Reflections of the Auditor General



The following comments are made further to my reviews of various Departments and Crown agencies for the year ended 31 March 2004. The report covers a variety of matters and is provided to the Members of the House of Assembly for their consideration. The purpose of the Office of the Auditor General as outlined in the Mission Statement is *"... to promote accountability and encourage positive change in the stewardship, management and use of public resources."* Corrective action on the issues identified in this report will further that goal.

Accountability

1. Framework of Accountability - *(Part 2.4)*

My Office has been recommending for many years that Government should have a legislative accountability framework. In December 2004 Government introduced the *Transparency and Accountability Act* which will result in improvements in the information provided to Members of the House of Assembly - information which will assist them in holding Government accountable. While I commend Government for this initiative, I am concerned that amendments were made to exclude the Memorial University of Newfoundland from certain requirements of the *Act*. I will, on behalf of all Members of the House of Assembly, monitor and report on Government's compliance with this *Act*.

2. Audit of the House of Assembly

I commend Government for reversing the decision of May 2000 and appointing my Office to audit the expenditures of the House of Assembly, including expenditures made by the Members. As a result of this decision, I performed an audit on two officers of the House during the year - the Office of the Child and Youth Advocate - Part 2.1 and the Office of the Citizens' Representative - Part 2.2. I will be conducting further audits of expenditures of the House of Assembly commencing with the year ended 31 March 2005.

(i) Office of the Child and Youth Advocate - *(Part 2.1)*

My audit of the Office of the Child and Youth Advocate identified a number of serious concerns relating to the operations of the Office. These concerns relate to poor management practices at the Office, operating an unauthorized bank account which was sometimes used for inappropriate purposes, non-compliance with the *Public Tender Act*, traveling without authorization, and questionable expenditures relating to such things as travel, personal vehicle mileage claims, entertainment, parking spaces for employees and cellular telephones. There were also instances where the Advocate did not comply with direction provided by the Commission of Internal Economy.

(ii) Office of the Citizens' Representative - *(Part 2.2)*

My audit of the Office of the Citizens' Representative identified a number of concerns relating to the operations of the Office. In particular, claims for private vehicle usage appeared excessive, private vehicle mileage was incorrectly claimed between the Citizens' Representative's permanent residence and the Office, there were inconsistencies related to private vehicle usage claims and traveling without authorization. In addition, there were management practice issues relating to such matters as cellular telephones and entertainment. Furthermore, there was an instance of non-compliance with the *Citizens' Representative Act* and another instance of non-compliance with the *Public Tender Act.*

3. Tax Expenditures - *(Part 2.17)*

The Province offers a significant number of tax expenditure programs; however, details of the impact of the various tax expenditure programs are not provided to Members of the House of Assembly as part of the annual budget approval process. We identified approximately $215.5 million of foregone revenue resulting from these tax expenditure programs. Tax expenditures affect the financial position of the Province in the same way as direct expenditures under normal spending programs. Reporting tax expenditures to the House of Assembly would provide information that the Members require in order to hold Government accountable.

Education

1. School Board Executive Compensation Practices - *(Part 2.11)*

New Boards

The Department of Education has created inconsistencies in the salary scales of the newly created school boards similar to the inconsistencies created in 1996 and which contributed to former boards contravening legislation and Government policy. The Department of Education did not adjust the salaries of all executives of the former boards who were taking positions in the new boards to account for salaries which were in excess of that approved by Cabinet. Contrary to Government's policy, the Department of Education placed 5 education officers (former associate assistant directors) in the three new boards above step 25 of the Province's management employee (HL28) scale.

Former Boards

As at 31 March 2004, 10 of the 11 school boards had approved salaries for 38 of their 42 executive personnel totalling approximately $322,000 in excess of salaries approved by Cabinet. From October 2002 to February 2004, the boards approved payment of approximately $248,000 in retroactive pay to executives for unapproved increases to step 33. As a result, the boards are not complying with the *Schools Act, 1997* or Government policy, and are utilizing operating funds that could be used for other purposes.

2. Newfoundland School for the Deaf - *(Part 2.10)*

There are significant management weaknesses at the Newfoundland School for the Deaf in areas such as teacher allocation, human resources, residence operations, food service and transportation contracts, purchasing and capital assets. Although the Department of Education has been aware of many of these issues for quite some time, it has not taken sufficient action to ensure that these weaknesses were addressed. Examples include: an overallocation of a total of 23.3 teaching units at an approximate cost of $1.5 million over the past five years to 2003-04; officials have not addressed the decline in the number of students staying in residence to determine whether cost savings could be realized; the School's administration of overtime and leave is not adequate; and employees are earning excessive amounts of overtime, e.g. 23 residential staff earned 782 days of overtime during 2003-04 and used 751 days of this leave to cover School break periods when they would normally not be needed, i.e. Summer, Christmas, Easter and other School breaks. Furthermore, contrary to the Department of Education's policy, the School is providing textbooks for all students without charge and, up to 2002, the School provided supplies to its students without charge.

Environmental Issues

1. Solid Waste Management - *(Part 2.13)*

The Province has a significant issue to deal with regarding waste management. The problem resulted because historically, we have not recycled, there was no strategy as to either the number of landfill sites or their location, there was little control over access to the sites or what was being dumped, open burning and incinerators were commonly used, and the landfill sites were not lined.

In 2004, the Province had 201 waste disposal sites (none of which are lined) versus a combined total of 25 disposal sites for the other three Atlantic Provinces. In 2002, Newfoundland and Labrador had a waste diversion rate of only 9%, the lowest rate of waste diversion of any province in Canada - the other Atlantic Provinces had an average diversion rate of 27%. There are no waste diversion programs for paper and organics which account for 67% of our waste. Incinerators in our Province produce more than one-third of the total volume of dioxins and furans from municipal incineration in Canada. Open burning, which was not measured and is common in more than half of the sites in the Province, produces even more dioxins and furan emissions.

In April 2002, a Provincial Waste Management Strategy was issued indicating that a Province-wide modern waste management system would be implemented by 2010. However, the Minister of Municipal and Provincial Affairs has publicly expressed concerns about the amount and source of funding ($150 - $200 million) and timelines relating to the 2010 target date, and the Minister of Environment and Conservation has publicly indicated that the Strategy is too ambitious.

2. Used Tire Recycling Program - *(Part 2.14)*

The Used Tire Recycling Program since its inception in April 2002 could not be considered a success as it has not met its goal of collecting and processing used tires in the Province. For example, collection sites were not established in all areas of the Province, not all tires were collected from

retailers and other sites, not all collected tires were processed, and not all processed tires were marketed and sold. On 7 June 2004, 19 months into a 5 year used tire recovery contract for the collection, storage, processing and disposing of used tires, both parties agreed to terminate the contract and the Multi-Materials Stewardship Board (MMSB) assumed direct responsibility for the Used Tire Recycling Program. On 8 November 2004, MMSB called tenders for the collection of used tires and at the same time announced its intent to issue a "call for proposals" for used tire processing/recycling.

As at 31 October 2004, there were approximately 1.3 million passenger tire equivalents stored in five locations throughout the Province (including 461,965 in passenger tire equivalents stored and owned by a former MMSB contractor at the contractor's site in Stephenville). The storage of tires could result in considerable environmental damage if the tires became ignited. MMSB officials indicated that the tires stored at Bull Arm and at the former contractor's site at Stephenville are not stored in accordance with guidelines established by the Department of Environment and Conservation and the Fire Commissioner's Office.

Public Health and Safety

1. Water Quality Management - *(Part 2.15)*

In May 2001, Government released a report entitled *Source to Tap - Water Supplies in Newfoundland and Labrador* which outlined a *multi-barrier approach* to ensure that public water supplies provide clean and safe water. The main responsibilities for Government under this approach are: source protection; water quality monitoring; water quality reporting; regulatory inspection and mitigation planning; and operator education and training. Our review indicated that while Government is making progress toward its commitments, it has not met all these commitments and is not always complying with Provincial standards for monitoring drinking water. For example, as of October 2003, 256 (48%) of the 532 public water supplies were still not protected, Trihalomethanes (THM) and other *chemical* water quality testing and *microbiological* water quality testing are not being conducted in accordance with the Report, and water systems are not being inspected at least once a year in accordance with the Report.

2. Elevating Devices and Other Inspections - *(Part 2.19)*

Our review indicated that the Department of Government Services did not conduct all of the inspection activities necessary to ensure the safe operation of elevating devices, amusement rides, boilers and pressure vessels in the Province.

Contrary to the *Public Safety Act*, 163 (56%) of the 291 elevating devices we reviewed operated for a period during 2003 without a certificate - 19 were still not inspected as of 31 March 2004. The Department did not include sufficient consideration of risk when scheduling inspections of elevating devices. Contrary to the *Amusement Rides and Elevating Devices Regulations*, 116 of the 291 elevating devices reviewed were issued a certificate with an expiry date exceeding 12 months - 42 were issued for 13 months, 65 were issued for 14 months, 7 were issued for 15 months and 2 were issued for 16 months. There wasn't always documentation on file to indicate whether deficiencies were corrected or that any follow-up was performed.

Contrary to the *Public Safety Act*, 2 of the 36 amusement rides we reviewed operated during 2003 without a certificate - these 2 amusement rides were not inspected until February 2004. There wasn't always documentation on file to indicate whether deficiencies were corrected or that any follow-up was performed. The field inspection reports used for amusement rides were reports designed for elevating device inspections and, therefore, were inadequate for documenting compliance with the *Regulations*.

Contrary to the *Public Safety Act*, 174 (48.3%) of the 360 boilers and pressure vessels tested operated for a period during 2003 without a valid certificate - 21 were still not inspected as of 31 March 2004.

3. School Bus Safety Program - *(Part 2.21)*

There were 1,044 licensed school buses in the Province at 30 September 2003. The average age of licensed school buses at that time was 11 years, with 739 or 70 % being 1993 model year or older.

I am concerned about the high incidence of defects identified during school bus inspections performed by Motor Registration Division (MRD) staff and the types of defects being identified. All of these defects relate to brakes, steering, mechanical and safety, and some result in buses being taken out of service. Of the 1,047 inspections performed by MRD during 2002-03, 1,130 defects were identified and 172 school buses (16% of all buses inspected) were taken out of service. The significance of this finding is increased given that MRD does not routinely perform surprise inspections on school buses. Instead, operators are given advance notice of upcoming inspections. Also, the required annual inspection was not performed for 8 of the 43 Official Inspection Stations operated by school bus contractors for the 2003 year. For 6 of these 8 stations, there was also no inspection performed in 2002.

4. Student Transportation - *(Part 2.12)*

There are no standards specific to school bus drivers included in legislation under the *Schools Act, 1997* in this Province and there is no current policy direction from the Department of Education setting out the employment and training requirements for school bus drivers. Furthermore, the Department of Education does not require the school boards to check for criminal records of all bus drivers. We found that a bus driver in the Avalon East School District who had a number of convictions for such matters as multiple impaired driving charges, multiple break and enter charges and multiple theft charges, was not prevented from driving a school bus.

5. Special Permits and In-Transit Permits - *(Part 2.22)*

In 2003, there were 165 Special Permits issued to permit mobile cranes and construction equipment, which exceeded the defined limits for weight and/or dimensions, to travel on the Province's roads. However, these vehicles are not required to have an annual inspection performed by an Official Inspection Station. As a result, the issuance of these Special Permits may contribute to the existence of unsafe vehicles on the Province's roads. Although Highway Enforcement Officers at MRD, from time to time, stop mobile cranes and construction equipment to ensure that these vehicles have the required Special Permit and that they are operating in accordance with the requirements of the

permit (e.g. route, lights, escorts, and signage), the vehicles are not subjected to any mechanical inspection.

In 2003, there were 2,817 In-Transit Permits issued for unlicensed and/or unregistered vehicles. However, these vehicles are not required to be inspected; instead, applicants are informed that the vehicle operation is subject to restrictions of the *Highway Traffic Act* (i.e. the vehicle must be safe). Not requiring an inspection is significant in that one of the reasons for which an In-Transit Permit could be issued is to drive the vehicle from one place to another for repairs. Therefore, the type and/or extent of repairs may have safety implications. As a result, the issuance of these permits may contribute to the existence of unsafe vehicles on the Province's roads. Certain mobile crane operators may be obtaining In-Transit Permits because the cumulative cost of these permits is cheaper than the annual licensing fee. Of the 138 Special Permits issued to mobile cranes in 2003, 73 also required an In-Transit Permit because they weren't licensed.

6. Gambling Rehabilitation Services - *(Part 2.23)*

In 2004 the Province received $108 million from the Atlantic Lottery Corporation (ALC), $76 million of which was from Video Lottery Terminals (VLT), an increase of $44 million or 137% from the $32 million VLT revenue received in 1995. In 2003, a Statistics Canada report indicated that one in four gamblers, whose playing includes VLTs, are at risk to become or are already problem gamblers. The report went on to state that "*… VLTs are the 'crack cocaine' of gambling.*"

There are a number of significant issues relating to Government's involvement with the identification and treatment of gambling addiction. For example, Newfoundland and Labrador is the only Province in Canada that has not conducted its own prevalence study to determine the extent of the gambling problem, information required by the Department of Health and Community Services and the boards to adequately plan and monitor addiction programs is not readily available, and the boards indicated that they did not have sufficient resources to meet the demand for gambling addiction rehabilitation and as a result several boards had waitlists. This is significant in that it was indicated by one Board that "*Research indicates this population group* [individuals requiring gambling rehabilitation] *does not usually follow through when they are waitlisted.*"

Officials at the Department of Health and Community Services were not aware of Government's requirement to match a 1% VLT fee received from retailers and therefore did not budget for this matching amount. While the Department of Health and Community Services provides approximately $4.1 million annually for all addiction programs (alcohol, drugs, tobacco and gambling), it cannot readily demonstrate that the amount available for gambling addiction programs was in fact used for this purpose. Furthermore, there is no centralized resource at the Department of Health and Community Services to assist the regional boards in developing standard programs for gambling rehabilitation including a strategy for the delivery of a Provincial education and awareness program.

7. Royal Newfoundland Constabulary Firearms Review - *(Part 2.34)*

Given the serious repercussions that could result from the use of firearms, it is critical that the RNC continue efforts to improve compliance with established policies and procedures. However, this is the sixth annual firearms review we performed at the RNC and each year we identify instances of non-compliance. The firearms and ammunition inventory system is not accurate, there are instances of infractions of policy identified during RNC inspections, not all infractions are being referred to the RNC's Professional Standards Bureau for investigation as required, the required monthly inspections of firearms storage lockers are not always performed, not all members are receiving training in accordance with the RNC's policy for use of force training, and the training database is neither complete nor accurate. The inaccurate training database is of particular concern given that inaccuracies may result in a situation where a member may not receive all of the necessary use of force training. Although the Use of Force Review Board is required to review all instances of use of force, the Board has not met since October 2002.

8. Fire Commissioner's Office - *(Part 2.35)*

The Fire Commissioner's Office needs to do more in inspecting and evaluating the firefighting capabilities of the 297 fire departments throughout the Province and in providing training to the approximately 6,100 firefighters. Over the last five years, only 5 of the 297 fire departments had been formally inspected. The Office does not have a schedule to ensure all fire departments are inspected over any particular period of time. Officials at the Fire Commissioner's Office indicated that inspections performed at 5 fire departments were considered to be representative of many fire departments in the Province and had serious deficiencies relating to breathing apparatuses, vehicles, number of firefighters responding, and training.

Since 1991, only 700 firefighters have received training to the level of Firefighter I. The Office does not keep information as to how many of the current 6,100 firefighters are trained and how many of the 700 trained firefighters are still in the system. The Office's database was not Y2K compliant and therefore, data and information could not be captured. As a result, no annual report has been prepared since 1999 and the Commissioner does not have all of the information necessary to monitor fires in the Province including an assessment of the firefighting capabilities of fire departments.

Fiscal Issues

1. Hospital Boards - *(Part 2.26)*

Provincial funding to hospital boards has increased from $692.7 million in 2000-01 to $885.8 million in 2003-04, an increase of $193.1 million (28%). During this period, program costs increased from $579.5 million to $714.3 million, an increase of $134.8 million (23%). As a result, annual operating deficits have decreased from $60.1 million in 2000-01 to $24.5 million in 2003-04. However, all boards reported an annual operating deficit during the year and only two boards had deficits which were less than those reported in 2002-03 (Central East and Central West). Furthermore, the combined financial position of the eight hospital boards at 31 March 2004 shows total unfunded liabilities of $442.7 million, a 21% increase from the $366.1 million reported in 2000-01. Seven out of the eight hospital boards reported increases in the total unfunded liabilities for 2003-04 (Central West did not). These net unfunded liabilities will eventually have to be funded by Government.

2. Health and Community Services Boards - *(Part 2.25)*

Provincial funding to health and community services boards has increased from $165.3 million in 2000-01 to $209.0 million in 2003-04, an increase of $43.7 million (26%). During this period, program costs increased from $160.2 million to $197.4 million, an increase of $37.2 million (23%). As a result, annual operating deficits have decreased from $11.6 million in 2000-01 to $7.5 million in 2003-04. However, all boards reported an annual operating deficit during the year and all were higher than the deficit reported in 2002-03. Furthermore, the combined financial position of the four health and community service boards at 31 March 2004 shows total unfunded liabilities of $31.1 million, a 57% increase from the $19.8 million reported in 2000-01. All four of the health and community services boards reported increases in the total unfunded liabilities for 2003-04. These net unfunded liabilities will eventually have to be funded by Government.

Two of the health and community services boards contravened the *Financial Administration Act* by borrowing money without legislative authority. At 31 March 2004, these two boards had outstanding long-term debt totalling approximately $983,000 to entities outside of the government reporting entity. The $983,000 was comprised of $915,000 in long-term debt for the St. John's Regional Health and Community Services Board and $68,000 in long-term debt for the Eastern Health and Community Services Board.

3. School Boards - *(Part 2.9)*

For the year ended 30 June 2003, the Province provided $554.4 million in funding to the 11 school Boards, an increase of 5% over the previous year's funding of $528.2 million. Furthermore, 10 of the 11 boards reported operating deficits ranging from $17,000 for Avalon West District to $2.8 million for Avalon East District. The 10 boards reported a total operating deficit of $7.2 million for the year ended 30 June 2003. At 30 June 2003, 6 of the 11 boards were in contravention of the *Schools Act, 1997* in that they incurred operating deficits, other than related to the accrual of severance and leave, without the approval of the Minister. As at 30 June 2003, the 11 school boards had accumulated deficits totaling of $134.9 million. These accumulated deficits will eventually have to be funded by Government.

Effective 1 September 2004, 9 of the 11 school boards were dissolved and 3 new boards were created resulting in 5 school boards. As a result of the reorganization, the boards were requested by the Department of Education to prepare audited financial statements for the 14 month period ending 31 August 2004 rather than the 12 month period ending 30 June 2004. Therefore, as at 1 December 2004 the required audited financial statements were available for only 1 of the 11 school boards. As a result we were unable to update our monitoring of the financial position and operating results of the school boards for the year ended 30 June 2004. In my 2005 Annual Report, I will again provide information resulting from our monitoring of the Province's school boards.

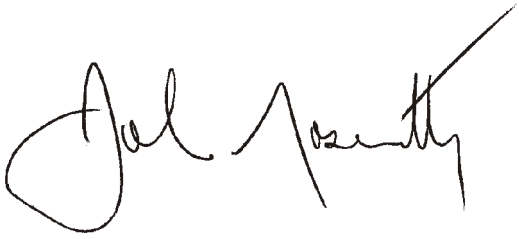
4. Fines Receivable - *(Part 2.32)*

Collection efforts at the Department of Justice relating to fines receivable require improvement. The fines receivable balance has increased in each of the last five years and at 31 March 2004 totalled $23.4 million, an increase of $5.3 million (32%) since 2000. The Department has determined that only $4.6 million (19.6%) is expected to be collected while $18.8 million (80.4%) was considered uncollectible. Many of the accounts are quite old - 80,134 accounts totalling $18.9 million had been outstanding for more than one year. There were 38,599 accounts totalling $11.2 million which had been outstanding for more than five years.

Although the Office of the High Sheriff has a Judgement Enforcement Registry, the Department is currently registering accounts with balances greater than $1,200; therefore, 83,870 accounts with balances less than $1,200 and totalling $9.4 million are not registered. Furthermore, at 31 March 2004, although there were 3,434 accounts greater than $1,200 registered, action to collect the amount due had been initiated against only 117 accounts.

Acknowledgments

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



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Auditor General

Reflections of the Auditor General