of the estimated plant cost from the producers nor did the Department prepare an annual program evaluation as directed by Cabinet.

Wooddale Provincial Tree Nursery

8. The Department maintained production and inventory levels, throughout the five year program, based on a budgeted amount established in 2008 instead of the annual demand of the producers. As a result, excess inventory levels were being maintained at the Nursery and the level of production throughout the five year program was not required to meet the demand of the producers.

Industry Goals

9. The Province's investment in the cranberry industry was segmented and was not coordinated. Funding was provided to programs that were distributed

and monitored differently than the CIDP which may have affected the ability of the Department to attract investment.

10. Although the Province spent \$5.6 million during the past five years on the cranberry industry, the Department did not reach its short-term goal of developing 500 acres.
11. Funding under the CIDP ceased on March 31, 2013. It was not known if future cranberry assistance programs will be approved by Government, however, as at November 2013, there were producer acreages yet to be developed which received initial funding under the CIDP and there was a large inventory of plugs and vines still being maintained at the Nursery.

Public Accounts Committee Review

Reference:

Part 3.5 of the Report of the Auditor General of Newfoundland and Labrador to the House of Assembly on Reviews of Departments and Agencies, January 2014

<http://www.ag.gov.nl.ca/ag/annualReports/2013AnnualReport/AR2013.pdf> pp. 165-192

Proceedings of the Public Accounts Committee July 30th, 2014

<http://www.assembly.nl.ca/business/committees/ga47session3/2014-07-30PACNaturalResources.html>

SUMMARY OF EVIDENCE

The Cranberry Industry Support Programme

As the Auditor General's Report introduction stated the Cranberry Industry Development Programme (CIDP) was established to facilitate cranberry site development. Of fifteen producers who applied there were nine who received funding. An official told the Committee, in answer to a question, that the six who did not receive funding either did not wish to develop their farms further or were not in the Grand Falls – Windsor region where most of the farmers taking advantage of the programme were located. Anyone who wished to avail of the funding was approved and received the funding. No farmer was put at a competitive disadvantage because he did not participate in the programme the official said.

The Chief Executive Officer of the Forestry and Agrifoods Agency informed the Committee that there was approval in the recent budget for funding for a new cranberry fund.

Asked if he thought the producers who availed of the CIDP funding would continue to be successful the CEO stated that some would probably survive without further help while others might not. In order to survive a farmer would require 40 acres under cultivation and the programme as a whole would have to reach the goal of developing 500 acres. The programme had reached the 250-acre mark at the time of the hearing. Officials believe that the farmers in the

programme will reach the 500-acre point which would justify secondary processing, which is the ultimate goal of the programme.

The Committee were told that the fruit produced in the Province is of a high quality, and that there is plenty of suitable land for cranberry production in Newfoundland and Labrador.

A Member enquired why only 15 per cent of the money available under the programme was disbursed. An official pointed out that ACOA had established a similar programme at the same time which had more favourable terms.

It is the opinion of Department officials that the outlook for cranberry production at the moment is good notwithstanding the price fluctuations that the industry experiences.

Government's investment in the industry as at the time of the hearing was \$12 million. The Agency estimates the additional funding to get 500 acres into production will be \$7 million.

The Assistant Deputy Minister estimated that there were approximately 250 persons employed in the programme and that the same number would be employed when the industry had progressed to secondary processing. Once a farm is established the number of persons required to operate farms of 500 acres is approximately 50 the Deputy Minister said.

The challenges facing the cranberry farm are the initial investment and the fact that there is not a well-established industry. The advantages local farmers have over those in other jurisdictions are the availability and cost of land and the pristine environment. In the area of marketing, once the industry reaches the point of secondary production, the Province enjoys the advantage of greater proximity to the main market, which is in Europe, than other suppliers in Canada.

Program Assessment and Approval

The Audit identified a number of shortcomings in the administration of the programme such that funding was being advanced without proper consideration for the guidelines. A Committee member asked the officials how this omission had occurred and whether corrective measures had been taken. The CEO of the Forestry and Agrifoods Agency (FIAA) acknowledged the Auditors' findings and informed the Committee that the Agency had learned from the Auditor General's findings and recommendations in an earlier report on a different programme they had sponsored. As a result the Department has put in place plans and guidelines to guard against a repetition of the Department's failure to comply with all requirements.

The Assistant Deputy Minister told the Committee that if they were to create another programme they would adhere to required standards. Mr. Deering

informed the Committee that the Agency had carried out inspections and had seen invoices although the information may not have been included in the file. No money had been advanced until the work to which it related had been done the Assistant Deputy Minister stated. By way of illustration the Director of Production and Market Development explained, in reference to the finding that claims for four payments totalling \$200,800 were not on file, that the claims had been submitted and approved by the appropriate official but the copies had not been placed in their file although they would have been submitted to the Department of Finance.

Programme Monitoring

The Auditor General reported that the Department had failed to recover 50 percent of the estimated plant cost from the producers as required by Cabinet directive. The CEO acknowledged the accuracy of the finding and explained that because other programmes were not charging for the plants the Agency had decided to request a change to the directive. In the event the request had not gone forward. The CEO acknowledged that the Agency should have secured the requisite approval for the decision.

The Auditor General when asked if the above-noted comments of the officials were accurate stated that the Department/Agency may not be incorrect in saying that they had done the work required by the guidelines but had failed in the area of documentation. However, the Auditor General stated, for an auditor work not documented is work not done. The Auditor General did say that judging from his office's conversations with staff of the Agency he thought officials had been in regular contact with industry representatives and probably had made regular visits to the facilities. Finally the Auditor General said that in light of what had been said at prior hearings and what he had heard from officials during the current hearing he thought that the Department/Agency had learned from the audit findings.

Asked if it was accurate to say that no improper payments had been made the Auditor General replied that the Report finding was that the documentation was either inadequate or not timely; there was no finding of inappropriate payments.

The Auditor General went on to explain that while it might seem as if the auditors are being hypercritical their view is that the guidelines are designed to ensure that public money is properly spent and accounted for and should be followed.

The CEO stated that he was confident that having learned from the current and past audits the Agency would implement the recommendations of the Auditor General in administering future programmes. In fact, the CEO noted, the Agency has implemented recommendations made by the Auditor General relating to the first Growing Forward programme in their administration of Growing Forward 2.

FINDINGS

The Department has acknowledged the accuracy of the findings in the Report of the Auditor General and has informed the Committee that if it establishes another programme it will implement the recommendations of the Report. The Committee notes that the Department, in establishing Growing Forward 2, has already implemented similar recommendations made in a report on the audit of the first Growing Forward Programme.

The Committee notes that the majority of the findings related to process and documentation weaknesses, not improper expenditures. However, the guidelines prescribed for the programme are established for a purpose and they should be followed, or changed if they are not effective.

Finally the Committee notes that the Auditor General's opinion that having benefitted from the recommendations of previous audits the Department was evidently "heading in the right direction".

It is the opinion of Committee members that the audit and hearing process on this and the previous audit of a programme of this Department exemplify the benefits which can be achieved through the work of the Public Accounts Committee carried out in collaboration with the Auditor General and Government agencies which have been audited.

RECOMMENDATION

The Committee recommends that the Department follow guidelines and other requirements of Programmes for which they are responsible in particular with respect to documentation and oversight of expenditures.

Report of the Auditor General, January 2014

**Paragraph 3.8 – Contracted and Chartered Air Services
Department of Transportation and Works**

Department of Transportation and Works – Contracted and Chartered Air Services

Auditor General's Findings

Summary of Findings

Introduction

The Department of Transportation and Works (the Department), through its Air Services Division (the Division), is responsible for:

- managing Provincial Air Services;
- operating and maintaining the Government forest fire protection service (water bombing operation);
- administering contract and charter aircraft for the Government; and
- operating and maintaining the Government air ambulance service.

Government-owned aircraft are used in forest fire protection and air ambulance services. Third-party carriers are utilized by the Division for air services beyond air ambulance and forest fire protection services. Also, in instances where Government-owned aircraft cannot meet the demands of air ambulance or forest fire protection services, third-party carriers are utilized for these services.

The objectives of our review were to determine whether:

- the use of contracted and chartered aircraft services by Government is in accordance with legislation and Division policies and procedures;
- infrastructure requirements are being properly assessed; and
- adequate systems and procedures are in place to manage aircraft costs.

Findings

Departmental Contracts and Charters

1. Inconsistencies between procedures described in the Air Services Procedures Manual (the Manual) and practice has led to ambiguity as to what is required when requesting a contract or charter flight for Government departmental use. As a result, some practices are inconsistent with the required authorization processes. Furthermore, it is possible for a

Government department to book a flight and receive a dispatch number without a valid authorization.

2. Information, such as purpose of trip and passenger names, was missing from flight authorization documents. This undermines the authority of the approval and ultimately results in a service being received and payments being made with incomplete and/or incorrect information.
3. Authorization documents for Government departmental flights are not always approved and/or dated, making it impossible to ensure the flight authorization was approved by a designated signing officer before the flight. These instances are not in accordance with required procedures and undermine the approval process.
4. In some instances, Government departments do not have an Aircraft Flight Report (AFR), which provides details of the flight, to compare to the authorization or the invoice. This increases the risk that a payment is made to a carrier that is not consistent with services received.
5. There were a number of instances in which information was missing from the AFRs. Without a fully completed AFR, the Government department does not have a complete record of the details of the flight and may not have all information necessary to be verified during invoice review and processing procedures.
6. In instances in which not all required signatures are present on an AFR, there is no evidence that information details of the flight have been verified by all required parties. Invoice processing without this verification increases the risk that a payment is made to a carrier that is not consistent with services received.
7. In certain instances, details on the AFR, such as flight route and flight date, did not agree to that detailed on the flight authorization document, without explanation. For example, the flight authorization approved four stops, while the AFR indicated six stops. Therefore, the flight that took place was not as was approved by the Government department.
8. Our review indicated instances of inadequate review and verification of invoices and supporting documentation. This increases the risk that a payment is made to a carrier that is not consistent with services received.
9. The Division has outdated procedures manuals governing its processes. Also, not all employees of the Division and not all Government departments are aware of the existence of the Manual or they have just excerpts of the Manual. As a result, the procedures to be followed within the Division and by Government departments when booking a flight are not clear, as they have

not been updated in 10 years and processes may not be operating efficiently and effectively.

10. Inaccuracies in the dispatch log book result in flight records that are not an accurate representation of the flight activity. As a result, the Division does not have appropriate records of its flights for reference.

Air Services Facilities

11. Leased Government space is being used for personal benefit of employees of the Division, in contravention of the *Conflict of Interest Act, 1995*.
12. There was a lack of planning for storage of the new waterbombers. This led to the risk of damage to one of the new waterbombers, as it was stored in unheated hangar space until additional heated hangar space was acquired.

Management of Aircraft Costs

13. The Division is not utilizing its WinAir Maintenance and Inventory System to track aircraft costs in an effective manner.
14. The Division has not reviewed its hourly charge-out rate for out-of-province air ambulance transport since 2005. Therefore, Government may not be recovering the full cost of those air ambulance transports.

Public Accounts Committee Review

Reference:

Part 3.8 of the Report of the Auditor General of Newfoundland and Labrador to the House of Assembly on Reviews of Departments and Agencies, January 2014

<http://www.ag.gov.nl.ca/ag/annualReports/2013AnnualReport/AR2013.pdf> pp. 239-270

Proceedings of the Public Accounts Committee July 31st, 2014

<http://www.assembly.nl.ca/business/committees/ga47session3/2014-07-31PACTransportationandWorks.html>

Opening remarks and general information about the Division

The Manager of Air Services told the Committee that the Air Services Division of the Department of Transportation and Works operates a fleet of nine aircraft: three air ambulances and five Water Bombers and one Cessna spotter plane.* The responsibility for the operation of the air services is shared amongst the Air Services Division of the Department of Transportation and Works, the Departments that request the service and the vendors, when applicable. The Department of Transport, Canada, oversees the guidelines regulating aircraft in the country.

*The Division has 7 aircraft as of December, 2014.

Air Services Facilities

The Auditor General reported that in contravention of the *Conflict of Interest Act*, 1995 a variety of personal items such as campers, motorcycles, boats etc. were stored in a hangar in Gander which is leased for the storage of aircraft. A member asked the officials whether this practice had been discontinued. The Deputy Minister said informed the Committee that upon receipt of the draft report of the Auditor General the Department had directed that the personal items be removed and they were. The Department also ensured that all staff were made aware of the provisions of the *Conflict of Interest Act*. The Member enquired if the Department might have excessive storage space to which the answer was that the Department believes that it has only what it needs.

Management of Aircraft Costs - Inadequate monitoring of costs

A Member enquired about the Report finding that the Division tracked aircraft costs by type not by individual aircraft. The Deputy Minister acknowledged the accuracy of the finding and agreed that the Division should track by registration and that the WinAir system which they use is capable of tracking in this way. The Department intends to train staff in the use of the system to track and monitor by aircraft as recommended.

Asked whether anyone ever “hitched a ride” on a Government – funded aircraft the Deputy Minister stated that the Department would not be aware of such information. The Department of Transportation and Works procures the service for the Department requesting the service but is not privy to the details of the flight which is a matter between the two parties to the service. However, the Deputy stated that if the Department became aware of such a practice the officials would inform those concerned that such a practice is contrary to the procedures to be followed.

Departmental Contracts and Charters – Review and verification of documentation

The Deputy Minister told the Committee that upon receipt of the draft of the Auditor General’s Report the Department had advised all departments which use air services that they should adhere to the requirements of the procedures manual. The Deputy Minister informed the user departments that the Air Services Division would no longer process requests unless all documentation was in order.

The Manager of Air Services assured the Committee that the Aircraft Flight Authorization, which the Auditor General reported had not always been completed, and the Aircraft Flight Report are now being completed as required. If information is missing from any documentation which is a requirement of the process the Division returns it to the vendor or department, as the case may be, for correction or completion. In the event of an emergency, if the paperwork cannot be completed in advance of the flight, it is to be done later.

In addition the Department has updated the procedures manual to clarify and simplify it in order to ensure the requirements are better communicated to the users of the document and to emphasize the expectation that strict adherence will be enforced.

Department's interaction with federal authorities

In answer to a question about the adherence of the Department to federal aeronautics legislation and regulations the Manager of Air Services assured the Committee that there was never any question of violation of these requirements in respect of aircraft maintenance or retention of documentation. The Manager stated further that the Transport Canada does audits of operations and maintenance regularly.

The Auditor General pointed out that the auditors had not suggested that the Department was failing to maintain the aircraft. Their finding had to do with using WinAir to its best advantage in providing information to the Division.

Action taken by Department in response to the findings of the Auditor General Report

In reply to a Member's question about the Department's response to the Auditor General Report findings and recommendations the Deputy Minister informed the Committee that the Department had hired a new Manager of Air Services before they had received the Auditor General's report. The Manager will recommend to the Department measures it might take to strengthen its business processes and policies and procedures in general.

The Deputy Minister stated that the Department had welcomed the Report which helped officials to focus on the systemic, structural or administrative challenges of which they might have lost sight as they carried out their mandate in an organization which is operational in nature.

Further the Deputy Minister stated that the Department had discussed the findings with its partners in the provision/use of air services to remind them of the need for adherence to the policies and procedures requirements.

The Department, at the time of the hearing, was planning to update the policies and procedures manual and to communicate the updated information to the users.

As noted above, the Department asked that the personal items stored in hangars be removed and reminded all employees of the requirements of the *Conflict of Interest Act*. The Deputy Minister added that he was confident that the matter had been dealt with and that the message had been delivered and that were now aware of the impropriety of using public property for personal use.

The Department is addressing the Auditor General's finding that there had been insufficient planning for storage of new water bombers. The new hangar is in the design phase. The Department does have a difference of the opinion with the Auditor General in the matter of the storage of a water bomber in unheated space in September and October. While the Auditor General stated that there was a risk of damage to the aircraft because of the cold the Department believes otherwise as the temperatures were still quite high. While the Department acknowledges that it may not have the new hangar in time to house the fifth 415 aircraft it has other options in mind.

The Auditor General's recommendation relating to the use of the WinAir system for monitoring maintenance and operating costs is being implemented the Committee was told. The Auditor General had found that the system which is capable of providing useful information was not being used to its advantage. The Department is now using the system as recommended.

The Auditor General reported that Government could be failing to recover the full cost for out-of-Province air ambulance transport as the rate schedule had not reviewed recently. The Deputy Minister acknowledged the accuracy of the finding and informed the Committee that it is now reviewing its rates.

FINDINGS

It appears to the Committee that the Departments concerned have profited from the audit. The Department of Transportation and Works has acknowledged the accuracy of the findings and has undertaken to implement the recommendations of the Report. The Departments of Natural Resources and Environment and Conservation, Service Newfoundland and Labrador, the Executive Council, the Legislature and Fire and Emergency Services – NL have all stated in their written responses, included in the Report of the Auditor General, that they intend to implement the Report Recommendations.

RECOMMENDATION

The Committee recommends that the Department of Transportation complete its review of the Air Services Procedures Manual as quickly as practicable, circulate it to the entities which use the Air Services and organize a meeting with representatives of the user entities to brief them on the Division's revised procedures and policies.