2.1 Office of the Child and Youth Advocate

Introduction

The Office of the Child and Youth Advocate was established on 13 May 2002 under the authority of the *Child and Youth Advocate Act* (the *Act*). In accordance with the *Act*, the Office was established by Government:

(a) to ensure that the rights and interests of children and youth are protected and advanced and their views are heard and considered;

(b) to ensure that children and youth have access to services and that their complaints relating to the provision of those services receive appropriate attention;

(c) to provide information and advice to the government, agencies of the government and to communities about the availability, effectiveness, responsiveness and relevance of services to children and youth; and

(d) generally, to act as an advocate of the rights and interests of children and youth.

The Office is located in St. John's and has seven positions reporting to the Advocate.

The Child and Youth Advocate was appointed by the House of Assembly on 13 May 2002, with the appointment effective 16September of the same year. The Advocate is an Officer of the House of Assembly and reports to the Speaker of the House. In accordance with its mission statement, the Advocate's Office "*…ensures that the voices and rights of children and youth are respected and valued and their needs are met. The Advocate's Office helps children and youth express their opinions and views, or if they are unable to do so, speaks on their behalf.*"

The *Act* requires that travelling and other expenses incurred by the Advocate may be approved by the Commission of Internal Economy. The budget estimates of the Office of the Child and Youth Advocate are approved annually by the Commission. Figure 1 provides information on budget estimates of the Office of the Child and Youth Advocate since it commenced operations on 16 September 2002.

2.1 Office of the Child and Youth Advocate

Figure 1

Budget Information
Office of the Child and Youth Advocate
For the Period 16 September 2002 to 31 March 2005

Budget Category	16 September 2002 to 31 March 2003	1 April 2003 to 31 March 2004	1 April 2004 to 31 March 2005	Total
Salaries and employee benefits	$267,700	$471,000	$481,100	$1,219,800
Transportation and communication	65,000	100,000	100,000	265,000
Purchased services and supplies	50,000	110,000	110,000	270,000
Professional services	45,000	10,000	20,000	75,000
Property, furnishings, and equipment	35,000	9,000	9,000	53,000
Total Budget	**$462,700**	**$700,000**	**$720,100**	**$1,882,800**

Source: Budget Estimates

Figure 2 provides information on actual expenditures of the Office of the Child and Youth Advocate from the commencement of operations on 16 September 2002 to 30 June 2004.

Figure 2

Financial Information
Office of the Child and Youth Advocate
For the Period 16 September 2002 to 30 June 2004

Expenditure Category	16 September 2002 to 31 March 2003	1 April 2003 to 31 March 2004	1 April 2004 to 30 June 2004	Total
Salaries and employee benefits	$167,744	$513,368	$155,536	$836,648
Transportation and communication	22,052	49,019	7,227	78,298
Purchased services and supplies	71,609	121,116	27,175	219,900
Professional services	12,880	26,383	2,552	41,815
Property, furnishings, and equipment	34,909	654	0	35,563
Total Expenditure	**$309,194**	**$710,540**	**$192,490**	**$1,212,224**

Source: Financial Management System

2.1 Office of the Child and Youth Advocate

Scope and Objectives

We completed our review of the Office of the Child and Youth Advocate in November 2004. Our review covered the period from 16 September 2002 to 30 June 2004. Our objective was to review the expenditures of the Office of the Child and Youth Advocate and to determine whether they were in accordance with the approved budget, and in accordance with legislative requirements.

Conclusions

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 instances where the Advocate did not comply with direction provided by the Commission of Internal Economy.

Accounting for the Advocate's Office is performed by the Office of the Clerk of the House of Assembly. As a result of numerous accounting errors in the accounts of the Office of the Child and Youth Advocate, the expenditure details in the Province's Public Accounts are not correct. One of the errors resulted in a contravention of the *Financial Administration Act* which prohibits the issue of public money for purposes other than those authorized by the Legislature. Furthermore, the Advocate's Office was not always provided with sufficient information to enable the Office to monitor its expenditures.

Findings and Recommendations

The Office of the Child and Youth Advocate commenced operations on 16 September 2002. Expenditures recorded related to the operation of the Office for the period 16 September 2002 to 30 June 2004 totalled $1,212,224 as detailed in Figure 3.

2.1 Office of the Child and Youth Advocate

Figure 3

Financial Information
Office of the Child and Youth Advocate
For the Period 16 September 2002 to 30 June 2004

Expenditure Category	Total	%
Salaries and employee benefits	$836,648	69
Transportation and communication	78,298	7
Purchased services and supplies	219,900	18
Professional services	41,815	3
Property, furnishings, and equipment	35,563	3
Total Expenditure	**$1,212,224**	**100**

Source: Financial Management System

We reviewed the various categories of expenditure for the Office of the Child and Youth Advocate for the period 16 September 2002 to 30 June 2004. Details of our review are as follows:

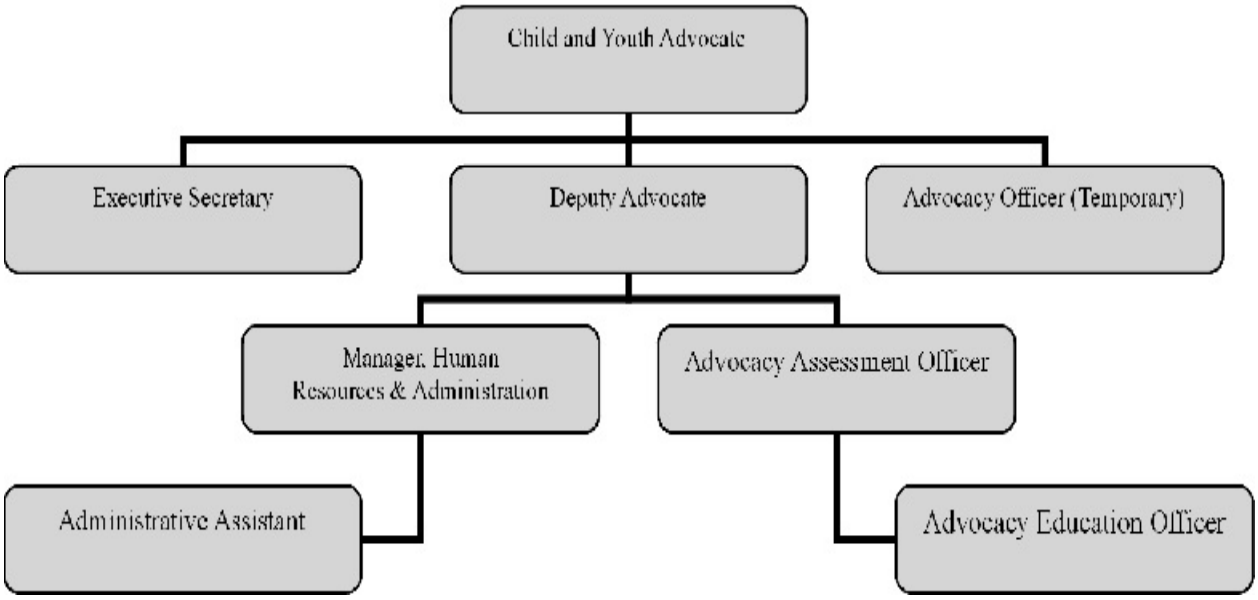
Salaries and employee benefits

The staff complement of the Office of the Child and Youth Advocate includes seven permanent positions and one temporary position. Figure 4 outlines the staffing profile as of 30 June 2004.

2.1 Office of the Child and Youth Advocate

Figure 4

Organization Chart
Office of the Child and Youth Advocate
30 June 2004



Our review of recorded salaries and employee benefits indicated the following:

- The Advocate's Office was not provided with payroll registers from the Clerk's Office in order to monitor what salaries were being charged to the Office. This certainly contributed to two significant payroll errors which resulted in a contravention of the *Financial Administration Act.* That *Act* prohibits the issue of public money for purposes other than those authorized by the Legislature. Details of the errors are as follows:

  - Salaries of $72,638 for an employee of the Office of the Citizens' Representative from September 2002 to October 2004 were charged in error to salaries for the Office of the Child and Youth Advocate. Furthermore, although officials at the Clerk's Office indicated that the error had been corrected in August 2004, we found that the correction was not made until October 2004.

- Salaries of $62,077 for an employee of the Office of the Child and Youth Advocate from December 2002 to November 2003 were not charged to the Office; instead, the salaries were charged in error to the Department of Health and Community Services from which the employee was transferred. Furthermore, it was unusual that the error went undetected by officials of the Department of Health and Community Services.

- The Advocate's Office kept a replacement worker on salary even though the employee being replaced returned from sick leave. During 2003-04, the Commission of Internal Economy provided approval for a replacement worker; however, there was no funding in the approved 2003-04 budget. Therefore, the Commission of Internal Economy approved an additional $43,795 for salaries and related expenses for 2003-04.

  Although the employee on sick leave returned to work on 1 April 2004, the replacement worker was not laid off. The Office had no authority to continue the employment of the replacement worker and there was no funding in the Advocate's Office's budget for 2004-05 for this salary. The replacement worker continued to be paid up until November 2004. As a result, additional funding will be required from either within savings at the Advocate's Office, or from other sources.

- In order to provide consistency in salary scales within Government, the Classification, Organization and Management Division of Treasury Board Secretariat is responsible for analyzing position duties and setting salary scales. However, salary scales for positions at the Advocate's Office were not set in accordance with the required classification review by the Secretariat. This may result in salary scales that are inconsistent with similar positions within the public service of the Province.

- Although a record of attendance was maintained for all staff of the Advocate's Office, no such records were maintained for the Advocate throughout the period of our review.

- The Advocate's Office determined that an employee's leave over a 25 year period contained errors. As a result, the employee was provided with an additional 47 days of leave. I am concerned that Government's attendance records could contain such errors and strongly recommend that Treasury Board Secretariat take this matter up with Government departments, in particular the Department of Human Resources, Labour and Employment, a former employing Department.

Transportation and communication

Figure 5 provides detailed information on recorded expenditures for transportation and communication from 16 September 2002 to 30 June 2004.

Figure 5

Transportation and Communication
Office of the Child and Youth Advocate
For the Period 16 September 2002 to 30 June 2004

Details	16 September 2002 to 31 March 2003	1 April 2003 to 31 March 2004	1 April 2004 to 30 June 2004	Total
Travel expense claims for Child and Youth Advocate	$5,808	$11,314	$2,834	$19,956
Travel expense claims for employees of the Office of the Child and Youth Advocate	4,041	13,212	810	18,063
Travel expense - other	74	6,130	220	6,424
Communication (includes cellular telephones)	5,211	9,713	2,782	17,706
Other	6,918	8,650	581	16,149
Total Transportation and Communication	**$22,052**	**$49,019**	**$7,227**	**$78,298**

Source: Financial Management System

During our review of recorded transportation and communication expenditures, the following issues were identified:

- On 17 March 2004, the Speaker of the House of Assembly approved a journey authorization for the Advocate to attend a meeting in Vancouver in April 2004. However, contrary to the journey authorization, the travel claim submitted by the Advocate indicated additional meetings in Calgary over a five day period. Therefore, there was no authority for the Calgary portion of the travel claim.

The travel claim totalled $3,259 of which approximately $800 related to expenses in Calgary, consisting of: rental car of $155, taxi to the Calgary airport of $50, private accommodations of $325 for five nights in Calgary at a rate of $65 per night, meal per diems of $245 at $49 per day, and incidentals of $25. Although the rental car was returned to the Calgary airport at 6:00 p.m. for a scheduled 8:30 p.m. flight, a $50 taxi fare was claimed.

- On 28 January 2003, the Speaker of the House of Assembly approved a journey authorization for the Advocate to visit Child Advocacy offices in western Canada (Saskatchewan, Manitoba and Alberta) from 30 January to 8 February 2003. The travel claim submitted for the trip only indicated visits to Child Advocacy offices in Manitoba and Saskatchewan. Although there was no reference on the travel claim for a meeting in Alberta, the Advocate claimed four nights private accommodations in Calgary and returned to Calgary for a further four nights after the meeting in Saskatchewan. Therefore, although the Advocate was in Calgary for one business day (31 January 2003), the Advocate kept a rental car for seven days and also claimed taxi charges to and from the Calgary airport while in possession of the rental car. Details are as follows:

  On Thursday, 30 January 2003, the Advocate arrived in Calgary at approximately 5:00 p.m. and at 2:30 p.m. on Friday, 31 January 2003 rented a car. Although the Advocate flew to Winnipeg and Saskatoon for meetings on Monday and Tuesday and returned to Calgary on Tuesday evening, the rental car was not returned until Friday, 7 February 2003. The Advocate claimed a total of $325 for the rental car for the entire seven days. Furthermore, the Advocate claimed $32 for a taxi fare to the airport on Monday and claimed $56 from the airport on Tuesday even though the Advocate still had the rental car.

- The Advocate did not request the required prior approval of the Speaker of the House of Assembly relating to a trip to Halifax in June 2003.

- There was no support for private vehicle usage amounts claimed totalling $2,929 (9,300 kilometers).

- Contrary to Government's entertainment policy, there were six instances totalling $296 where entertainment expenses were claimed and the only individuals in attendance were Government officials. In these instances the required Treasury Board approval was not obtained. Also, there was one instance where there was no supporting documentation for a $120 charge for entertainment expense. Contrary to the Executive Compensation Policies and Procedures, entertainment expenses totalling $1,135 were not submitted on separate travel claim forms.

- During the period 16 September 2002 to 30 June 2004, recorded expenditures on cellular telephones totalled $5,090. Our review indicated the following:

  - Controls over expenditures for cellular telephone services are inadequate. No formal policy or guidelines were in place governing the provision and use of cellular telephones; instead, staff were requested to review monthly billings to verify services received only in instances where the air time charges exceeded the 200 minute free service level.

  - At 30 June 2004, the Office had six cellular telephones for seven permanent staff and 1 temporary staff; therefore, only two permanent employees do not have a cellular telephone assigned to them. There was nothing on file to support the initial need for all of these cellular telephones.

  - During the period of our review, we identified 23 instances where the cellular telephone usage exceeded the 200 maximum monthly minutes allowed under the package purchased. Of the 23 instances, 17 (74%) related to 2 cellular telephones (10 instances and 7 instances).

    For the cellular telephone which had 10 instances exceeding the 200 maximum monthly minutes, the usage totalled 3,020 minutes. Upon review, we found that a significant portion of the usage time related to evenings and weekends. We were informed that when the employee was questioned as to why there was so much airtime related to after hours and weekend usage, the employee indicated that the phone had been provided to a family member and that there were also a number of wrong number incoming calls. This employee still has their phone.

- The Commission of Internal Economy began a review of cellular telephones for the House of Assembly offices in February 2004. As a result, contracts for two of the six cellular telephones were cancelled in November 2004.

Purchased services and supplies

During the period 16 September 2002 to 30 June 2004 expenditures recorded for purchased services and supplies totalled $219,900. Included in this amount was $64,383 for office space rentals, $73,837 for office supplies, $81,135 for other purchased services, and $545 for entertainment expenses. Our review indicated the following:

- The Office contravened the *Public Tender Act* by not calling a public tender for the provision of computer hardware and software, and telephone equipment. In December 2002, the Advocate's Office entered into a 39 month contract with a total value of $111,696. The *Public Tender Act* requires tenders to be invited where the cost of goods and services is more than $10,000.

  It was noted that the Advocate was advised by Treasury Board Secretariat on 4 October 2002 that a public tender should be called in relation to this purchase.

- Contrary to Government's policy, a total of $7,613 was paid for employee parking from 16 September 2002 to 31 October 2004. The $7,613 was spent relating to five parking spaces for staff. Three additional parking spaces were provided as part of the office space lease. As a result, the Advocate and all seven staff have parking spaces.

  Contrary to a direction from the Commission of Internal Economy in May 2004 to not pay for any further parking and to notify staff accordingly, payments continued to be paid until October 2004. The Commission again wrote the Advocate in October 2004 and indicated that parking expenses will not be a recognized budgetary expenditure as of 1 November 2004.

Property, furnishings and equipment

During the period 16 September 2002 to 30 June 2004 expenditures recorded for property, furnishings and equipment totalled $35,563. Our review indicated that the majority of this amount, $34,909 (98%) represented the purchase of office furniture to furnish the Office on its start up.

2.1 Office of the Child and Youth Advocate

The *Public Tender Act* requires tenders to be invited where the cost of goods and services is more than $10,000. The *Act* provides exceptions where tenders may not be required to be invited and in these cases the Minister of Government Services must be informed. The Minister in turn will table a report in the House of Assembly.

Our review indicated that the Advocate contravened the *Public Tender Act* by not calling a public tender for the purchase of furniture totalling $34,909. Details related to this purchase are as follows:

- Although the Advocate contends that the furniture was bought on an emergency basis in order to meet the deadline of 18 November 2002 for the official opening, in our opinion this was not an emergency purchase and should have been tendered. Under the *Public Tender Act* a pressing emergency relates to instances where a delay resulting from inviting tenders would be injurious to the public interest.

  The Advocate was appointed on 13 May 2002 with the appointment effective 16 September 2002. Therefore, there were two months from when the Advocate commenced duties and six months from when the Advocate was appointed. Either would be considered as sufficient time to call a public tender.

- Although officials indicated that the successful vendor was chosen in early October from three quotes obtained, our review of the process indicated that it was so convoluted that it was not possible to determine on what basis the furniture purchases were made.

  For example, there were no specifications set for the furniture, only two of the three quotes were on file, as a result of not having specifications there was no comparability between the two quotes on file, and there were numerous instances where furniture was delivered, returned and substituted. In fact, the Advocate's Office realized that the process was convoluted when they wrote the Government Purchasing Agency and indicated that *"…one quote was lost in the disorder created by the renovations to the offices."* and that *"…at the time the quotes …were requested, the complete requirements of the office had not been identified…[the successful supplier] assisted the office in identifying furniture requirements by providing layout designs for each of the offices/rooms."*

- Contrary to Government's purchasing rules, neither a purchase requisition nor a purchase order was issued before the delivery of goods commenced on 3 October 2002. Furthermore, the written quote from the successful vendor was not received until 4 October 2002, after the delivery of the furniture commenced.

- The purchase requisition was not issued by the Government Purchasing Agency until 12 November 2002 (i.e. over a month after the furniture commenced to be delivered). The purchase order was dated 29 November 2002. Furthermore, while the purchase order indicated a contracted price of $30,265, the final cost was $34,909, or $4,644 in excess of the order amount.

Unauthorized Bank Account

The Advocate's Office did not have the required Treasury Board Secretariat approval when it opened a bank account on 4 October 2002. When the account was opened, a $2,000 advance which had been provided by the Office of the Clerk of the House of Assembly for costs associated with the start-up of the Advocate's Office was deposited into the account. The Office also received a credit card and a debit card for the account. Details of the account activities are outlined in Figure 6.

Figure 6

Office of the Child and Youth Advocate
Unauthorized Bank Account Activity
For the Period October 2002 to October 2004

Category	# of transactions	$	$
Opening balance			2,000
Deposits			
Replenishments	16	35,608	
Duplicate reimbursements	2	2,575	
Other	20	1,717	
Fundraiser	6	5,128	45,028
Sub-total			47,028
Withdrawals			
Cash withdrawals	21	(3,906)	
Service charges	47	(171)	
Visa/AMEX	12	(2,528)	
Disbursements	239	(33,858)	
Fundraiser	1	(5,128)	(45,591)
Closing balance			**1,437**

Source: Bank Statements

2.1 Office of the Child and Youth Advocate

The Advocate's Office did not follow Government's normal purchasing process in that funds were not encumbered, purchase orders were not issued and three quotes were not always obtained. Instead, purchases were made by cheque, Visa or debit card without Government's normal purchasing control. Our review of the account and transactions indicated the following:

- Although the initial $2,000 advance provided by the Clerk's Office was for *"Costs associated with start-up of new office, e.g. postage meter lease payment, postage, etc."*, no approval was ever given for this amount to be used to fund a bank account.

- Contrary to Government policy, the cheques for the bank account required only one signature and only one person at the Office had signing authority. There was also a significant lack of segregation of duties in that this person had sole access to the bank account, the Visa card and the debit card and also performed bank reconciliations.

- We identified the following questionable expenditures:

    - Payment of $460 to an interior decorator relating to a consultation on colors for the Advocate's offices. Contrary to the *Public Tender Act*, no quotes were obtained for this work.

    - Payment of $1,000 to have a mural painted at the entrance of the Office. Contrary to the *Public Tender Act*, no quotes were obtained for this work.

    - Payments of $515 for the purchase of a desk pad, Executive tape dispenser, business card holder, stacking organizers, viewing stand and swivel television tray. Contrary to the *Public Tender Act*, no quotes were obtained for these purchases.

    - Payment of $1,092 for catering services. Contrary to the *Public Tender Act*, there was no evidence that quotes were obtained for this work.

    - Donation of $25 to the St. John's Firefighters Association.

- Two expenditure reimbursements which resulted in the bank account receiving an extra $2,575. This resulted from being reimbursed twice for registration fees of $1,825 and membership fees of $750. Therefore, the total cash available through the bank account had increased to $4,575. In these cases, there was no evidence that the Advocate's Office notified the Clerk's Office of the extra money.

- Contrary to Government policy, the Advocate's Office commingled staff money with public money. In one instance, the Office held a fundraiser for an employee which raised $5,128. These monies and the resulting cheque to the employee went through the bank account. In another instance, the Advocate's Office used the bank account as a staff fund for collecting contributions for staff dinners and other functions. A total of $1,072 went through the bank account for such purposes.

Accounting Errors

The Office of the Clerk of the House of Assembly assists with the administration of the financial operations of the Office of the Child and Youth Advocate. Documentation from the Office of the Child and Youth Advocate is forwarded to the Clerk's Office for input into Government's Financial Management System and for subsequent payment processing.

Our review indicated that there were many significant errors in account postings which were not always detected due, in part, to the fact that sufficient information was not always provided to the Office of the Child and Youth Advocate to enable the Office to monitor its expenditures. As a result of the accounting errors, the total expenditures of the Office of the Child and Youth Advocate as reflected in the Province's Public Accounts are not correct. Details are as follows:

- Contrary to the requirements of the *Financial Administration Act* which prohibits the issue of public money for purposes other than those authorized by the Legislature, salaries of $72,638 for an employee of the Office of the Citizens' Representative from September 2002 to October 2004 were charged in error to salaries for the Office of the Child and Youth Advocate. Furthermore, although officials at the Clerk's Office indicated that the error had been corrected in August 2004, we found that the correction was not made until October 2004.

2.1 Office of the Child and Youth Advocate

- Expenditures for leased computers totalling $54,694 should have been charged to information technology; however, they were charged to various incorrect accounts.

- Entertainment expenses totalling $545 were charged to purchased services. These expenditures should have been charged to transportation and communication.

- In November 2002, the Office was charged $3,000 for lease costs of a photocopier which was never located at the Office. Since that time, no expenditures have been charged to the Office for photocopiers provided to it under leasing arrangements coordinated by the House of Assembly. As a result, the full cost of Office operations is not being reflected in its accounts.

- During fiscal 2002-03 and 2003-04, 11 incorrect payments were made in relation to expenditures for office space rental. There were 5 instances where the HST portion of the rent was not paid and 6 instances involved overpayments of parking.

- Officials at the Advocate's Office indicated that sufficient information to monitor their expenditures was not always provided by the Clerk's Office. On 20 October 2004, the Advocate wrote the Comptroller General citing concerns about errors in the accounting records and the lack of monitoring information available. The Comptroller General responded on 2 November 2004 indicating that it was apparent that the Advocate's Office was not being provided with the information necessary to adequately manage and control their accounts.

- The majority of expenditures made through an unauthorized bank account at the Advocate's Office were not posted to the proper expenditure accounts. Instead most expenditures were simply charged to supplies.

- Cellular telephone costs of $5,090 charged to the Advocate's Office were not correct in that the total cost should have been $4,562. The net difference of $528 resulted from errors in posting by the Clerk's Office.

2.1 Office of the Child and Youth Advocate

Recommendations

The Child and Youth Advocate should:

- *on a priority basis, consult with the Commission of Internal Economy and resolve the matter of the unauthorized bank account;*
- *ensure that all out of Province travel is approved, in advance, by the Speaker of the House of Assembly as required by policy;*
- *ensure that adequate documentation exists to evidence that travel expenditures represent only those incurred in the performance of Government business;*
- *ensure that all private vehicle mileage claims are appropriately supported;*
- *comply with Government's entertainment policy and Executive Compensation Travel Rules;*
- *comply with the* Public Tender Act *and Government's purchasing policies;*
- *comply with the direction provided by the Commission of Internal Economy, e.g. staff positions and staff parking; and*
- *establish formal policies and procedures governing the provision and use of cellular telephones and ensure that all use is properly monitored.*

The Office of the Clerk of the House of Assembly should:

- *provide sufficient information to the Office of the Child and Youth Advocate to enable that Office to monitor its expenditures; and*
- *charge expenditures of the Office of the Child and Youth Advocate to the correct expenditure account categories.*

2.1 Office of the Child and Youth Advocate

Child and Youth Advocate's Response

General

The Child and Youth Advocate Act *was proclaimed on May 13, 2002; however, the Advocate was not sworn into the position formally as the Child and Youth Advocate until September 16, 2002. His first task and mandate was the physical establishment of the Office. Being an Independent Officer of the Legislature, the Advocate went about setting up the Office in the best possible way, recognizing that there were no guidelines, policies, or procedures provided as a sort of blueprint for this purpose. The Child and Youth Advocate Office is a unique entity for which there was no precedent to follow in this Province, hence, it was a new learning curve for all involved. The additional challenge was the very limited timeframe in which this was to be done. The Office was due to open on November 18, 2002, and it was necessary to acquire actual office space, have renovations completed, hire staff, furnish offices, and develop preliminary programs. It should also be noted that from the moment the Advocate was sworn in, calls started to come to him from citizens who had been a long time waiting for such an Office to help resolve their child and youth difficulties.*

We are pleased to say that in spite of the many challenges, we indeed were able to open on November 18th and since that time, have been experiencing massive increases in the number of matters and cases being dealt with and are able to provide, for the first time in our history, this very unique advocacy service for the children and youth of the Province of Newfoundland and Labrador who experience oft times very significant challenges and difficulties in accessing the services of Government that are necessary to meet their needs.

We continue to develop the administrative and advocacy policies for the Office. The public response to the Office of the Child and Youth Advocate has been extremely positive and supportive. The growing pains that we have experienced are, for the most part, one-time occurrences that might be expected to arise during the early days of any new entity.

It should be noted that the Office suffered a major setback when, having only been in operation for the first few months, the Deputy Advocate was stricken with a serious illness and her services were lost to the Office for a full year. This caused considerable difficulty during that period, but we are happy to say the Deputy is now back at work and making great progress. As soon as the Deputy was back on her feet, as it were, the Advocate instructed her to undertake a full Operational Review to determine our strengths and weaknesses and to determine as well where efficiencies in operation at all levels might be found. This Operational

2.1 Office of the Child and Youth Advocate

Review is now nearing completion. As well, policy manuals, a Child Death Review manual and other program models and educational materials have either been developed or are close to completion.

A couple of matters of importance are worthy of mention which have caused the Office concern and frustration. There has been significant difficulty with respect to appropriate levels of communication with the Internal Economy Commission. As an example, during the past year, despite many written pleas as well as oral requests, to date the Advocate has not been successful in having a single meeting with the Commission to discuss important matters and to promote the establishment of a positive relationship and good understandings of the work of this important Office. The only exception was the initial budget presentation early in 2004. As well, important correspondence from this Office to the Commission goes unanswered. Rarely is there as much as an acknowledgement. This lack of appropriate levels of communications and face-to-face interaction is most regrettable and leads to much frustration and frequently, as can be seen from some of the Auditor General's comments, misunderstandings and inappropriate operational difficulties.

There has been an ongoing significant problem in acquiring the appropriate vital monthly financial documentation from the Clerk's Office to enable us to operate efficiently and with better accountability. Indeed, perhaps through lack of resources, or otherwise, our experience with inappropriate advice or unavailable responses and information from that Office has led to problems at our Office, as referenced by the Auditor General.

We look forward to and welcome improvements in both of these areas. The full cooperation of the Office of the Child and Youth Advocate with both the Clerk's Office and the Members of the Internal Economy Commission is assured.

We welcome the assistance of the Auditor General in doing this first review of our operation, by his office. We will benefit, without doubt, from such a review and the recommendations for change that are made, which will lead to a more efficient and accountable operation.

We acknowledge our weaknesses and oversights that the Auditor General has referenced and we undertake immediate steps to ensure there are no re-occurrences in the future.

2.1 Office of the Child and Youth Advocate

Introduction Section

1. *The Introduction Section of the report states, "The Office of the Child and Youth Advocate was established on 13 May 2002 under the authority of the* Child and Youth Advocate Act *(the* Act*)." In fact, the authority to establish the Office of the Child and Youth Advocate was granted by proclamation of the* Act *on May 13, 2002; the Advocate was not sworn in with authority to act until September 16, 2002.*

Salaries and Employee Benefits

2. *In Fiscal Year 2003-04 a replacement worker was approved by the IEC for the Office of the Child and Youth Advocate with the understanding that the worker would be terminated when the employee being replaced returned from sick leave, (which at that time was not known due to the nature of the illness involved).*

   However, during the replacement worker's period of employment a very significant project was referred to the Office in accordance with Section 16 of the Act, *which resulted in our first Child Death Review. Potential Conflict of Interest concerns prevented the permanent advocacy staff from being assigned to the special project. Therefore, the replacement worker was assigned to this special project, which was to continue into Fiscal Year 2004-05.*

   In the budget submission for Fiscal Year 2004-05 to the Internal Economy Commission (IEC), the Office of the Child and Youth Advocate requested funding for an Advocacy Investigator/ Researcher to carry out investigative activities for the Advocate including those activities associated with the project to which the replacement worker had been assigned. This funding was not approved on either a permanent or temporary basis.

   The worker being replaced returned to work on April 1, 2004, but conflict of interest concerns also prevented her from conducting the work associated with the special assignment. The Advocate subsequently advised the IEC that in view of these concerns non-funding of the Advocacy Investigator/Researcher position would result in termination of the special project as he could not assign the work to any other staff person. The IEC agreed to cover any shortfall in the Office's 2004-05 budget that resulted from continuing this position until the project was complete. Regrettably, no actual written confirmation of this was received at this Office.

3. *The Office of the Child and Youth Advocate is an Independent Office of the House of Assembly. Unlike the Office of the Auditor General, the staff of the Office of the Child and Youth Advocate are not eligible to apply on internal public service positions as the Office is not scheduled to the* Public Service Commission Act*.*

   Further, it is the IEC that sets salaries for the staff of the Offices of the House of Assembly (that are not scheduled to the Public Service Commission Act*) and not the Classification, Organization and Management Division of Treasury Board. The IEC may ask that position descriptions be reviewed by the Classification, Organization and Management Division, but it is not a requirement.*

4. *As regards the attendance records of the Advocate, the Advocate had not been apprised by either the Speaker or the Clerk's Office of his benefits and related obligations with respect to leave. In fact, no formal written contract of employment between the Advocate and the House of Assembly was ever discussed or presented to the Advocate at the time of his appointment. However, any paid leave taken by the Advocate between September 16, 2002 and October 10, 2004 was reported to the Clerk's office and the Advocate's attendance has been recorded with that of the staff of the Office since October 10, 2004.*

Transportation and Communications

5. *Regarding the Advocate's journey authorization for his trip to Vancouver in April 2004 and which included meetings in Calgary, the Advocate spoke to the Clerk's Office and was advised that since the journey authorization covered the trip to Vancouver, any distance in between should also be included in the authorization.*

6. *With respect to the Advocate's travel claim (to Calgary), the rental car was returned to the rental agency at the scheduled time so as not to incur additional rental charges, and then at a later time, a taxi was taken to the Airport for scheduled flight (receipt attached to claim).*

7. *With reference to the Auditor General's comments concerning the Advocate's Journey Authorization for a trip to Western Canada, the purpose of this trip was for the Advocate to become familiar with the workings of the Child and Youth Advocate's Offices in Western Canada by visiting and talking to the officials. It is useful to note that Child and Youth Advocate Offices in Western Canada are amongst the leading examples in the country. Indeed, our*

Office in Newfoundland and Labrador was modeled on the Saskatchewan experience and Legislation. The Advocate planned on this trip to visit the Alberta, Saskatchewan and Manitoba Advocate's Offices using Calgary as the base, as it were. Unfortunately, it turned out that the Alberta Advocate was unavailable at that time but other meetings were useful and visits were completed as well to Saskatchewan and Manitoba and as many discussions and information sessions as possible were completed by the Advocate, all of which were of great value to the Advocate.

With respect to the car rental in Calgary on January 31, 2003, the Advocate found it more cost effective to rent the car for the entire week than to rent it at daily rates. In addition, leaving the car at the airport would have incurred further charges during the trips to Winnipeg and Saskatoon.

8. *Regarding the Advocate's trip to Halifax in June, 2003, the Advocate was invited at the last minute to attend these meetings on behalf of the Canadian Council of Provincial Child and Youth Advocates. The Executive Secretary was away from the office on vacation when the travel arrangements were made and prior approval was not obtained - this was an oversight.*

The Advocate has taken immediate steps to ensure very close scrutiny of all Office travel to ensure compliance in every respect with acceptable standards.

9. *With respect to the Advocate's submission of private vehicle usage amounts without supporting documentation, in fact, the Advocate did file documentation. However, the mileage for each period was shown as a total for that period rather than broken down by kilometer as each item of travel. At the outset, the Advocate had sought advice from the Clerk's Office and was advised that summarizing automobile travel for a given period and submitting a claim for the total amount was appropriate. Some months later, the Clerk's Office advised that it would be necessary to itemize each particular automobile trip.*

10. *With respect to instances where entertainment expenses were claimed without prior Treasury Board approval, The Office of the Child and Youth Advocate is not required to obtain Treasury Board approval and was not aware that separate claims were to be submitted for entertainment expenses.*

11. Cell phones were initially provided to staff of the Office of the Child and Youth Advocate because the office phones were not installed. The only way to conduct business during the renovations in October and November 2002 was through the use of cell phones.

Until September 30, 2004 no formal guidelines for the use and provision of cellular telephones had been developed by Government generally or the Clerk's Office. (The Policies and Procedures manual for the Office is still in draft form). Up to that point, it was the decision of the Advocate that four advocacy staff, the office manager and the Advocate have cell phones.

In a letter from Mr. John Noel, Clerk of the House, dated September 30, 2004 Mr. Noel advised that , "…the Commission of Internal Economy…reviewed Treasury Board Directive No. 2004-281 [Cellular Telephone Guidelines and Usage] and made an order basically following the Treasury Board Directive, but with certain modifications …." The Advocate immediately took action and reduced the number cellular phones assigned to staff and steps have been taken to ensure close monitoring at all times. Thus far, no further direction/comment regarding this matter has been received from the Clerk's Office or the Internal Economy Commission.

12. As noted previously, in the Office's first two months of operation there were no office phones set up; the only means of telephone communication was through the use of cellular phones. Therefore, any instances of usage above the package included time during this period are due to this situation.

Even before the Office opened, and continuing after, there was a flurry of calls from the public. Advocacy staff, for the first three months or so, were dealing with clients during and after work hours. The latter calls were made on cellular phones rather than home phones so as not to give clients access to the home numbers of the staff.

Further, the Advocate conducts considerable business after normal work hours, and during his many public appearances, most of which is done by cellular phone.

As regards the employee who provided her phone to a family member, this was a one-time occurrence. This employee has had several other instances where her cellular phone usage has exceeded the included plan time. The situation was brought to her attention and she has reimbursed the Office for such charges. However, it was later discovered that she was receiving a number of incorrect calls, which was increasing her usage time. The employee's phone number was changed, which appears to have solved the issue.

The nature of the work of such an Office as this, where staff are on the go much of their time, necessitates the use of cell phones. It saves time and money.

Purchased Services and Supplies

13. *A public tender was not called for the provision and installation of computer hardware and software because of time constraints. The Advocate was not sworn in, as noted previously, until September 16, 2002. Until that time, the Advocate had no authority to begin work to establish the office.*

In late September the Advocate met with personnel from the IT Division of Treasury Board to discuss costs related to Office's acquisition of computer systems. The Advocate was advised that to have the Office connected to Government's computer network would involve up-front costs in excess of $50,000 plus additional annual costs of approximately $18,000, (a total of approximately $104,000 over three years). This did not include the cost of a telephone system.

Further, the Advocate had concerns with regards to the installation time required should the Office choose to go this route, i.e., the IT Division representative had advised him that it could take several months for Aliant to install a dedicated high speed line to the government system and there was no indication as to when the lines could be run within the Office for the computer equipment. Renovations were beginning immediately and the lines needed to be run while the renovations were ongoing. As well, the Advocate was not confident that being tied in to Government's computer system would provide the Office with the degree of confidentiality that was required, due to the extreme sensitivity of our work.

The private company that provided the computer hardware and software for the Office was able to begin the installation process immediately and provide a computer network that was separate and independent of government while, at the same time, providing a level of security at least equal to that of government's system.

In addition, the company provided a telephone system that was superior to those offered by other companies. This system allows the office to function with only six telephone lines; makes it possible for staff on travel status to make long distance calls to the headquarters area using a high speed internet connection; and allows staff to change offices without having to call in the phone service provider to change the lines. This system was included in the IT package at no extra cost. The end result was a superior system, guaranteed confidentiality, a readily available system as was urgently required, and our Office was not required to pay upfront costs exceeding $50,000.

Although the Director of Information Technology Management indicated in his letter to the Advocate that a public tender should be called in relation to this purchase, the Clerk's Office did not object to the Advocate's proposal dated October 9, 2002 to enter into the contract with the private company and, indeed, gave a verbal go-ahead to proceed.

14. A letter dated May 25, 2004 was received by the Office on May 27, 2004 advising that the IEC had directed that effective June 1, 2004 invoices for parking would not be paid. In a meeting of June 4, 2004 attended by the Advocate, Deputy Advocate, the Speaker and the Clerk of the House, it was agreed that the decision to discontinue payment of parking costs for staff would be deferred for further consideration by the IEC. No other correspondence/communication related to this matter was received for approximately five months, until October 29, 2004 which advised that effective November 1, 2004 payment of parking costs related to the staff of the Office of the Child and Youth Advocate would no longer be paid. This direction was immediately followed.

It should be noted that these parking costs were included in the Office's budget for Purchased Services for Fiscal Year 2004-05 and were, therefore, ***an approved budgetary item, by both the IEC and the Legislature.***

Property, Furnishings and Equipment

15. As regards the purchase of the furniture items, the Advocate was advised by the Clerk's Office to purchase the furniture as an "immediate requirement" in view of the time frames. As noted previously, the Advocate had no authority prior to September 16, 2004 to call tenders for furniture or conduct any other official business. Extensive efforts were made to seek quotes from a number of suppliers and, indeed, three were received. However, two were incomplete. The experience was that only one supplier, the one that was used, could provide the required furniture in the guaranteed time frame for our opening. The other suppliers could not give such a guarantee and, indeed, could only quote on certain items and not others on the list. Additionally, the supplier that was used was very helpful in providing the Office with layout and design and spent many, many hours working with the Advocate and with the renovators to ensure that there was adequate coordination. There was no additional cost for this support.

16. Furniture items were exchanged/substituted because initial deliveries were, in some instances, unsuitable. In all instances, the Advocate made certain that the best possible price was achieved consistent with durable quality.

Unauthorized Bank Account

17. The unauthorized bank account was set up upon the advice of the Clerk's Office. A cheque for $2,000 for petty cash was issued to cover costs associated with the start-up of the Office, e.g, initial payment for postage meter. When asked about how to "handle" this large a petty cash it was suggested that the holder of the petty cash set up a bank account and write cheques on it. The bank account was subsequently set up in the building that houses the Office. ***It should be noted that this Account has been closed.***

18. The Office of the Child and Youth Advocate does not have any way to post encumbrances to the Government Purchasing system. Purchase orders are manually issued rather than electronically. Copies of the purchase orders, when issued, would have to be forwarded to the Clerk's Office for posting if encumbrances were to be posted to the system. However, the Office of the Child and Youth Advocate is able to identify any commitments at any time if required.

19. Purchase orders were not always issued for small purchases, e.g., one or two items from a regular supplier and valued at less than $50. However, in most cases, purchase orders are issued.

20. Purchases made by cheque were for suppliers who are not in the Government purchasing system. (This practice was suggested by the Clerk's Office). Purchases made by debit or credit card were for items that normally would be purchased by cash from a petty cash such as books (over the internet), office supplies, etc. At no time was the credit card used to purchase personal items.

21. As regards the questionable expenditures, most were under $500 and, although quotes may not have been noted in the files, other suppliers were contacted for prices. For example, the person who requested pricing for the official opening contacted approximately 15 caterers. The one that was hired to do the work had the lowest price. Further, items totalling $515 were purchased from one supplier, but this was the total for six items none of which were available from the usual office suppliers.

22. The increases in the petty cash account were made when the Clerk's Office issued the petty cash reimbursement amount plus an additional amount to pay invoices issued by suppliers not on the Government purchasing system. In both cases the Clerk's Office was advised that these invoices required payment and in both cases the payment amounts were added on to the accountable advance reimbursement requests. When received, the Office of the Child and Youth Advocate deposited the amounts to the petty cash bank account, wrote the cheques and included the expenditure in the next accountable advance reimbursement requests.

In the first instance when this occurred, the Clerk's Office was asked if the additional amount should be added to the reimbursement request or not. The Office of the Child and Youth Advocate was advised to include it. It was assumed that the same procedure should be followed for the second instance.

23. The commingling of the petty cash with staff funds occurred for convenience purposes. For example, the staff has a coffee fund whereby $5 cash per person per pay period is kept in a can in the office. Often, when coffee supplies, flowers, etc. are purchased, it is the holder of the petty cash who does the buying. Purchases were made using the debit card of the unauthorized bank account and the money was deposited back to the petty cash account usually on the same day. Another example is when the staff held a benefit for one of the staff who was receiving cancer treatment. The cash collected from the benefit was deposited into the petty cash account so that one single cheque could be presented to the employee for whom the benefit was held.

Accounting Errors

24. Posting of expenditures for the Office of the Child and Youth Advocate is the responsibility of the Clerk's Office. The Office of the Child and Youth Advocate ensures that all requests for payment of invoices/ reimbursement of accountable advances list to which accounts the expenditures should be posted. It is regrettable that there have been many errors, occasioned at the Clerk's Office, over which our Office has little or no control. We look forward to resolution of these concerns.

25. The Clerk's Office has not been able, even to this date, to provide all of the required financial information to the Office of the Child and Youth Advocate that would enable it to maintain adequate control and to achieve better standards. In addressing these shortcomings, the Advocate has always received the utmost courtesy from the Clerk and is of the opinion that the problems that are occurring which raise concerns for our Office may indeed result due to lack of resources available to the Clerk's Office to more fully respond.

Summation:

In spite of the relatively small number of shortcomings identified, the Office of the Child and Youth Advocate, in only two years, has achieved remarkable success and has advanced the voices and rights of children and youth in the Province very significantly. The Office is now well positioned to take its place with any in Canada. There will likely continue to be fiscal challenges in meeting all the public needs and expectations; however, the Advocate and Staff strive to assist all who seek our services. The Advocacy team is very highly motivated and committed to the full implementation of the letter and spirit of the Child and Youth Advocate Act.

The Office undertakes the full and immediate implementation of the Auditor General's referenced items, which fall within our mandate and scope of operation to do so.

I extend sincere appreciation to the Auditor General and his staff whose observations and advice will serve only to assist this Office to be more successful and accountable.

2.1 Office of the Child and Youth Advocate

Clerk of the House of Assembly's Response

We thank the Auditor General and his staff for their analysis and investigation of the matters provided in the Auditor General's Report and hereby provide a response.

In consultation with the Speaker and the Commission of Internal Economy, the Office of the Clerk will endeavour to implement the controls and administrative functions suggested by the Auditor General. In fact, the oversights noted in the Auditor General's Report have already been corrected.

However, in order to place the criticisms as noted in the Auditor General's Report in its proper context, it should be remembered that the House of Assembly Establishment has grown dramatically during the past three years. Traditionally, the Office of the Clerk as mandated by law and custom provided procedural, administrative and financial services to all the Members of the House of Assembly and a very small office structure, namely: Hansard, the Legislative Library and the Broadcast Centre. Two to three staff members of the Office of the Clerk provide these services to Members and the internal House of Assembly Establishment. The complement of staff in the Office of the Clerk has not changed despite the increased responsibilities of that Office.

In 1993, the Office of the Chief Electoral Officer was transferred from the Department of Justice to the House of Assembly. It was felt that the independence of the Chief Electoral Officer would be better served if that Office were attached to the House of Assembly with the Chief Electoral Officer reporting to the Speaker and the Commission of Internal Economy. As the only administrative and financial structure in place at that time, the Office of the Clerk became responsible for the financial administration for that Office.

In 2001, the Citizens' Representative Act *and the* Child and Youth Advocate Act *were enacted. The new Citizens' Representative Office was established in early 2002 in a similar fashion to that of the Chief Electoral Officer with the financial responsibility for that Office provided by the Clerk's Office. Also in May 2002, the Child and Youth Advocate was appointed with his office commencing operation in November of 2002. The same administrative and financial structures were also provided by the Office of the Clerk to the Child and Youth Advocate Office. It should also be noted that the establishment of both offices in one year placed an enormous strain on the small staff of the Office of the Clerk to provide the necessary support and advice especially where both offices were required to commence operation in a short time frame.*

2.1 Office of the Child and Youth Advocate

With the experience of establishing the above-noted two new offices and the recent Office of the Information and Privacy Commissioner, the House of Assembly has recognized that its Establishment does not have the administrative and financial structures to properly administer the independent offices that report to the Speaker and the Commission of Internal Economy. Since the transfer of the Chief Electoral Officer to the House of Assembly Establishment in 1993, the structure of the Office of the Clerk has not grown to accommodate the extra responsibilities placed on that Office by virtue of the creation of three additional new offices that report directly to the Speaker and the Commission of Internal Economy. The Auditor General's comments have placed in perspective the necessity of providing for an increase in the staff complement in the House of Assembly Establishment, together with a comprehensive restructuring of the financial accountability procedures. The matter of staffing in the Office of the Clerk will be considered by the Commission of Internal Economy during the forthcoming budgetary process.

2.1 Office of the Child and Youth Advocate