REPORT OF THE AUDITOR GENERAL

To the House of Assembly



On Reviews of Departments and Crown Agencies

For the Year Ended
31 March 2009

Auditor General
Newfoundland and Labrador



The Auditor General reports to the House of Assembly on significant matters which result from the examinations of Government, its departments and agencies of the Crown. The Auditor General is also the independent auditor of the Province's financial statements and the financial statements of many agencies of the Crown and, as such, expresses an opinion as to the fair presentation of their financial statements.

VISION

The Office of the Auditor General is an independent Office of the Legislature which, through audit, adds credibility to information provided by Government to the House of Assembly so that the Members of the House of Assembly can hold Government accountable for the prudent use and management of public resources.

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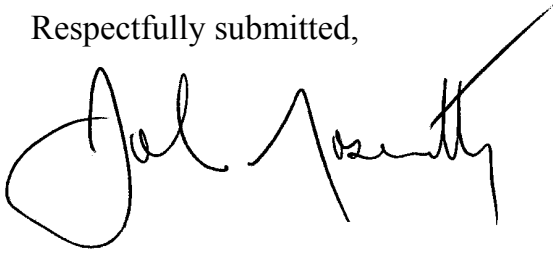
26 January 2010

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

Dear Sir:

In compliance with the *Auditor General Act*, I have the honour to submit herewith, for transmission to the House of Assembly, my Report on Reviews of Departments and Crown Agencies of the year ended 31 March 2009.

Respectfully submitted,



JOHN L. NOSEWORTHY, CA
Auditor General

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CHAPTER 1
REFLECTIONS OF THE AUDITOR GENERAL

Reflections of the Auditor General



My Office is committed to promoting accountability and encouraging positive change in the stewardship, management and use of public resources. To this end, each year my Office conducts reviews of Government departments and Crown agencies which result in findings and recommendations. Our recommendations are designed to address weaknesses and/or improve processes and, therefore, it is important that Government consider them and take corrective action.

This Report provides findings and recommendations resulting from my reviews for the year ended 31 March 2009. The Report covers a variety of matters and is provided to the Members of the House of Assembly for their consideration.

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

Chapter 2 of this Report includes the results of my reviews of Government departments and Crown agencies in the following areas:

	Part
• Review of Overtime	2.1
• Child Care Services	2.2
• Protective Intervention Program for Children at Risk	2.3
• Administration and Management of Crown Lands	2.4
• Fisheries Technology and New Opportunities Program	2.5
• Inspection and Monitoring of Radiation Equipment	2.6
• Medical Equipment	2.7
• Living Arrangements for Children and Youth	2.8
• Monitoring of Regional Health Authorities	2.9
• Newfoundland and Labrador Labour Relations Agency	2.10
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• Disaster Financial Assistance Program	2.13
• St. John's Arts and Culture Centre	2.14
• Ferry Services	2.15

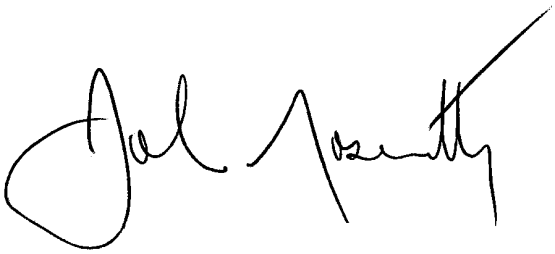
Reflections of the Auditor General

This year, for the first time, each item in the report starts with an Executive Summary. I believe the new summary will make it easier for readers to quickly identify what we reviewed, the work we performed and what we found. As in prior reports, in order to provide a balance to our findings and conclusions, the verbatim response from the auditee is included at the end of each item.

In prior years, this report included a chapter on the status of prior years' recommendations. However, to bring a better focus on this important information, on 10 November 2009, a separate report entitled *Update on Prior Years' Report Items* was tabled in the House of Assembly. Therefore, that chapter has not been included in this Report.

I also point out that Chapter 3 of this Report contains comments relating to my audit of the Province's financial statements for the year ended 31 March 2009. The information in Chapter 3 includes all the information that, in recent years, was provided to Members of the House of Assembly as a separate report entitled *Report of the Auditor General to the House of Assembly on the Audit of the Financial Statements of the Province of Newfoundland and Labrador*.

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.



JOHN L. NOSEWORTHY, CA
Auditor General

CHAPTER 2

COMMENTS ON AUDITS AND ADDITIONAL EXAMINATIONS

PART 2.1

EXECUTIVE COUNCIL

REVIEW OF OVERTIME

Executive Summary

Overtime represents the hours worked by an employee in the performance of a specific task or a designated project that requires the employee to work on designated paid holidays or in excess of their regularly scheduled or normal hours of work. Employees are compensated for their overtime work either by payment or by authorized time-off-in-lieu (TOIL). Overtime represents a significant cost for Government and for the year ended 31 March 2009, Government departments paid a total of $20.9 million in overtime and, at 31 March 2009, there was a total of $10.9 million owing to Government employees related to TOIL.

Given the significant cost associated with overtime, it is important for Government to have systems and procedures to budget, authorize, record, monitor and control these costs. Such systems and procedures include a requirement to consider alternate work arrangements in order to minimize overtime costs.

Subsequent to our initial review in 2001, Government established a committee which issued 42 recommendations to enhance monitoring of overtime expenditures with a view to reducing overtime costs. However, our review of overtime for Government departments from our initial review to 31 March 2009 indicated that overtime costs have significantly increased during this period. As a result, Government has not been successful in reducing overtime costs. Furthermore, our review indicated that Government is doing a poor job in budgeting overtime payments. In particular:

Overtime Payments

- Overtime payments have increased by $7.4 million (55%) from $13.5 million in 2001 to $20.9 million in 2009. The increase is accounted for as follows:
    - $2.9 million - Justice (overtime payments of $1.6 million in 2001 and $4.5 million in 2009 representing an increase of $2.9 million or 181%);
    - $2.6 million - Transportation and Works (overtime payments of $9.3 million in 2001 and $11.9 million in 2009 representing an increase of $2.6 million or 28%);

- $0.3 million - Natural Resources (overtime payments of $1.3 million in 2001 and $1.6 million in 2009 representing an increase of $0.3 million or 23%); and

- $1.6 million - all other departments (overtime payments of $1.3 million in 2001 and $2.9 million in 2009 representing an increase of $1.6 million or 123%).

- Three departments accounted for $18.0 million (86%) of the total $20.9 million paid in 2009:

  - $11.9 million (57%) - Transportation and Works - $7.5 million relates to Depots and $3.6 million relates to the Marine Services Division;

  - $4.5 million (21%) - Justice - $2.3 million relates to the RNC and $1.8 million relates to Corrections; and

  - $1.6 million (8%) - Natural Resources - $1.1 million relates to Forest Management.

- During our review, we identified many employees who received significant overtime payments during the period 1 April 2001 to 31 March 2009. We found the following:

  - In the 8 year period to 2009, 445 employees each received at least 50% in excess of their regular pay in overtime payments. The regular pay of these employees totalled $20.3 million while their overtime payments totalled $13.0 million. Therefore, on average, these employees received overtime payments equal to 64% of their regular pay.

  - In 2009, 40 employees received $30,000 or more each in overtime payments during the year totalling $1.8 million and accounted for 8.6% of all overtime paid during 2009. In 2001, 3 employees received $30,000 or more each in overtime payments during the year totalling $0.1 million and accounted for 0.7% of all overtime paid during 2001.

  - The Marine Services Division and the RNC had the most instances of significant overtime payments. For example:

    A marine engineer at the Department of Transportation and Works has been paid overtime totalling $303,000 for the five year period 2005 through to 2009 as follows: 2005 - $31,000; 2006 - $42,000;

2007 - $69,000; 2008 - $58,000; and 2009 - $103,000. This employee's regular pay during this period was $296,000; therefore, this employee received $599,000 from the regular pay and overtime during this five year period and received 102% of their regular pay in overtime payments.

A sergeant at the RNC has been paid overtime totalling $235,000 for the four year period 2006 through to 2009 as follows: 2006 - $38,000; 2007 - $62,000; 2008 - $108,000; and 2009 - $27,000. This employee's regular pay during this period was $259,000; therefore, this employee received $494,000 from their regular pay and overtime during this four year period and received 91% of their regular pay in overtime payments.

Time-Off-In-Lieu (TOIL)

- The liability for TOIL has increased by $6.7 million (160%) from $4.2 million in 2001 to $10.9 million in 2009. The increase is accounted for as follows:
  - $1.8 million - Transportation and Works (liability of $2.4 million in 2001 and $4.2 million in 2009 representing an increase of $1.8 million or 75%);
  - $1.0 million - Finance (liability of $0.1 million in 2001 and $1.1 million in 2009 representing an increase of $1.0 million or 1,000%);
  - $1.0 million - Justice (liability of $0.0 million in 2001 and $1.0 million in 2009 representing an increase of $1.0 million or 1,000%);
  - $0.7 million - Tourism, Culture and Recreation (liability of $0.5 million in 2001 and $1.2 million in 2009 representing an increase of $0.7 million or 140%); and
  - $2.2 million - all other departments (liability of $1.2 million in 2001 and $3.4 million in 2009 representing an increase of $2.2 million or 183%).
- Four departments accounted for $7.5 million (69%) of the total accumulated TOIL of $10.9 million as at 31 March 2009:
  - $4.2 million (39%) – Transportation and Works;

- $1.2 million (11%) – Tourism, Culture and Recreation;
- $1.1 million (10%) – Finance; and
- $1.0 million (9%) – Justice.

- During our review, we identified many employees who accumulated significant amounts of TOIL during the period 1 April 2001 to 31 March 2009. We found the following:
  - In 2009, 43 employees each had an accumulated TOIL balance equal to at least 50% of their annual salary. The annual salary of these employees for 2009 totalled $2.8 million while their accumulated TOIL balance totalled $2.5 million. Therefore, on average, these employees had an accumulated TOIL balance equal to 89% of their annual salary.
  - In 2009, 43 employees had an accumulated TOIL balance of $30,000 or more each which totalled $2.6 million and accounted for 24% of all accumulated TOIL. In 2001, 2 employees had an accumulated TOIL balance of $30,000 or more each which totalled $93,000 and accounted for 2% of all accumulated TOIL.
  - Examples of significant instances of accumulation of TOIL are as follows:

    An employee at the Legislature had accumulated TOIL of $210,000 as at 31 March 2009. During the three year period, 2007 through to 2009, this employee accumulated $186,000 as follows: 2007 - $80,000; 2008 - $41,000; and 2009 - $65,000. This employee's annual salary for 2009 was $96,000; therefore, this employee had accumulated TOIL equal to 219% of their annual salary.

    The regional manager of one of the Arts and Culture Centres at the Department of Tourism, Culture and Recreation had accumulated TOIL of $163,000 as at 31 March 2009. During the four-year period 2006 through to 2009, this employee accumulated $88,000 as follows: 2006 - $28,000; 2007 - $16,000; 2008 - $19,000; and 2009 - $25,000. This employee's annual salary for 2009 was $55,000; therefore, this employee had accumulated TOIL equal to 296% of their annual salary.

- Other than the RNC, Government does not have a policy which requires TOIL to be either used or paid by the end of a fiscal year. As a result, employees have accumulated significant amounts of TOIL. The value of the TOIL will increase as employees' salaries increase either through wage increases or reclassifications.

Monitoring Overtime Costs

- For the period 1 April 2001 to 31 March 2009 Government significantly exceeded its budget for overtime. During this period, Government budgeted $67.5 million, while the actual payments totalled $126.9 million. As this shows, actual payments exceeded budget by $59.4 million (88%). The difference is accounted for as follows:

  - $22.0 million (33%) – Transportation and Works;
  - $16.8 million (25%) – Justice;
  - $4.2 million (6%) – Natural Resources; and
  - $16.4 million (24%) – All other departments.

  In 2009, Government exceeded its budget by $11.4 million (budget $9.5 million and actual payments of $20.9 million) or 120%. In 2008, Government exceeded its budget by $12.3 million (budget $8.6 million and actual payments of $20.9 million) or 143%. This shows that Government is not doing a good job in budgeting for overtime payments.

- In order for Government to adequately monitor and control overtime costs, it requires complete information on all overtime hours worked, all overtime paid, and all overtime taken in TOIL. However, Government does not have a system that either provides total overtime hours worked or how many of these overtime hours were taken in TOIL. Furthermore, this can have a cumulative effect if it creates the need for overtime that in turn causes more overtime. As a result, Government cannot readily determine its total overtime costs. All Government can conclude with the current information is how much was actually paid out in overtime dollars during the year and the balance of TOIL at the end of the year.

- The Office of the Comptroller General (OCG) has been providing Treasury Board with semi-annual updates and an Annual Report on Overtime Expenditures since 2003. We requested access to the Annual Report on Overtime Expenditures from the OCG for the year ended 31 March 2009; however, we determined that Executive Council instructed that the Report not be provided. We wrote Executive Council

on 12 November 2009 and, as at 7 January 2010, no response had been received. However, we understand that the Report would not be provided to the Office because it was considered to be a Cabinet submission and therefore access would be restricted in accordance with the *Auditor General Act*. We disagree with their position on this matter because, in our opinion, the Reports do not contain information that would constitute a Cabinet submission. This particular incident causes significant concerns about access to information necessary to complete work in accordance with the *Auditor General Act*.

Background

Introduction

Overtime represents the hours worked by an employee in the performance of a specific task or designated project that requires the employee to work in excess of his or her regularly scheduled or normal hours of work, and hours of work performed on designated paid holidays. The incurrence of overtime must be approved by the Deputy Minister or designate as necessary to the operational requirements of the applicable department.

Public servants are compensated for their overtime work either by:

- payment; or
- time-off-in-lieu (TOIL).

Overtime is often compensated at a premium rate such as time and one-half or double time. This compensation is determined in accordance with various policies and collective agreements within Government.

Previous Reports of the Auditor General

In 2001 we performed a review of overtime incurred by Government. For the year ended 31 March 2001, employees of Government departments were paid salaries of $288.3 million which included $13.5 million in overtime compensation. Our review identified deficiencies in the management and control of overtime compensation as follows:

- over the five year period reviewed (1997 through to 2001), overtime payments increased significantly, from $7.7 million for the year ended 31 March 1997 to $13.5 million for the year ended 31 March 2001 which represented an increase of 75% over those five years;

- for the three fiscal years, 1999 to 2001, Government significantly exceeded its budget for overtime by $4.4 million, $5.6 million, and $5.5 million respectively;

- many of the transfers of funds to and from salaries for the year ended 31 March 2000 did not comply with the Government's Transfer of Funds Policy;

- Government knew that as at 31 March 2001, $4.2 million in accumulated and unpaid overtime was owed to employees. However, because of inadequacies in leave systems in most departments, it did not have details on the total overtime earned and banked during the year or the amount which had been used as paid leave; and

- overtime payments to employees were not always accurate.

In our 2003 annual report, we included an update on Treasury Board Secretariat's progress towards addressing the deficiencies identified in our 2001 report item. At that time, Treasury Board Secretariat indicated that an Overtime Committee had completed its review and reported to Treasury Board in September 2002. Forty-two (42) recommendations were made towards improving management practices, to improve controls, procedures, and policies, and to enhance monitoring of overtime expenditures.

It was anticipated that through these measures, cost reductions would result. It was also indicated that a report was provided to Treasury Board by the Comptroller General's Office in April 2003 which showed that overtime expenditures for the calendar year 2002 had decreased by $3.6 million or 23% from the calendar year 2001.

In a subsequent update for our 2004 annual report, officials indicated that the Comptroller General's Office had continued to monitor overtime on a Government-wide basis and provide summaries to Treasury Board. It was also indicated that Treasury Board had directed Deputy Ministers to ensure that they personally monitor and review the overtime process in their departments.

Audit Objectives and Scope

Audit objectives

The objectives of our current review were to determine whether:

- the amount of overtime within Government had increased or declined since our last review; and
- Government departments had developed systems to monitor and control overtime.

Audit scope

Our review included an examination of the overtime payments made to employees during the fiscal years ended 31 March 2002 to 31 March 2009. We also reviewed the accumulated time-off-in-lieu (TOIL) amounts owing at the end of each fiscal year.

Our review was limited to overtime in Government departments and agencies that are paid under the Public Service Payroll system. However, the total payroll and overtime costs of Government extends far beyond this to include Crown corporations, agencies, boards and hospitals that maintain their own payroll systems but receive the majority of their operating funding through Government grants. A total picture of the overtime costs borne by the public purse would require inclusion of all organizations that are funded by Government.

We completed our review in November 2009.

Detailed Observations

Overtime represents a significant cost for Government and for the year ended 31 March 2009, Government departments paid a total of $20.9 million and, at 31 March 2009, there was a total of $10.9 million owing Government employees related to time-off-in-lieu (TOIL).

Given the significant cost associated with overtime, it is important for Government to have systems and procedures to budget, authorize, record, monitor and control these costs. Such systems and procedures include a requirement to consider alternate work arrangements in order to minimize overtime costs.

Treasury Board, in its Human Resource Policy Manual, stipulates it is the responsibility of Departments to:

- plan work processes, program delivery and staff schedules to minimize overtime;
- make every reasonable effort to give adequate notice to employees who are required to work overtime;
- provide employees with written approval for the performance of overtime, in advance of the actual performance of that overtime;
- establish and maintain a system of recording overtime;
- ensure that overtime is properly managed and monitored by employee's supervisors; and
- submit reports of overtime worked by employees to Treasury Board as required.

It is the responsibility of employees to:

- obtain prior approval before working overtime; and
- identify when overtime is critical to the operation of the department.

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

1. Overtime Payments
2. Time-Off-In-Lieu (TOIL)
3. Monitoring Overtime Costs

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1. Overtime Payments

Overview

Figure 1 shows the overtime payments made to employees of Government departments through the Public Service Payroll system for the fiscal years 2001 to 2009.

Figure 1

Overtime Payments
Fiscal Years 2001 through to 2009
($000's)

Department	2001	2002	2003	2004	2005	2006	2007	2008	2009
Transportation and Works	$ 9,327.4	$ 9,015.4	$ 6,956.3	$ 7,206.7	$ 7,003.7	$ 7,106.1	$ 8,610.6	$11,094.6	$11,918.4
Justice	1,624.5	2,653.3	1,807.9	1,948.1	4,008.1	3,633.7	4,624.2	5,536.9	4,525.9
Natural Resources					1,267.9	1,363.2	1,477.4	1,498.2	1,647.4
Forest Resources and Agrifoods	1,014.4	1,180.2	1,365.1	1,403.5					
Mines and Energy	240.8	234.7	134.7	204.9					
Finance	74.3	109.4	87.2	146.8	129.4	187.0	162.3	276.0	602.0
Executive Council	195.9	278.1	230.1	277.6	406.3	153.8	263.6	453.5	507.7
Government Services	171.1	228.6	184.1	220.9	507.0	265.1	254.6	188.5	289.6
Education	75.2	101.4	91.9	87.9	213.9	137.5	230.8	220.0	277.4
Tourism, Culture and Recreation	228.7	238.9	263.0	301.9	174.1	209.6	253.9	215.9	274.5
Environment and Conservation	119.9	12.7	21.1	3.4	74.6	88.1	111.2	324.9	211.6
Human Resources, Labour and Employment	103.1	228.6	136.7	303.5	791.6	428.7	331.5	243.5	179.5
Municipal Affairs	110.5	139.2	96.9	143.3	77.0	65.0	156.9	179.5	148.5
Fisheries and Aquaculture	65.8	25.8	18.5	45.5	35.4	50.2	96.7	121.9	142.8
Innovation, Trade and Rural Development		39.0	144.9	92.6	120.6	80.4	33.2	59.7	123.8
Health and Community Services	38.1	124.1	83.6	19.3	72.6	28.1	52.8	85.5	48.8
Legislature	25.3	33.6	88.4	291.8	71.2	118.2	130.1	385.5	35.7
Business						4.3	8.2	8.3	0.0
Department	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**
Labrador and Aboriginal Affairs		9.1	0.0	0.7	15.8	0.0	0.0	3.1	0.3
Labour		94.7	51.9	128.3					
Youth Services and Post Secondary Education		27.5	50.8	18.9	1.0				
Industry, Trade and Technology	33.1								
Development and Rural Renewal	27.9								
Total Overtime Paid	**$13,476.0**	**$14,774.3**	**$11,813.1**	**$12,845.6**	**$14,970.2**	**$13,919.0**	**$16,798.0**	**$20,895.5**	**$20,933.9**

Source: Public Service Payroll Records
Note: Although during the eight year period, there were changes in program allocations between departments, the figure reflects the actual amounts charged in each year.

Review of Overtime

Overtime payments increasing

Subsequent to our review in 2001, Government established a committee with a view to reducing overtime costs. Although the committee made a number of overtime recommendations aimed at reducing overtime costs, our review of overtime payments made by Government departments from fiscal years 2001 through to 2009 indicated that overtime costs have significantly increased during this period. As a result, Government has not been successful in reducing overtime costs.

As Figure 1 shows, overtime payments have increased significantly over the past eight years, especially within the past three fiscal years. Overtime payments have increased by $7.4 million from $13.5 million in 2001 to $20.9 million in 2009, an increase of 55%. The increase in overtime during this period can be accounted for as follows:

- $2.9 million of the increase relates to the Department of Justice (including the RNC) which had overtime payments of $1.6 million in 2001 and $4.5 million in 2009, a 181% increase;

- $2.6 million of the increase relates to the Department of Transportation and Works which had overtime payments of $9.3 million in 2001 and $11.9 million in 2009, a 28% increase;

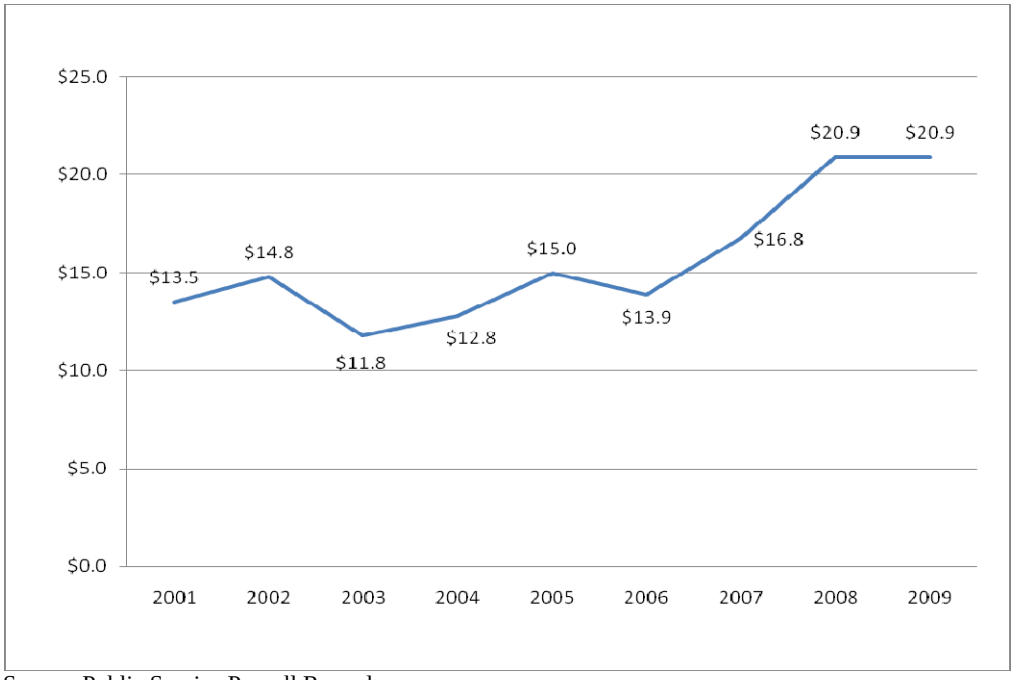
- $0.3 million of the increase relates to the Department of Natural Resources which had overtime payments of $1.3 million in 2001 and $1.6 million in 2009, a 23% increase; and

- $1.6 million of the increase relates to all other departments which had overtime payments of $1.3 million in 2001 and $2.9 million in 2009, a 123% increase.

Figure 2 shows graphically that, while there was an initial decline in the years immediately subsequent to our 2001 Report, overtime payments have been increasing, especially within the last three fiscal years. At 31 March 2009, overtime payments totalled $20.9 million, unchanged from the 2008 total.

Figure 2

Overtime Payments
Fiscal Years 2001 through to 2009
($ Millions)



Source: Public Service Payroll Records

Three departments pay 86% of overtime

For the year ended 31 March 2009, three departments accounted for $18.0 million representing 86% of the total $20.9 million paid in overtime. These were the same three departments which, during our 2001 review, accounted for 91% of the $13.5 million paid in overtime. Details of the $18.0 million in overtime payments for these three departments are as follows:

- $11.9 million or 57% of the $20.9 million related to the Department of Transportation and Works. The largest overtime payments related to the operation of the Depots where $7.5 million in overtime payments were made, the Marine Services Division where $3.6 million in overtime payments were made, and the Air Services Division where $0.3 million in overtime payments were made. The remaining $0.5 million related to overtime payments in various other divisions of the Department;

- $4.5 million or 21% of the $20.9 million related to the Department of Justice. The largest overtime payments related to the RNC where $2.3 million in overtime payments were made and Corrections where $1.8 million in overtime payments were made. The remaining $0.4 million related to overtime payments in various other divisions of the Department; and

- $1.6 million or 8% of the $20.9 million related to the Department of Natural Resources. The largest overtime payments related to the operation of Forest Management where $1.1 million in overtime payments were made and Agrifoods Development where $0.3 million in overtime payments were made. The remaining $0.2 million related to overtime payments in various other divisions of the Department.

Figure 3 shows overtime payments for each of the three departments (the Departments of Forest Resources and Agrifoods, and Mines and Energy were combined in 2005 to form the Department of Natural Resources) as a percentage of total overtime paid for fiscal years 2001 through to 2009.

Figure 3

Overtime Payments
Fiscal Years 2001 through to 2009

Department	2001	2002	2003	2004	2005	2006	2007	2008	2009
Transportation and Works	69.2%	61.0%	58.9%	56.1%	46.8%	51.1%	51.3%	53.1%	56.9%
Justice (including RNC)	12.1%	18.0%	15.3%	15.2%	26.8%	26.1%	27.5%	26.5%	21.6%
Forest Resources and Agrifoods	7.5%	8.0%	11.6%	10.9%					
Mines and Energy	1.8%	1.6%	1.1%	1.6%					
Natural Resources					8.5%	9.8%	8.8%	7.2%	7.9%
	90.6%	**88.6%**	**86.9%**	**83.8%**	**82.1%**	**87.0%**	**87.6%**	**86.8%**	**86.4%**
All other Departments	9.4%	11.4%	13.1%	16.2%	17.9%	13.0%	12.4%	13.2%	13.6%
Total Overtime Paid	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: Public Service Payroll Records

As Figure 3 shows, these three departments continue to be responsible for the majority of overtime payments. In fact, the proportion of total overtime paid by the Department of Transportation and Works has increased at a greater rate than that of the other departments since the reorganization of Government departments in 2005.

Individuals receiving significant overtime payments

During our review, we identified many employees who received significant overtime payments during the period 1 April 2001 to 31 March 2009. Details are as follows:

- In the 8 year period to 2009, 445 employees each received at least 50% in excess of their regular pay in overtime payments. The regular pay of these employees totalled $20.3 million while their overtime payments totalled $13.0 million. Therefore, on average, these employees received overtime payments equal to 64% of their regular pay.

- For the year ended 31 March 2009, 40 employees received $30,000 or more each in overtime payments during the year. These 40 employees received a total of $1.8 million in overtime payments, representing 8.6% of all overtime paid during 2009.

  In contrast, for the year ended 31 March 2001, 3 employees received $30,000 or more each in overtime payments during the year. These 3 employees received a total of $0.1 million in overtime payments, representing only 0.7% of all overtime paid during 2001.

Figure 4 provides details on the department, position, annual salary and overtime payments for these 40 employees.

Figure 4

Employees Who Received Overtime Payments
$30,000 or more
Fiscal Year Ended 31 March 2009

Department	Position	Annual Salary	Overtime Payments
Finance	Budget Analyst	$ 81,651	$ 174,310
Transportation and Works	Marine Engineer (2nd Class)	55,408	102,625
Transportation and Works	Mate (1st Class)	43,877	53,419
Transportation and Works	Engineering Tech III	47,720	51,560
Fisheries and Aquaculture	Aquaculture Veterinarian	78,733	51,496
Transportation and Works	Marine Engineer (4th Class)	48,965	50,150
Transportation and Works	Ferry Captain II	56,550	49,989
Transportation and Works	Oiler (Marine)	38,657	49,863
Transportation and Works	Marine Engineer (2nd Class)	55,408	48,533
Transportation and Works	Marine Engineer (2nd Class)	55,408	48,103
Transportation and Works	Marine Engineer (4th Class)	45,471	47,784

Review of Overtime

Department	Position	Annual Salary	Overtime Payments
Fisheries and Aquaculture	Aquaculture Veterinarian	78,733	43,416
Justice	Police Sergeant	79,761	43,057
Transportation and Works	Marine Engineer (3rd Class)	48,965	42,593
Finance	Computer Support Specialist	57,912	41,871
Government Services	Director of Commercial Registration	96,541	41,212
Transportation and Works	Ferry Captain II	59,909	40,669
Justice	Correctional Officer I	51,005	39,108
Justice	Police Constable	66,467	38,434
Transportation and Works	Mate (1st Class)	43,877	37,420
Transportation and Works	Mate (1st Class)	43,877	37,223
Transportation and Works	Mate (1st Class)	43,877	36,884
Transportation and Works	Marine Engineer (2nd Class)	55,408	35,370
Transportation and Works	Ferry Captain I	53,303	35,014
Transportation and Works	Marine Engineer (4th Class)	45,471	34,936
Transportation and Works	Tradesworker II	43,306	34,846
Transportation and Works	Ferry Captain I	53,303	33,870
Transportation and Works	Ferry Captain III	63,962	32,926
Justice	Police Sergeant	79,761	32,847
Finance	Secretary to Assistant Deputy Minister	49,377	32,675
Transportation and Works	Marine Engineer (2nd Class)	55,408	32,597
Transportation and Works	Marine Engineer (4th Class)	45,471	32,205
Transportation and Works	Oiler (Marine)	38,657	32,182
Transportation and Works	Marine Engineer (4th Class)	48,965	31,848
Justice	Correctional Officer I	51,005	31,681
Transportation and Works	Marine Engineer (4th Class)	45,471	31,137
Justice	Police Constable	74,443	31,074
Transportation and Works	Ferry Captain II	49,832	30,868
Transportation and Works	Ferry Captain II	49,832	30,637
Transportation and Works	Materials Inspector III	43,079	30,047
		Total	**$ 1,756,479**

Source: Public Service Payroll Records

Of the 40 employees in Figure 4, 25 at the Marine Services Division and 4 at the RNC each received overtime payments of $30,000 or more during the 2009 fiscal year. These 25 employees at the Marine Services Division received a total of $1.0 million, while the 4 employees at the RNC received a total of $0.1 million.

10 employees who received the highest overtime payments

Details on the overtime payments of the 10 employees who received the highest overtime payments during the period of our review are as follows:

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $303,000 for the five-year period 2005 through to 2009 as follows: 2005 - $31,000; 2006 - $42,000; 2007 - $69,000; 2008 - $58,000; and 2009 - $103,000. This employee's regular pay during this period was $296,000; therefore, this employee received $599,000 from their regular pay and overtime during this five-year period and received 102% of their regular pay in overtime payments.

- A sergeant at the RNC has been paid overtime totalling $235,000 for the four-year period 2006 through to 2009 as follows: 2006 - $38,000; 2007 - $62,000; 2008 - $108,000; and 2009 - $27,000. This employee's regular pay during this period was $259,000; therefore, this employee received $494,000 from their regular pay and overtime during this four-year period and received 91% of their regular pay in overtime payments.

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $185,000 for the five-year period 2005 through to 2009 as follows: 2005 - $46,000; 2006 - $24,000; 2007 - $50,000; 2008 - $39,000; and 2009 - $26,000. This employee's regular pay during this period was $255,000; therefore, this employee received $440,000 from the regular pay and overtime during this five-year period and received 73% of their regular pay in overtime payments.

- A sergeant at the RNC has been paid overtime totalling $207,000 for the four-year period 2005 through to 2008 as follows: 2005 - $21,000; 2006 - $23,000; 2007 - $88,000; and 2008 - $75,000. This employee's regular pay during this period was $233,000; therefore, this employee received $440,000 from their regular pay and overtime during this four-year period and received 89% of their regular pay in overtime payments.

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $130,000 for the four-year period 2006 through to 2009 as follows: 2006 - $37,000; 2007 - $28,000; 2008 - $32,000; and 2009 - $33,000. This employee's regular pay during this period was $210,000; therefore, this employee received $340,000 from the regular pay and overtime during this four-year period and received 62% of their regular pay in overtime payments.

- A ferry captain at the Department of Transportation and Works has been paid overtime totalling $135,000 for the four-year period 2006 through to 2009 as follows: 2006 - $39,000; 2007 - $31,000; 2008 - $36,000; and 2009 - $29,000. This employee's regular pay during this period was $308,000; therefore, this employee received $443,000 from the regular pay and overtime during this four-year period and received 44% of their regular pay in overtime payments.

- A computer support specialist at the Department of Finance has been paid overtime totalling $146,000 for the four-year period 2006 through to 2009 as follows: 2006 - $26,000; 2007 - $24,000; 2008 - $54,000; and 2009 - $42,000. This employee's regular pay during this period was $182,000; therefore, this employee received $328,000 from their regular pay and overtime during this four year period and received 80% of their regular pay in overtime payments.

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $150,000 for the five-year period 2005 through to 2009 as follows: 2005 - $25,000; 2006 - $24,000; 2007 - $38,000; 2008 - $31,000; and 2009 - $32,000. This employee's regular pay during this period was $225,000; therefore, this employee received $375,000 from the regular pay and overtime during this five-year period and received 67% of their regular pay in overtime payments.

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $144,000 for the five-year period 2005 through to 2009 as follows: 2005 - $25,000; 2006 - $27,000; 2007 - $30,000; 2008 - $33,000; and 2009 - $29,000. This employee's regular pay during this period was $209,000; therefore, this employee received $353,000 from the regular pay and overtime during this five-year period and received 69% of their regular pay in overtime payments.

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $126,000 for the four-year period 2006 through to 2009 as follows: 2006 - $21,000; 2007 - $27,000; 2008 - $54,000; and 2009 - $24,000. This employee's regular pay during this period was $231,000; therefore, this employee received $357,000 from the regular pay and overtime during this four-year period and received 55% of their regular pay in overtime payments.

Employees who were paid a significant amount of overtime

Details on other employees who received overtime payments which were a significant percentage of their regular salary are as follows:

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $181,000 for the four-year period 2006 through to 2009 as follows: 2006 - $36,000; 2007 - $38,000; 2008 - $57,000; and 2009 - $50,000. This employee's regular pay during this period was $189,000; therefore, this employee received $370,000 from the regular pay and overtime during this four-year period and received 96% of their regular pay in overtime payments

- The director of election operations at the Chief Electoral Office has been paid overtime totalling $129,000 for the three-year period 2006 through to 2008 as follows: 2006 - $41,000; 2007 - $25,000; and 2008 - $63,000. This employee's regular pay during this period was $161,000; therefore, this employee received $290,000 from their regular pay and overtime during this three-year period and received 80% of their regular pay in overtime payments.

- A marine engineer at the Department of Transportation and Works has been paid overtime totalling $166,000 for the four-year period 2006 through to 2009 as follows: 2006 - $39,000; 2007 - $27,000; 2008 - $57,000; and 2009 - $43,000. This employee's regular pay during this period was $190,000; therefore, this employee received $356,000 from the regular pay and overtime during this four-year period and received 87% of their regular pay in overtime payments.

- A secretary to an Assistant Deputy Minister at the Department of Finance has been paid overtime totalling $113,000 for the four-year period 2006 through to 2009 as follows: 2006 - $28,000; 2007 - $25,000; 2008 - $27,000; and 2009 - $33,000. This employee's regular pay during this period was $181,000; therefore, this employee received $294,000 from the regular pay and overtime during this four-year period and received 62% of their regular pay in overtime payments.

2. Time-Off-In-Lieu (TOIL)

Overview

In addition to overtime that is paid on an ongoing basis to employees, Government also allows employees to "bank" overtime earned. Employees have the option of receiving payment for a portion or all of the "banked" hours at some future time, or drawing down on the hours and taking paid time-off-in-lieu (TOIL) of payment.

Figure 5 provides details of the amount of TOIL owing to employees for each fiscal year from 2001 through to 2009.

Figure 5

Overtime Earned But Unpaid
Fiscal Years 2001 through to 2009
($000's)

Department	2001	2002	2003	2004	2005	2006	2007	2008	2009
Transportation and Works	$2,372.0	$2,091.6	$2,401.9	$2,211.4	$2,628.5	$2,726.7	$2,624.0	$3,646.3	$ 4,194.7
Tourism, Culture and Recreation	526.0	627.4	778.1	722.1	722.2	1,039.0	1,016.5	1,076.5	1,235.2
Finance	68.0	104.3	129.7	118.7	164.0	363.1	574.2	973.5	1,088.7
Justice	49.0	334.3	340.6	310.2	247.5	333.6	979.3	605.4	1041.5
Natural Resources					339.0	368.7	478.1	533.6	672.5
Forest Resources and Agrifoods	79.0	195.3	219.4	227.5					
Mines and Energy	158.0	111.3	125.0	83.0					
Government Services	244.0	219.2	166.6	183.9	236.3	238.0	433.6	452.3	463.2
Executive Council	230.0	320.3	359.7	251.6	356.6	193.1	218.1	324.6	405.2
Environment and Conservation	85.0	74.2	91.5	140.3	321.6	338.3	373.6	295.7	387.6
Legislature	7.0	18.2	13.1	10.5	7.8	5.5	147.1	232.2	341.7
Human Resources, Labour and Employment	84.0	166.2	200.2	283.3	299.6	283.8	264.3	277.3	317.8
Education	21.0	96.3	111.5	143.4	160.2	132.0	140.7	132.6	204.2
Fisheries and Aquaculture	38.0	42.6	39.2	58.6	55.9	77.7	118.8	128.2	196.1
Municipal Affairs	16.0	91.7	113.7	108.7	104.4	98.1	145.5	166.1	186.6
Innovation, Trade and Rural Development		190.4	168.4	93.6	85.7	82.4	97.2	167.7	127.9
Health and Community Services	26.0	0.0	28.5	38.3	37.1	25.4	38.0	51.7	27.2

Department	2001	2002	2003	2004	2005	2006	2007	2008	2009
Labrador and Aboriginal Affairs		3.3	5.7	4.2	4.9	4.5	1.7	2.7	13.0
Business						0.8	1.6	20.0	4.0
Labour		82.3	64.4	58.9					
Youth Services and Post Secondary Education		6.1	12.6	2.4					
Industry, Trade and Technology	13.0								
Development and Rural Renewal	156.0								
Totals	**$4,172.0**	**$4,775.0**	**$5,369.8**	**$5,050.6**	**$5,771.3**	**$6,310.7**	**$7,652.3**	**$9,086.4**	**$10,907.1**

Source: Consolidated Revenue Fund Financial Statements and Supporting Working Papers

TOIL increasing

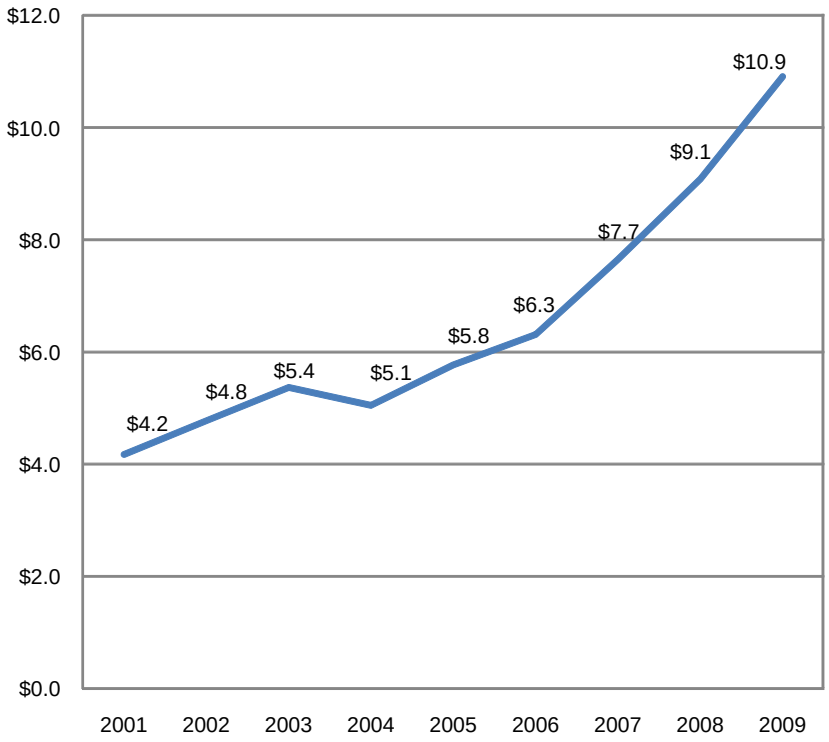
As Figure 5 shows, TOIL has increased significantly over the past eight years, especially within the past three fiscal years. The liability for TOIL has increased by $6.7 million from $4.2 million in 2001 to $10.9 million in 2009, an increase of 160%. The increase in TOIL during this period can be accounted for as follows:

- $1.8 million of the increase relates to the Department of Transportation and Works which had TOIL totalling $2.4 million at the end of 2001 and $4.2 million at the end of 2009, a 75% increase;
- $1.0 million of the increase relates to the Department of Finance which had TOIL totalling $0.1 million at the end of 2001 and $1.1 million at the end of 2009, a 1,000% increase;
- $1.0 million of the increase relates to the Department of Justice which had TOIL totalling $0.0 million at the end of 2001 and $1.0 million at the end of 2009, a 1,000% increase;
- $0.7 million of the increase relates to the Department of Tourism, Culture and Recreation which had TOIL totalling $0.5 million at the end of 2001 and $1.2 million at the end of 2009, a 140% increase; and
- $2.2 million of the increase relates to all other departments which had TOIL totalling $1.2 million at the end of 2001 and $3.4 million at the end of 2009, a 183% increase.

Figure 6 shows graphically how the liability for TOIL has changed during the fiscal years 2001 through to 2009.

Figure 6

TOIL
Fiscal Years 2001 through to 2009
($ Millions)



Salary changes increase TOIL liability

As Figure 6 shows, the liability for TOIL has increased significantly since 2001. In addition to increased overtime worked, the liability for TOIL is also impacted by wage increases and reclassifications. Employees work overtime which can be banked and either taken or paid at a later date. If employees decide to not use their banked overtime, they can defer payment until any future date they desire e.g. upon retirement. The effect of this arrangement is that employees can add substantial value to their banked overtime simply by waiting for their salaries to increase either by way of a raise, a reclassification or a promotion.

Employees can decide when it is most beneficial to be paid for their banked overtime because Government does not have a policy which requires employees to either use or be paid for TOIL within a specific period of time e.g. annually as is the case with the RNC. As a result, Government's liability relating to TOIL has substantially increased in large part due to the significant recent salary increases awarded to employees.

Four departments accounted for 69% of TOIL

Four departments accounted for $7.5 million (69%) of the total accumulated TOIL of $10.9 million as at 31 March 2009:

- $4.2 million or 39% of the $10.9 million related to the Department of Transportation and Works;
- $1.2 million or 11% of the $10.9 million related to the Department of Tourism, Culture and Recreation;
- $1.1 million or 10% of the $10.9 million related to the Department of Finance; and
- $1.0 million or 9% of the $10.9 million related to the Department of Justice.

Figure 7 shows accumulated TOIL for each of the four departments as a percentage of total accumulated TOIL for fiscal years 2001 through to 2009.

Figure 7

TOIL
Fiscal Years 2001 through to 2009

Department	2001	2002	2003	2004	2005	2006	2007	2008	2009
Transportation and Works	56.9%	43.8%	44.7%	43.8%	45.5%	43.2%	34.3%	40.1%	38.5%
Tourism, Culture and Recreation	12.6%	13.1%	14.5%	14.3%	12.5%	16.5%	13.3%	11.8%	11.3%
Finance	1.6%	2.2%	2.4%	2.4%	2.8%	5.8%	7.5%	10.7%	10.0%
Justice	1.2%	7.0%	6.3%	6.1%	4.3%	5.3%	12.8%	6.7%	9.5%
	72.3%	**66.1%**	**67.9%**	**66.6%**	**65.1%**	**70.8%**	**67.9%**	**69.3%**	**69.3%**
All other Departments	27.7%	33.9%	32.1%	33.4%	34.9%	29.2%	32.1%	30.7%	30.7%
Total TOIL	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

As Figure 7 shows, these four departments continue to be responsible for the majority of accumulated TOIL. Figure 7 also shows that the proportion of accumulated TOIL by the Department of Finance and the Department of Justice has increased at a greater rate than that of the other departments.

Individuals accumulated significant amounts of TOIL

During our review, we identified many employees who accumulated significant amounts of TOIL during the period 1 April 2001 to 31 March 2009. We found the following:

- 43 employees each had an accumulated TOIL balance equal to at least 50% of their annual salary. The annual salary of these employees for 2009 totalled $2.8 million while their accumulated TOIL balance totalled $2.5 million. Therefore, on average, these employees had an accumulated TOIL balance equal to 89% of their annual salary.

- As at 31 March 2009, 43 employees had an accumulated TOIL balance of $30,000 or more each. These 43 employees had a total accumulated TOIL balance of $2.6 million, representing 24% of all accumulated TOIL.

  In contrast, as at 31 March 2001, 2 employees had an accumulated TOIL balance of $30,000 or more each. These 2 employees had a total accumulated TOIL balance of $93,000, representing only 2% of all accumulated TOIL.

Figure 8 provides details on the department, position, annual salary and accumulated TOIL for these 43 employees as at 31 March 2009.

Figure 8

Employees with Accumulated TOIL
As at 31 March 2009

Department	Position	Annual Salary	TOIL Balance
Legislature	Chief Financial Officer	$ 96,200	$ 210,110
Tourism, Culture and Recreation	Arts and Culture Centre Regional Manager	55,151	163,370
Finance	Budget Officer	84,560	126,608
Finance	Budget Officer	84,560	115,317
Natural Resources	Regional Veterinarian	78,733	92,295
Finance	Assistant Deputy Minister	108,571	86,976
Finance	Budget Analyst	78,570	83,319
Tourism, Culture and Recreation	Clerk IV	43,079	77,496
Executive Council	Manager of Financial Operations	63,104	77,372
Tourism, Culture and Recreation	Industry Development Officer	61,116	73,456
Finance	Budget Analyst	80,110	72,759
Finance	Assistant Deputy Minister	125,082	68,589
Tourism, Culture and Recreation	Industry Development Officer	61,116	68,274
Tourism, Culture and Recreation	Industry Development Officer	69,082	66,966
Executive Council	Director of Financial Operations	86,158	66,357
Finance	Budget Analyst	79,340	60,506
Tourism, Culture and Recreation	Industry Development Officer	61,116	56,828
Transportation and Works	Engineering Tech III	51,909	54,667
Finance	Director of Treasury Board Support	96,200	54,522
Finance	Budget Officer	84,560	50,538
Natural Resources	Solicitor IV	122,122	50,258
Municipal Affairs	Director of Engineering and Land Use Planning	93,829	48,294
Tourism, Culture and Recreation	Industry Development Officer	61,116	46,156
Finance	Budget Officer	84,560	46,066
Education	Manager of Human Resources	72,372	43,641
Tourism, Culture and Recreation	Theatre Technician I	40,768	42,476
Tourism, Culture and Recreation	Industry Development Officer	61,116	41,633
Finance	Fiscal Policy Officer II	80,110	41,281
Justice	Manager of Information Services	70,980	40,131
Transportation and Works	Engineering Tech III	47,720	38,628
Transportation and Works	Maintenance and Engineering Project Supervisor	57,570	37,693
Tourism, Culture and Recreation	Industry Development Officer	61,116	37,500

Department	Position	Annual Salary	TOIL Balance
Natural Resources	Veterinarian	78,733	36,998
Tourism, Culture and Recreation	Industry Development Officer	61,116	36,535
Human Resources, Labour and Employment	Chief Executive Officer (Labour Relations Board)	136,233	36,379
Education	Assistant Deputy Minister	126,437	35,187
Transportation and Works	Maintenance and Engineering Project Supervisor	57,570	34,664
Human Resources, Labour and Employment	Assistant Deputy Minister	107,499	33,963
Government Services	Director of Printing and Micrograph Services	80,110	32,451
Tourism, Culture and Recreation	Industry Development Officer	61,116	32,141
Tourism, Culture and Recreation	Historic Sites Officer II	57,112	31,851
Environment and Conservation	Environmental Scientist	65,939	30,794
Transportation and Works	Engineer III	61,116	30,004
		Total	**$2,611,049**

Source: Consolidated Revenue Fund Financial Statements and Supporting Working Papers
Note: In certain instances, the actual hours worked to accumulate the TOIL may have occurred in a previous position.

Of the 43 employees in Figure 8, 13 at the Department of Tourism, Culture and Recreation and 11 at the Department of Finance had each accumulated TOIL balances of $30,000 or more during the 2009 fiscal year. These 13 employees at the Department of Tourism, Culture and Recreation accumulated a total of $775,000, while the 11 employees at the Department of Finance accumulated a total of $806,000.

Ten employees who had the highest accumulated TOIL

Details on the accumulated TOIL balance for 10 employees who had the highest accumulated TOIL balance at 31 March 2009 are as follows:

- The chief financial officer at the Legislature had accumulated TOIL of $210,000 as at 31 March 2009. During the three-year period, 2007 through to 2009, this employee accumulated $186,000 as follows: 2007 - $80,000; 2008 - $41,000; and 2009 - $65,000. This employee's annual salary for 2009 was $96,000; therefore, this employee had accumulated TOIL equal to 219% of their annual salary.

- The regional manager of one of the Arts and Culture Centres at the Department of Tourism, Culture and Recreation had accumulated TOIL of $163,000 as at 31 March 2009. During the four-year period, 2006 through to 2009, this employee accumulated $88,000 as follows: 2006 - $28,000; 2007 - $16,000; 2008 - $19,000; and 2009 - $25,000. This employee's annual salary for 2009 was $55,000; therefore, this employee had accumulated TOIL equal to 296% of their annual salary.

- A budget officer at the Department of Finance had accumulated TOIL of $127,000 as at 31 March 2009. During the two-year period, 2008 through to 2009, this employee accumulated $69,000 as follows: 2008 - $56,000; and 2009 - $13,000. This employee's annual salary for 2009 was $85,000; therefore, this employee had accumulated TOIL equal to 149% of their annual salary.

- A budget officer at the Department of Finance had accumulated TOIL of $115,000 as at 31 March 2009. During the three-year period, 2007 through to 2009, this employee accumulated $99,000 as follows: 2007 - $17,000; 2008 - $52,000; and 2009 - $30,000. This employee's annual salary for 2009 was $85,000; therefore, this employee had accumulated TOIL equal to 135% of their annual salary.

- A veterinarian at the Department of Natural Resources had accumulated TOIL of $92,000 as at 31 March 2009. During the three-year period, 2007 through to 2009, this employee accumulated $92,000 as follows: 2007 - $80,000; 2008 - $5,000; and 2009 - $7,000. This employee's annual salary for 2009 was $79,000; therefore, this employee had accumulated TOIL equal to 116% of their annual salary.

- An assistant deputy minister at the Department of Finance had accumulated TOIL of $87,000 as at 31 March 2009. During the five-year period, 2005 through to 2009, this employee accumulated $82,000 as follows: 2005 - $31,000; 2006 - $22,000; 2007 - $2,000; 2008 - $17,000; and 2009 - $10,000. This employee's annual salary for 2009 was $109,000; therefore, this employee had accumulated TOIL equal to 80% of their annual salary.

- A budget analyst at the Department of Finance had accumulated TOIL of $83,000 as at 31 March 2009. During the three-year period, 2007 through to 2009, this employee accumulated $81,000 as follows: 2007 - $15,000; 2008 - $44,000; and 2009 - $22,000. This employee's annual salary for 2009 was $79,000; therefore, this employee had accumulated TOIL equal to 105% of their annual salary.

- A clerk at the Department of Tourism, Culture and Recreation had accumulated TOIL of $77,000 as at 31 March 2009. During the four-year period, 2006 through to 2009, this employee accumulated $44,000 as follows: 2006 - $17,000; 2007 - $8,000; 2008 - $9,000; and 2009 - $10,000. This employee's annual salary for 2009 was $43,000; therefore, this employee had accumulated TOIL equal to 179% of their annual salary.

- A manager of financial operations at Executive Council had accumulated TOIL of $77,000 as at 31 March 2009. During the four-year period, 2006 through to 2009, this employee accumulated $74,000 as follows: 2006 - $14,000; 2007 - $12,000; 2008 - $30,000; and 2009 - $18,000. This employee's annual salary for 2009 was $63,000; therefore, this employee had accumulated TOIL equal to 122% of their annual salary.

- An industry development officer at the Department of Tourism had accumulated TOIL of $73,000 as at 31 March 2009. During the four-year period, 2006 through to 2009, this employee accumulated $38,000 as follows: 2006 - $19,000; 2007 - $0; 2008 - $5,000; and 2009 - $14,000. This employee's annual salary for 2009 was $61,000; therefore, this employee had accumulated TOIL equal to 120% of their annual salary.

Employees who accumulated significant amounts of TOIL

Details on other significant TOIL amounts are as follows:

- A budget analyst at the Department of Finance was paid TOIL totalling $174,000 upon retirement during the 2008-09 fiscal year. During the period from March 2006 through to retirement this employee accumulated $118,000 as follows: 2007 - $10,000; 2008 - $87,000; and 2009 - $21,000. This employee's annual salary upon retirement was $82,000; therefore, this employee was paid accumulated TOIL equal to 212% of their annual salary.

- A theatre technician in one of the Arts and Culture Centres at the Department of Tourism, Culture and Recreation had accumulated TOIL of $42,000 as at 31 March 2009. During the two-year period, 2008 through to 2009, this employee accumulated $34,000 as follows: 2008 - $15,000; and 2009 - $19,000. This employee's annual salary for 2009 was $41,000; therefore, this employee had accumulated TOIL equal to 102% of their annual salary.

3. Monitoring Overtime Costs

Overview

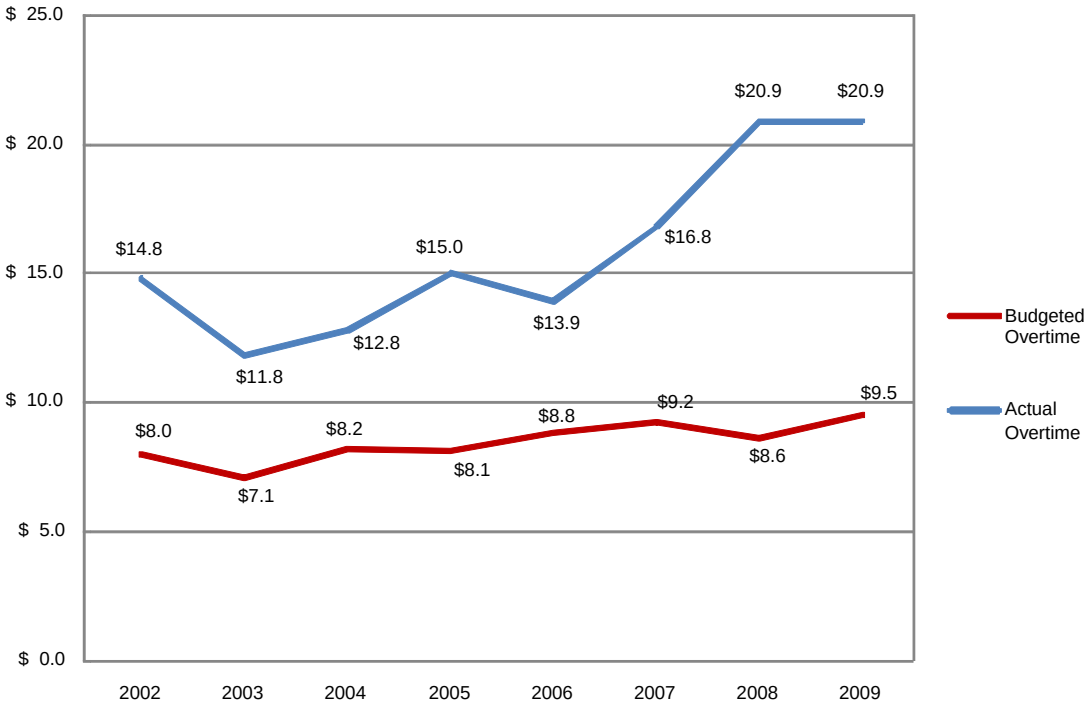
Overtime represents a significant cost for Government and for the year ended 31 March 2009, Government departments paid a total of $20.9 million and, at 31 March 2009, there was a total of $10.9 million owing Government employees related to TOIL. Therefore, it is important for Government to have systems and procedures to budget, authorize, record, monitor and control these costs. Such systems and procedures include a requirement to consider alternate work arrangements in order to minimize overtime costs. Our review identified the following:

Budgets significantly exceeded

For the period 1 April 2001 to 31 March 2009 Government significantly exceeded its budget for overtime. During this period, Government budgeted $67.5 million, while the actual payments totalled $126.9 million, a difference of $59.4 million, or 88%. Details of budget and actual overtime payments are outlined in Figure 9.

Figure 9

Budget and Actual Overtime Payments
Fiscal Years 2002 through to 2009
($ Millions)



Source: Public Service Payroll Records and Budget Division Reports

As Figure 9 shows, every year since 2001, Government has significantly exceeded its budgeted overtime payments. For the years 2002 to 2009 Government budgeted $67.5 million, while the actual payments totalled $126.9 million. As this shows, actual payments exceeded budget by $59.4 million (88%). The difference is accounted for as follows:

- $22.0 million (33%) - Transportation and Works;
- $16.8 million (25%) - Justice;
- $4.2 million (6%) – Natural Resources; and
- $16.4 million (24%) – All other departments.

In particular, in the last several years, the variances have been increasing. In 2009, Government had a budget variance of 120% (budget $9.5 million and actual payments of $20.9 million). In 2008, Government had a budget variance of 143% (budget $8.6 million and actual payments of $20.9 million). In 2007, Government had a budget variance of 83% (budget $9.2 million and actual payments of $16.8 million). This shows that Government is not doing a good job in budgeting for overtime payments.

The three departments with the largest overtime payments also had the largest budget to actual variances. For example in 2009:

- the Department of Justice had a budget variance of 150% (budget $1.8 million and actual payments of $4.5 million);
- the Department of Transportation and Works had a budget variance of 105% (budget $5.8 million and actual payments of $11.9 million); and
- the Department of Natural Resources had a budget variance of 100% (budget $0.8 million and actual payments of $1.6 million).

In 2008:

- the Department of Justice had a budget variance of 293% (budget $1.4 million and actual payments of $5.5 million);
- the Department of Transportation and Works had a budget variance of 91% (budget $5.8 million and actual payments of $11.1 million); and
- the Department of Natural Resources had a budget variance of 150% (budget $0.6 million and actual payments of $1.5 million).

Inadequate information system

In order for Government to adequately monitor and control overtime costs, it requires complete information on all overtime hours worked, all overtime paid, and all overtime taken in TOIL. However, Government does not have a system that either provides total overtime hours worked or how many of these overtime hours were taken in TOIL. Furthermore, this can have a cumulative effect if it creates the need for overtime that in turn causes more overtime. As a result, Government cannot readily determine its total overtime costs. All Government can conclude with the current information is how much was actually paid out in overtime dollars during the year and the balance of TOIL at the end of the year.

System limitations have also been acknowledged by Treasury Board when, in its Overtime Monitoring Guidelines in March 2006, it stated that *"These policies require interim reporting on overtime paid on an expenditure basis, versus on an accrual basis. As systems are developed in future and additional overtime information is more accessible, provision of overtime information on an accrual basis must be included."*

Restricted access to information

The Office of the Comptroller General (OCG) has been providing Treasury Board with semi-annual updates and an Annual Report on Overtime Expenditures since 2003. We requested access to the Annual Report on Overtime Expenditures from the OCG for the year ended 31 March 2009; however, we determined that Executive Council instructed that the Report not be provided.

We wrote Executive Council on 12 November 2009 and as at 7 January 2010 no response was received. However, we understand that the Report would not be provided to the Office because it was considered to be a Cabinet submission and therefore access would be restricted in accordance with the *Auditor General Act*.

We disagree with their position on this matter because, in our opinion, the Reports do not contain information that would constitute a Cabinet submission. This particular incident causes significant concerns about access to information necessary to complete work in accordance with the *Auditor General Act*.

Recommendations

Government should:

- consider implementing an information system that will adequately track all overtime costs;
- ensure that amounts budgeted for overtime payments adequately reflect operational requirements;
- review overtime incurred to ensure it is reasonable and to determine whether changes can be made to reduce the amount of overtime being incurred; and
- consider implementing a policy which requires employees to either use or be paid for TOIL within a specific period of time.

Executive Council's Response

The report only addresses the amount of dollars paid out in overtime and not the actual number of overtime hours worked during the period under review. Since overtime can be banked, taken as time in lieu or paid out as a lump sum upon retirement or resignation, the number of overtime hours worked versus the number of overtime hours paid may be significantly different.

While the report identifies that the overtime cost within Government has increased since the last review, overtime as a percentage of Government's gross payroll has not increased significantly (4.67% in 2001 and 4.80% in 2009). The review does not take into consideration the salary increases (approximately 32.8% compounded) provided to the public service during that period, the increases (approximately 50% compounded) applicable to the Royal Newfoundland Constabulary (RNC), and new programs and services that have been developed and implemented since the last review.

The report did not take into consideration the reasons why the overtime was incurred. Overtime costs are budgeted, approved, and managed by departments and are based on the requirement to meet operational objectives and services including those services related to public safety and security.

In conducting a comprehensive review of overtime costs, other factors should be considered. These factors include both internal and external circumstances such as the increase in population to the Northeast Avalon which would increase the service delivery costs of the RNC; the ability of an organization to attract critical skills when labour market supply may be low or demand high; or special projects and increased service delivery.

The report also comments on the cost of overtime within the Department of Justice and the Department of Transportation of Works. The Department of Justice, including the RNC, and the Department of Transportation and Works provide services that directly affect the safety and security of the people of this province. In each of these respective organizations, staff complements are established at levels required to ensure the public's safety. These departments are involved in direct service delivery and account for over forty percent of the public service. In addition, many of the public services provided by the Department of Justice are twenty-four hour/seven day operations. Thus, it is to be expected that costs associated with overtime will be higher in these departments.

With respect to the second objective, that the review would determine whether government departments have developed systems to monitor and control overtime, it would have been helpful if the report had outlined what the departments are currently doing.

The Auditor General's Office requested the "Annual Report on Overtime Expenditures for the Fiscal Year Ending March 31, 2009". The record declined was a Submission to the Treasury Board, a Committee of the Cabinet, pertaining to the subject matter of annual overtime expenditures. Pursuant to section 19 of the Auditor General Act, access to cabinet confidences is prohibited and the request was declined on the basis of that statutory direction. Records respecting the overtime expenditures for the fiscal year ending March 31, 2009 exist and are available to the Auditor General's Office directly from departments.

The review also identified banked overtime for certain positions. The overtime noted in this respect may have been accrued when the individuals were occupying positions in other departments and not necessarily in their current positions.

With respect to the recommendations contained in the report, the PSS supports continuous enhancements and improvements to existing management systems and business processes and offers the following comments:

- *Recommendation # 1 - Consider implementing an information system that will adequately track all overtime costs;*

    - *Effectively tracking costs related to human resource management is necessary and will support organizational efforts to improve the management of employees. As a result Government has recently completed a request for proposals (RFP) for an information management system for human resources. The results of this RFP will be submitted for budgetary consideration during this budget cycle. It should also be noted that the Department of Justice currently uses a system called Resource Utilization System at the RNC and at the Corrections Division. Departments have indicated that they are monitoring overtime on a regular basis. Hourly overtime information is available through the General Service Payroll System.*

- *Recommendation #2 - Ensure that amounts budgeted for overtime payments adequately reflect operational requirements;*

    - *Budgeted allocations for overtime are established during the budget process. However, it is impossible for the operations, such as the RNC, to budget for special operational assignments during the annual budget submission. Unplanned activities such as police investigations are often unknown during the budget process. Further, the public sector, like other organizations, competes for certain critical positions that are difficult to recruit. For example, finding replacement staff for Marine Engineers is difficult; however it is usually not an option to stop marine services. Thus, it is imperative to utilize existing resources, which results in overtime costs, in order for the vessel to remain in service.*

- *Recommendation # 3 - Review overtime incurred to ensure it is reasonable and to determine whether changes can be made to reduce the amount of overtime being incurred;*

    - *Through the budget monitoring process conducted by government departments, the Deputy Ministers are aware of the amount and reasons for overtime within their respective departments. The need for the overtime is, more often than not, due to requirements which come about on short notice. Departments are committed to managing their human resources appropriately and will continue to monitor the use of overtime and to identify and implement methods to alleviate overtime costs, where appropriate.*

- *Recommendation #4 - Consider implementing a policy which requires employees to either use or be paid for TOIL within a specific period.*

    - *The PSS is currently revising the Overtime Policy as it relates to management and non-management/non-bargaining unit employees. The way in which overtime is banked has been identified as an issue that needs to be addressed. This recommendation will be encompassed into the policy review currently underway. For those employees employed under the conditions set forth in their respective collective agreement, the employer will continue to be guided by those provisions.*

PART 2.2

DEPARTMENT OF CHILD, YOUTH AND FAMILY SERVICES

CHILD CARE SERVICES

Executive Summary

Under the *Child Care Services Act* (the *Act*), the four Regional Health Authorities (RHAs) are responsible for the day-to-day administration of the provisions of the legislation within each region with respect to the licensing and monitoring of child care services in the region. The Department of Health and Community Services (the Department) had overall responsibility for child care services in the Province (responsibility was assumed by the new Department of Child, Youth and Family Services during 2009).

As at January 2009, there were 170 licensed child care centres throughout the Province and 68 family child care homes. Of the 68 family child care homes, 57 were affiliated with 2 agencies (Eastern and Western), and 11 were in regions without agencies or directly licensed by the RHAs. In total there were 6,032 available spaces for child care, comprised of 5,621 at child care centres and 411 at family child care homes.

Although the Department and the four RHAs have made progress in implementing our previous recommendations relating to licensing and monitoring of child care services in the Province, our current review indicated that there are still issues within the child care services as follows:

Monitoring - Child Care Centres

Policies at the Department of Health and Community Services require that RHA officials make monthly visits where possible to child care service providers and formally evaluate each provider at least annually or more frequently if the situation requires. Our review of 34 files from the four RHAs identified the following deficiencies:

Operators

In 14 files there were 28 instances relating to child care centre operators where files did not contain the required documentation or evidence that the requirements were waived by the Regional Director as follows:

- 1 - no evidence that the application had been approved;
- 7 - no evidence of a current Level II Certification for Child Care Services;
- 6 - no evidence of a current first aid certification;

- 9 - no evidence of a current Child Protection Records Check; and
- 5 - no evidence of a current Certificate of Conduct.

Staff

In 13 files there were 30 instances relating to 79 staff at child care centres where files did not contain the required documentation or evidence that the requirements were waived by the Regional Director as follows:

- 5 - no evidence of a current Early Childhood Education Certification for Child Care Services;
- 7 - no evidence of a current first aid certification;
- 7 - no evidence of a current Child Protection Records Check;
- 8 - no evidence of a current Certificate of Conduct; and
- 3 - no evidence of a record of immunization.

Two additional files did not contain a staff summary document which is used to identify staff and monitor all of the required documentation along with expiry dates.

Inspections

There were 8 instances where there was no evidence that the required annual inspections by RHA officials had been performed. The annual inspections were not performed as follows: 3 - Eastern (Urban); 2 - Central; and 3 - Western.

Only 1 RHA (Central) had a preprinted form detailing all of the areas that were required to be checked during the monthly visits. The other 3 RHAs used a preprinted form which only had a section for comments and actions required. As a result, the 3 RHAs could not readily demonstrate that all areas were checked as required.

Violations

In 11 files there were 14 instances where RHA officials did not issue violation orders even though there was a non-compliance with the *Act* and *Regulations*. These instances included such things as:

- in 2 instances an employee had been on site without a current Child Protection Records Check;
- a recurring issue identified during three visits to a centre over a four month period, where there were limited or no files maintained for children at the centre;
- a homeroom lead staff did not have the required Level I Certification for Child Care Services;
- equipment and materials were blocking a centre's emergency exit;
- at one centre a medicine cabinet was not locked;
- no documentation on file for substitute staff working at the centre; and
- at one centre children were being taken for walks without first aid kit/supplies.

Licensing of Child Care Centres

Contrary to the *Act* and *Regulations*, child care centres did not always submit, within the timeframes prescribed, applications and documentation specified for licensing and continuing operation. Our review of 34 files from the four RHAs identified the following deficiencies:

- in 15 files the centres applied for licence renewal after the 60 day minimum notice prior to licence expiry. Centres applied for licence renewal from 2 days to 58 days prior to licence expiry;
- in 9 files there was no evidence on file during our review to show evidence of current liability insurance; and
- in 1 file there was no evidence of follow-up during the licensing process to determine whether the centre met the condition of having all medications in a locked container.

Family Child Care Homes

The *Act* and *Regulations* outline a number of application requirements relating to the issuance of a licence to operate a family child care home.

Our review of 13 files for family child care homes for three RHAs (Labrador-Grenfell had no family child care homes) identified the following issues with regards to family child care homes affiliated with licensed child care agencies:

- in 1 file there was no evidence of an application for renewal of approval; and

- in 6 files the facilities submitted renewal applications dated after the date of expiration on the prior approval. In these cases, the facilities operated without approval for between 2 days and 28 days.

Background

The *Child Care Services Act* (the *Act*) and *Child Care Services Regulations* provide the legislative framework for control over the provision of child care services in the Province. Under the *Act*, child care refers to the care and supervision of a child for a part of a day by a person other than the child's parent, guardian, relative, other caregiver, or a person employed by one of these individuals to care for the child in the child's home.

For purposes of the *Act*, children may be cared for in either:

- a licensed child care centre which is defined as a location other than a home and has a maximum enrolment of 60 children;

- a licensed family child care home which is defined as a provider's home which has a maximum of 8 children; or

- an approved family child care home which is defined as a provider's home which has a maximum of 8 children and affiliated with one of the two licensed child care agencies (Eastern and Western) in the Province.

Family child care homes with less than 5 children are not required to be licensed; however, they can be licensed if they so choose.

As Figure 1 shows, as at January 2009, there were 170 licensed child care centres throughout the Province and 68 family child care homes. Of the 68 family child care homes, 57 were affiliated with 2 agencies (Eastern and Western), and 11 were in regions without agencies or directly licensed by the RHAs. The Figure also shows there were a total of 6,032 available spaces for child care, comprised of 5,621 at child care centres and 411 at family child care homes.

Figure 1

Child Care Services
Number of Centres and Family Homes
As at January 2009

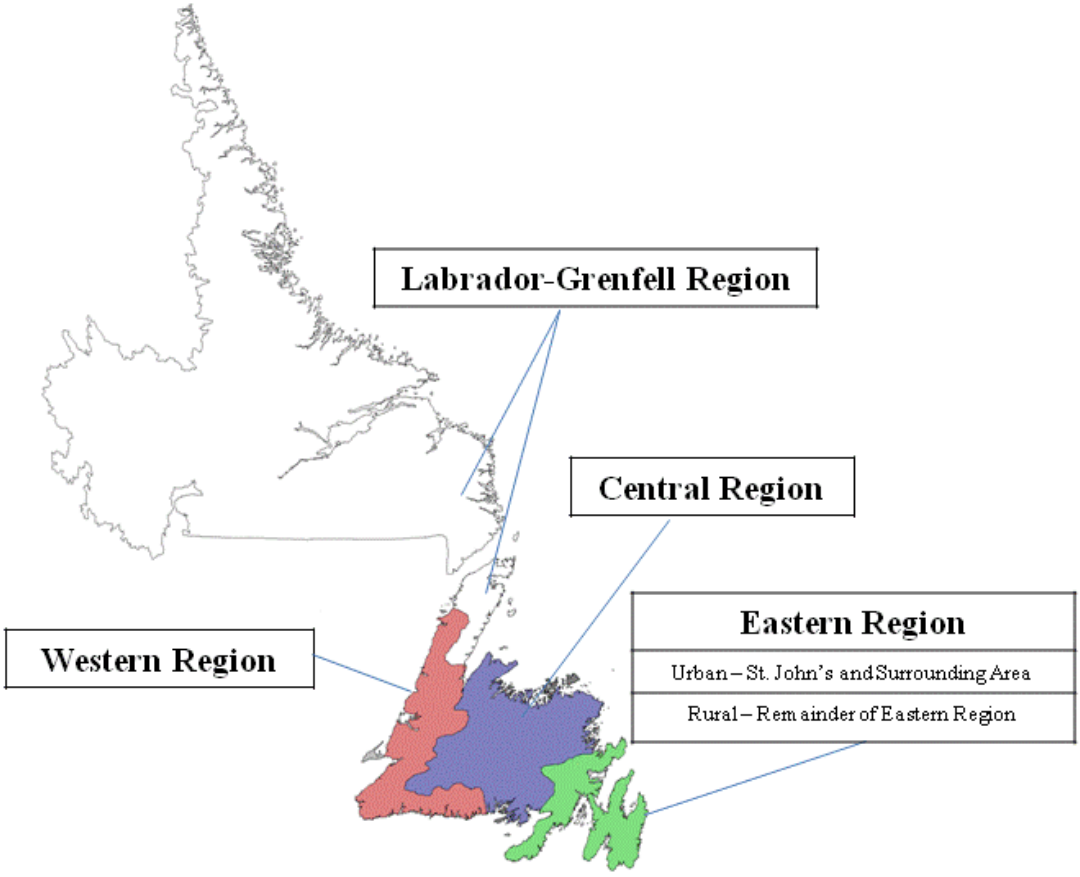
	Child Care Centres		Family Child Care Homes	
Region	**Number of Centres**	**Spaces Available**	**Number of Homes**	**Spaces Available**
Eastern (Urban)	101	3,861	31[1]	182
Eastern (Rural)	11	275	2[3]	12
Total - Eastern	112	4,136	33	194
Central	23	588	6[3]	43
Western	23	573	29[2]	174
Labrador-Grenfell	12	324	0	0
Total	**170**	**5,621**	**68**	**411**

Source: The Department of Health and Community Services
Note 1: 30 of these homes report to the Family and Child Care Connections – Family Child Care Agency and 1 reports to the Regional Health Authority
Note 2: 27 of these homes report to the Family Outreach Resource Centre – Family Child Care Agency and 2 report to the Regional Health Authority
Note 3: These homes report directly to the Regional Health Authority

The Department of Health and Community Services (the Department) had overall responsibility for child care services in the Province (responsibility was assumed by the new Department of Child, Youth and Family Services during 2009). There is a Provincial Director of Child Care Services at the Department, who is required to review, monitor and update child care policies, establish standards and qualifications for persons involved in child care delivery, and determine licensing and facility requirements. Under the *Act*, each of the four Regional Health Authorities (RHAs) may appoint a regional director of child services who is responsible for the day-to-day administration of the provisions of the legislation within each region, with respect to the licensing and monitoring of child care services in the region. The regions are shown in Figure 2.

Figure 2

Regional Health Authorities
Child Care Regions



The Department of Government Services, based on an agreement with the Department of Health and Community Services and the four RHAs, is responsible for conducting inspections of all licensed child care facilities. Under the agreement, inspectors located at the various Government Service Centres are responsible for conducting fire and life safety, and environmental health inspections for the facilities.

Results of our previous review

In 2003 we completed a review of child care services and identified several significant findings as follows:

- There were instances where child care facilities were issued licences even though the licensing requirements were either not met or did not continue to be met.
- Neither of the two family child care agencies (St. John's and Western) operating in the Province at that time were licensed.
- Monitoring of child care services was not always performed in accordance with policy.
- Violation orders were not always issued on a consistent basis for significant breaches of the *Act*.
- The required annual fire and life safety, and environmental health inspections were not always conducted by the Department of Government Services.

Audit Objectives and Scope

Audit objectives

The objective of our review was to determine whether the Department had adequate systems and processes such that:

- applicants approved for child care licences met the application requirements of the *Child Care Services Act* and *Regulations;* and
- licensees were monitored to assess their compliance with the *Child Care Services Act* and *Regulations*.

Audit scope

Our review covered the period of 1 April 2007 to 31 August 2009. We completed our review in November 2009.

Our review included discussions with Departmental and RHA officials, and an examination of files from the four RHAs across the Province to determine whether child care facilities operated and were monitored in accordance with the *Child Care Services Act* and *Regulations*.

Detailed Observations

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

1. Licensing of Child Care Centres
2. Monitoring of Child Care Centres
3. Family Child Care Homes

Files were selected for review from the four RHAs. Figure 3 shows the number of samples selected for each RHA along with the number of child care centres and family child care homes associated with each RHA.

Figure 3

Child Care Services
Sample Distribution

	Child Care Centres		Family Child Care Homes	
Region	**Number of Centres**	**Number of Samples**	**Number of Family Homes**	**Number of Samples**
Eastern (Urban)	101	21	31	6
Eastern (Rural)	11	2	2	0
Total - Eastern	112	23	33	6
Central	23	5	6	1
Western	23	4	29	6
Labrador-Grenfell	12	2	0	0
Total	**170**	**34**	**68**	**13**

Source: The Department of Health and Community Services as at January 2009

1. Licensing of Child Care Centres

Overview

The *Child Care Services Act* and *Child Care Services Regulations* outline a number of application requirements relating to the issuance of a licence to operate a child care service. These requirements include such things as: completed application form, information on licensee, a copy of the certificate of incorporation (if applicable), floor plans, municipal approval, insurance policy with required clauses, child program submission, and information relating to the Operator. In order for the facility to operate, fire and life safety, and environmental health inspections must be completed by Government Services. In addition, approval is required from the Director of Child Care Services. See Appendix A for a summary chart of findings.

Licensing issues: Eastern (Urban)

We reviewed the files of 21 centres in the Eastern (Urban) region to determine whether licensing requirements had been met. We identified the following issues:

- 10 of the 21 centres applied for licence renewal after the 60 day minimum notice required for a licence renewal submission. Application dates ranged from 3 to 56 days prior to expiration;
- 5 of the 21 centres did not contain evidence of current liability insurance. The policies on file expired between 15 January 2009 and 4 July 2009 and no evidence of renewal was on file as of 31 August 2009; and
- 3 of the 21 centres had instances where conditions had been placed on the approval of the licence, and there was no evidence on file to indicate that adequate follow-up had been performed. Instances included inadequately qualified staff and an unlocked medicine cabinet.

Licensing issues: Eastern (Rural)

We reviewed the files of 2 centres in the Eastern (Rural) region to determine whether licensing requirements had been met. We identified the following issue:

- 1 of the 2 centres had an instance where a condition had been placed on the approval of a licence, and the condition had not been met. The licensee was required to meet set nutrition guidelines and subsequent visits to the centre indicated that the requirement was not being met.

Licensing issues: Central

We reviewed the files of 5 centres in the Central region to determine whether licensing requirements had been met. We identified the following issue:

- 3 of the 5 centres applied for licence renewal after the 60 day minimum notice required for a licence renewal submission. Application dates ranged from 46 to 52 days prior to expiration.

Licensing issues: Western

We reviewed the files of 4 centres in the Western region to determine whether licensing requirements had been met. We identified the following issues:

- 2 of the 4 centres applied for licence renewal after the 60 day minimum notice required for a licence renewal submission. Application dates were both 26 days prior to expiration; and

- 3 of the 4 files did not contain evidence of current liability insurance. The policies on file expired between 15 May 2008 and 27 July 2009 and no evidence of renewal was on file as of 31 August 2009.

Licensing issues: Labrador-Grenfell

We reviewed the files of 2 centres in the Labrador-Grenfell region to determine whether licensing requirements had been met. We identified the following issue:

- 1 of the 2 files did not contain evidence of current liability insurance. The policy on file expired 3 November 2007 and no evidence of renewal was on file as of 31 August 2009.

Recommendations

The Department should ensure that:

- child care centres submit all required documentation and applications specified for the licensing and relicensing processes within the timeline prescribed by the *Act* and *Regulations*; and

- documentation required for continued licensing, such as insurance policies and Government Services inspections, continue to be updated and maintained.

2. Monitoring of Child Care Centres

Overview

After a child care licence is issued, each of the RHAs is required to monitor the licensees to determine whether they operate in accordance with the requirements of the *Child Care Services Act* and *Child Care Services Regulations*. The *Act* provides various compliance and enforcement options. These enforcement options include issuing a violation order, issuing a varied licence, suspension or cancellation of a licence, and refusal to renew a licence.

The Department of Health and Community Services has developed policies outlining the monitoring activities that must be undertaken to determine whether child care service providers operate in accordance with the requirements of the *Act* and *Regulations*. These policies include the requirement to make monthly visits where possible to child care service providers and to formally evaluate each provider at least annually or more frequently if the situation requires. These visits are carried out primarily by social workers, although child care consultants are also part of the process and work to help ensure adequate programs are in place.

We reviewed files from across the Province and found that while the monitoring process has improved in recent years, there are still a number of deficiencies. See Appendix A for a summary chart of findings.

Based on our review, we made the following observations on:

2A. Operator Documentation
2B. Staffing Information
2C. Inspections
2D. Visitations/Violation Orders

2A. Operator Documentation

Introduction

The operator of a child care centre serves as the onsite manager and director of the facility. An operator requires prior approval of the Director of Child Care Services for the region and must meet a higher level of qualifications than a standard employee. Operators are responsible for developing and delivering a specialized child care program. Documentation and approval of the operator must be in place at the time of licensing, and the RHA is required to ensure that up to date credentials for the operators are maintained at all times.

When approving an operator, the RHA requires that individuals submit an application, meet requirements of Level II Certification for Child Care Services, have a current first aid certification, a current Child Protection Records Check, a current Certificate of Conduct, and a record of immunization. In certain circumstances, the educational and work qualifications may be waived by the Regional Director.

Operator issues: Eastern (Urban)

We reviewed the files of 21 child care centres in the Eastern (Urban) region to determine whether operator information was collected and monitored by the RHA. We identified the following issues:

- 1 of the 21 files did not contain an application form on file for the operator. The application form provides for the approval of the operator by the Regional Director. As a result, we could not determine if the operator had the required credentials;

- 6 of the 21 files did not contain documentation that the operator had current Level II Certification for Child Care Services. This certification must be renewed every three years. In addition, 1 of the 6 files indicated that prior to the current operator, the centre did not have a qualified operator managing the centre for 6 years. A prior licensing condition required the operator to complete their Level II Certification for Child Care Services. This condition was applied in 2002 and continued until a new operator took over in 2008;

- 7 of the 21 files did not contain documentation that the operator had a current Child Protection Records Check. This documentation is required by all centre employees and requires renewal every three years;

- 5 of the 21 files did not contain documentation that the operator had current first aid certification. This documentation is required by all centre operators and requires renewal every three years; and

- 4 of the 21 files did not contain documentation that the operator had a current Certificate of Conduct. This documentation is required by all centre employees and requires renewal every three years.

Operator issues: Eastern (Rural)

We reviewed the files of 2 child care centres in the Eastern (Rural) region to determine whether operator information was collected and monitored by the RHA. We did not identify any issues.

Operator issues: Central

We reviewed the files of 5 child care centres in the Central region to determine whether operator information was collected and monitored by the RHA. We identified the following issues:

- 1 of the 5 files did not contain documentation that the operator had current Level II Certification for Child Care Services. This certification must be renewed every three years;
- 1 of the 5 files did not contain a current Certificate of Conduct for the operator. This documentation must be renewed every three years;
- 1 of the 5 files did not contain documentation that the operator had current first aid certification. This documentation is required by all centre operators and requires renewal every three years; and
- 1 of the 5 files did not contain a current Child Protection Records Check for the operator. This documentation must be renewed every three years.

Operator issues: Western

We reviewed the files of 4 child care centres in the Western region to determine whether operator information was collected and monitored by the RHA. We identified the following issue:

- 1 of the 4 files did not contain evidence of a current Child Protection Records Check.

Operator issues: Labrador-Grenfell

We reviewed the files of 2 child care centres in the Labrador-Grenfell region to determine whether operator information was collected and monitored by the RHA. We did not identify any issues.

2B. Staffing Information

Introduction

Child care centres, when hiring, are required to ensure that staff: meet requirements of early childhood education; have appropriate security documents; and provide immunization records. All of this information should be readily accessible on site at the child care centre. In certain circumstances, the educational and work qualifications may be waived by the Regional Director. RHA officials have staff summary sheets that track all staff information, along with expiry dates. These staff summary sheets are required

to be kept up to date as part of the monthly visit routine and are needed to determine whether individuals with access to children under the care of the centre meet the requirements of the *Act*.

Staff issues: Eastern (Urban)

We reviewed the files of 21 child care centres in the Eastern (Urban) region to determine whether staff information was collected and monitored by the RHA. We identified the following issues:

- 5 of the 21 centre files did not contain evidence to show that a total of 24 staff had a current Child Protection Records Check;
- 6 of the 21 centre files did not contain evidence to show that a total of 18 staff had current First Aid Certification;
- 3 of the 21 centre files did not contain evidence to show that a total of 10 staff had immunization records on file;
- 6 of the 21 centre files did not contain evidence to show that a total of 11 staff had a current Certificate of Conduct; and
- 5 of the 21 centre files did not contain evidence to show that a total of 11 staff had a current educational certification for the position they were holding.

Staff issues: Eastern (Rural)

We reviewed the files of 2 child care centres in the Eastern (Rural) region to determine whether staff information was collected and monitored by the RHA. We did not identify any issues.

Staff issues: Central

We reviewed the files of 5 child care centres in the Central region to determine whether staff information was collected and monitored by the RHA. We identified the following issues:

- 2 of the 5 centre files did not contain evidence to show that a total of 2 staff had a current Certificate of Conduct on file; and
- 2 of the 5 centre files did not contain evidence to show that a total of 2 staff had a current Child Protection Records Check.

Staff issues: Western

We reviewed the files of 4 child care centres in the Western region to determine whether staff information was collected and monitored by the RHA. We identified the following issue:

- 1 of the 4 centre files did not contain evidence to show that 1 staff had a current first aid certification.

Staff issues: Labrador-Grenfell

We reviewed the files of 2 child care centres in the Labrador-Grenfell region to determine whether staff information was collected and monitored by the RHA. We identified the following issue:

- neither of the 2 centre files contained any staff summary sheets. Therefore, it cannot be determined if the centres' staff meet the required qualifications or have provided the required documentation.

2C. Inspections

Introduction

Child care centres are required to undergo annual inspections from the Department of Government Services for annual fire and life safety, and environmental health inspections. These inspections are also required as part of both the licensing and re-licensing process. Additionally, social workers and child care consultants from the RHAs are required to complete annual inspection reports on each centre.

Inspection issues: Eastern (Urban)

We reviewed the files of 21 child care centres in the Eastern (Urban) region to determine whether the required annual inspections were carried out. We identified the following issues:

- 1 of the 21 files did not contain evidence that an annual inspection was completed by the social worker in the last year; and

- 2 of the 21 files did not contain evidence that an annual inspection was completed by the child care consultant in the last year.

Inspection issues: Eastern (Rural)

We reviewed the files of 2 child care centres in the Eastern (Rural) region to determine whether the required annual inspections were carried out. No issues were identified.

Inspection issues: Central

We reviewed the files of 5 child care centres in the Central region to determine whether the required annual inspections were carried out. We identified the following issue:

- 2 of the 5 files did not contain evidence that an annual inspection had been completed by the social worker in the last year.

Inspection issues: Western

We reviewed the files of 4 child care centres in the Western region to determine whether the required annual inspections were carried out. We identified the following issue:

- 3 of the 4 files did not contain evidence that an annual inspection was completed by the social worker in the last year.

Inspection issues: Labrador-Grenfell

We reviewed the files of 2 child care centres in the Labrador-Grenfell region to determine whether the required annual inspections were carried out. No issues were identified.

2D. Visitations/Violation Orders

Introduction

Where possible, RHA officials are required to visit centres on a monthly basis to ensure that the centres are operating in accordance with the *Act* and *Regulation*.

When violations of the *Act* or *Regulations* are identified at a centre, it is subject to a formal violation being issued by the RHA. All violations must be posted at the centre for minimum of 30 days, in an area so that it is displayed to all visitors. Where a situation is deemed to be less severe or a one-time occurrence verbal warnings (documented on files), written notice, and formal warning letters may be issued to the centre. Severe violations that endanger child safety or repeated violations may result in revocation of licence or financial penalties of up to $5,000. While complaints from parents or employees are a source of investigation, the primary responsibility for identifying centre issues is with inspectors through the monthly visitations they perform.

Generally, formal violations are issued in situations where there is a demonstrated lack of supervision, staff-child ratio not maintained, lack of safety documentation (Certificate of Conduct and Child Protection Records Check), breaches related to infant care, and repeated breaches of the *Act* and *Regulations*. Figure 4 provides statistics on the number of violation orders issued during the period 1 April 2007 to 31 August 2009.

Figure 4

Child Care Centre Violation Statistics
For the Period 1 April 2007 to 31 August 2009

	Violation Order Classification								
Region	**Over Licence Capacity**	**Health, Safety, Cleanliness**	**Missing Staff Documen-tation**	**Licence Conditions**	**Ratio Exceeded**	**Unsupervised Children**	**Failure to Report Incident**	**Misc**	**Total**
Eastern (Urban)	9	4	23	3	5	5	4	10	**63**
Eastern (Rural)	0	0	0	0	0	0	0	1	**1**
Central	1	0	1	2	1	3	2	1	**11**
Western	0	0	1	0	1	0	0	0	**2**
Labrador -Grenfell	0	1	0	0	0	0	0	0	**1**
Total	**10**	**5**	**25**	**5**	**7**	**8**	**6**	**12**	**78**

Source: Regional Health Authorities

As Figure 4 shows, from 1 April 2007 to 31 August 2009, 78 violation orders were issued. Examples of the violations include:

- 5 violation orders were issued for instances related to health and safety or cleanliness at the centre. For example, at one centre there were cleaning supplies accessible to children, screens missing from windows, fire drills not completed, and an unsanitary changing area.

- 25 violation orders were issued for instances where complete documentation was not on file for centre staff. For example, a current Child Protection Records Check or Certificate of Conduct had not been obtained by centre staff.

- 5 violation orders were issued for instances where licence conditions were not met. For example, one centre failed to meet licence conditions regarding providing age appropriate materials for children, another centre exceeded the licensed age range.

- 8 violation orders were issued for supervisory issues. For example, two instances where a child was able to leave the centre unobserved and had to be searched for; in one of these situations the centre was issued an additional violation for failing to notify the RHA of the incident.

- 6 violation orders were issued for instances where an incident/injury report was not completed when warranted. Two of these were issued in relation to supervisory issues noted above.

- 12 violation orders were issued for miscellaneous offenses such as operating for 2 days without a licence, incomplete child registers, inappropriate methods of discipline, and having a child care staff member under the age of 18.

Our review indicated that when violation orders were issued, there was adequate support that proper protocol was followed. However, the policy was inconsistently applied. We identified instances where we felt a violation order should have been issued but was not.

Violation issues: Eastern (Urban)

We reviewed the files of 21 centres in the Eastern (Urban) region to determine whether violation orders were issued in accordance with policy when warranted. We identified the following instances where a violation order should have been issued but was not:

- an employee had been on site without a current Child Protection Records Check;

- reoccurring issues concerning limited or no files for the children at a centre were indentified during three visits to the centre over a four month period;

- at one centre, the insurance policy had been outstanding for 3 months and employee files did not contain all required documentation;

- a homeroom lead staff did not have the required Level I Certification for Child Care Services;

- at one centre, there was no documentation on file for an individual working at a child care centre;

- issues with staff documentation missing and certifications not being met were identified during two visits to a centre over an eight week period;
- at one centre, personal information relating to children was not being kept in a secure location;
- a reoccurring issue was identified during three visits to a centre over a five week period where the centre was not posting the *Act* or *Regulations* in a public area that was accessible to parents;
- at one centre, an employee was working without a current Child Protection Records Check;
- at one centre, equipment and materials blocked a centre's emergency exit;
- at one centre, a medicine cabinet was not locked; and
- at one centre, during two visits, no documentation was on file for substitute staff working at the centre.

Violation issues: Eastern (Rural)

We reviewed the files of 2 of the centres in the Eastern (Rural) region to determine whether violation orders were issued when warranted. We did not identify any significant instances where a violation order should have been issued but was not.

Violation issues: Central

We reviewed the files of 5 of the centres in the Central region to determine whether violation orders were issued when warranted. We did not identify any significant instances where a violation order should have been issued but was not.

Violation issues: Western

We reviewed the files of 4 of the centres in the Western region to determine whether violations orders were issued when warranted. We identified the following instances where a violation order should have been issued but was not:

- children were being taken for walks without first aid kit/supplies; and
- a staff member was on site without having obtained a Child Protection Records Check.

Violation Issues: Labrador-Grenfell

We reviewed the files of 2 of the centres in the Labrador-Grenfell region to determine whether violation orders were issued when warranted. We did not identify any significant instances where a violation order should have been issued but was not.

Monthly visit forms

Only 1 RHA (Central) had a preprinted form detailing all of the areas that were required to be checked during the monthly visits. The other 3 RHAs used a preprinted form which only had a section for comments and actions required. As a result, the 3 RHAs could not readily demonstrate that all areas were monitored as required.

Recommendations

The Department should ensure that:

- all required documentation is on file for the operators as required by the *Act* and *Regulations*;
- all centre staff in contact with children meet the requirements of the *Act* and *Regulations;*
- annual inspections by social workers, consultants, and Government Services are performed and documented as required by the *Act* and *Regulations*; and
- violation orders are issued in accordance with the *Act* and *Regulations* when warranted.

3. Family Child Care Homes

Introduction

Private homes used by individuals to provide child care for up to six children under the age of twelve, are required to be licensed by the Province as family child care homes. Two regions, Eastern (Urban) and Western, have licensed agencies responsible for approving and monitoring the family child care homes. In all other regions, the RHA is responsible for licensing and monitoring of family child care homes. The agencies are licensed under the same conditions as child care centres. No issues were found with licensing and monitoring of the two agencies.

The *Child Care Services Act* and *Child Care Services Regulations* outline a number of application requirements relating to the issuance of a licence to operate a family child care home. These requirements include such things as: completed application form; information on provider; floor plans; municipal approval and adequate insurance policy. In order for the facility to operate, fire and life safety, and environmental health inspections must be completed by Government Services. In addition, approval is required from the Director of Child Care Services.

Findings

We reviewed the files of 13 family child care homes in the Province to determine whether there were any issues relating to licensing or the monitoring of facilities. We identified the following issues with regards to family child care homes affiliated with licensed child care agencies:

- 6 of the 13 facilities submitted renewal applications dated after the date of expiration on the prior approval. Applications are required to be submitted a minimum of 60 days prior to expiration. Application dates ranged from 2 to 28 days after prior approval expired.

- 1 of the 13 files did not contain any application for renewal of approval.

Figure 5 shows a summary of findings related to the family child care homes reviewed.

Figure 5

Child Care Services
Summary of Findings – Family Care Homes

Sample	Approval Issues		Total Issues
	Renewal Deadline	No Renewal Application on File	
Eastern – Urban			
Home 1			**0**
Home 2	X		**1**
Home 3	X		**1**
Home 4	X		**1**
Home 5			**0**
Home 6			**0**
Sub-Total	**3**	**0**	**3**
Central			
Home 7			**0**
Sub-Total	**0**	**0**	**0**
Western			
Home 8	X		**1**
Home 9			**0**
Home 10	X		**1**
Home 11		X	**1**
Home 12	X		**1**
Home 13			**0**
Sub-Total	**3**	**1**	**4**
Total Issues	**6**	**1**	**7**

Recommendation

The Department should ensure that all required documentation is on file for family child care homes and providers as required by the *Act* and *Regulations*.

Department's Response

Introduction

The Department agrees that improvements can be made to ensure that legislated requirements are met. As a line department with direct management of this service, the formation of the new Department of Child, Youth and Family Services (CYFS) will strengthen the ability to monitor and audit program activities

The Department wishes to note that in the AG's 2003 report the following were identified and have been addressed by the Province:

- *The two Family Child Care Agencies in the province are licensed.*
- *Annual reports specific to Child Care Services are provided by the regions and include information on monitoring visits by regional staff and information on violations of the legislation.*
- *Informational materials on regulated/unregulated child care services have been prepared and widely distributed. All complaints of alleged illegal child care are investigated if sufficient information is provided by the referral source.*
- *A risk assessment tool has been developed and will be implemented in the near future to provide more consistency in actions taken by the Regions when standards are not being met by child care centres.*

The recommendations in the AG's 2009 report have been addressed below in the same order as they appear in that document.

1. Licensing Child Care Centres [page number]

Recommendation:

The Department should:

- *ensure that child care centres submit all required documentation and applications specified for licensing and re-licensing processes within the timelines prescribed by the Act and Regulations and*

Response:

The intent of this regulation is to allow the regional staff sufficient time to process the application before the existing licence expires. The regions make considerable efforts to remind licensees to submit their re-licensing documents according to the time frame required by the Child Care Services Regulations and avoid the risk of children and families being displaced. At no time was a centre without a licence due to the licensee's application being received less than 60 days prior to expiry of the existing licence.

Recommendation:

- *ensure that documentation required for continuing licensing such as insurance policies and Government Services inspections continue to be up-dated and maintained.*

Response:

An audit tool was developed by the Department in consultation with the Regional Directors to assist with file monitoring at the field level and some regions are currently using this tool. The new Department of CYFS will develop a provincial quality system to monitor documentation required for licensing to verify compliance with requirements.

Monitoring Child Care Centres [page number]

Recommendation:

The Department should ensure that:

- *all required documentation is on file for the operators as required by the Act and Regulations*

- *all centre staff in contact with children meet the requirements of the Act and Regulations.*

Response:

Child Care Services Regulations (Section 21) allows the Regional Director to waive qualifications and experience requirements under certain circumstances. There is no ability to waive the requirement for First Aid, Certificate of Conduct, Child Protection Records Check or immunization record. Annual inspection by a social worker is required to check for the proper documentation and that requirements are met in this area. Currently,

the Department requests regions to submit information once a year on the qualifications and experience of operators and staff in child care centres. This provides a snapshot in time to audit compliance with the requirements. It includes a section to capture information on situations where academic qualifications and/or experience has been waived and under what conditions. As part of the development of its provincial quality system, the new department will review this program area to determine appropriate strategies for monitoring.

Recommendation:

- *annual inspections by social workers, consultants and Government Services are performed and documented as required by the Act and Regulations.*

Response:

It should be noted that the annual assessment includes a number of elements that can be assessed at different times throughout the twelve months. The Department's future monitoring system will allow verification that all components are completed as required.

Recommendation:

- *violation orders are issued in accordance with the Act and Regulations when warranted.*

Response:

Regional Directors determine if a violation order should be issued and the decision is based on a number of considerations such as level and immediacy of risk to children; how often this particular non-compliance has occurred; the history of compliance of the centre or home. There is a variety of sanctions an inspector can use when a centre or family child care home is not in compliance with regulations. These include verbal warnings, written warnings, violation orders, varied license with conditions, and revocation of a license or refusal to issue a license. It is not clear from the report if the context surrounding each of the examples was considered when giving the opinion that a violation order should have been issued in a particular situation.

To provide for more consistency in determining appropriate sanctions, a risk assessment process is being developed by the province.

3. Family Child Care Homes

Recommendation:

The Department should ensure that all required documentation is on file for family child care homes and providers as required by the Act and Regulations.

Response:

The Department agrees with this recommendation which relates to licensing. The new Department of CYFS will develop a provincial quality system to monitor documentation required for licensing to verify compliance with requirements.

Eastern RHA's (Urban) Response

The following is provided in response to the recommendations of the Auditor General in his report on Child Care Services.

AG Recommendation # 1

The Department should ensure that child care centers submit all required documentation and applications specified for the licensing and relicensing processes within the timeline prescribed by the Act and Regulations.

EH Urban Response:

This region is committed to working with licensees to ensure that child care centers continue to provide services for children and families with minimal disruption. Regional Child Care Services staff would prefer to receive the required documentation within the 60 day timeframe but recognize that this is not always possible for a variety of reasons. While provincial policy outlines that applications not received within 60 days of the expiry of a license may result in a disruption in service, this is not considered to be in the best interest of children and families by this region. Regional Child Care Services staff regularly communicate with licensees, and will do so again, to remind them of their responsibility under the provincial regulations to submit their application and accompanying documentation within the required timeframes.

AG Recommendation # 2

The Department should ensure that documentation required for continued licensing, such as insurance policies, and Government Services inspections continue to be updated and maintained.

EH Urban Response:

Regional Child Care Services staff are aware of the requirement to keep documentation for licensing up to date. Until recently, staff have been using a manual system to keep-in-view licensing requirements. During the past year, Regional Child Care Services staff have received training on the use of the provincial Client Referral Management System (CRMS) - Child Care Services Licensing module. This computer program is used to record all data related to a child care center, including expiry and review dates for inspections, reports, insurance policies, and incorporation documentation. The computer program tracks overdue items needing follow up and staff are expected to ensure that any documentation required for continued licensing is acquired.

The region notes that all centers have up to date insurance coverage as required in provincial policy although it is acknowledged that a current copy was not always in the active file. This Auditor General review has highlighted the need to ensure staff maintain current copies of this documentation on the center active file. Communication with regional staff to ensure that copies of current insurance policies are placed on the center active file has occurred.

No issues were raised in the Auditor General's report with respect to Government Services Inspections for this region.

AG Recommendation # 3

The Department should ensure that all required documentation is on file for the Operators as required by the Act and Regulations.

EH Urban Response:

Provincial policy requires that the initial records and licensing application of the Operator are required to be kept on file at the regional child care services offices. In Eastern Health urban, a separate section of the child care center file is maintained for Operator information. When a center is relicensed and there is no change in Operator, the Operator information is to be copied and carried forward to the new licensing file. Regional Child Care Services staff have verified that that all required documentation had been obtained for the Operator documentation issues identified by the Auditor General but acknowledges it was not on the new licensing file. This review has highlighted

the need to change a file management practice in the program and this will change immediately.

AG Recommendation # 4

The Department should ensure that all center staff in contact with children meet the requirements of the Act and Regulations.

EH Urban Response:

This region acknowledges the importance of center staff meeting the requirements of the provincial Act and Regulations. Regional Child Care Services staff continue to work with centers to ensure they are aware of the provincial requirements regarding staff documentation and to implement a consistent process to ensure documentation, such as Certificates of Conduct, Child Protection Record Checks, Immunization records and First Aid Certificates, are completed as required.

This documentation is to be maintained in the files at child care centers and is checked by Regional Child Care Services staff when they visit a center. Regional staff are then expected to update the Staff Summary forms. Due to frequent staff changes in some child care centers, Regional Child Care Services staff maintain updated Staff Summary forms on Eastern Health's computer network.

The Auditor General's report has highlighted an important file management practice for the region which we are addressing. Regional Child Care Services staff have verified that required documentation was updated on the Staff Summary forms but updated hard copies were not on file. This review has highlighted the need to also have a hard copy placed on each center file to ensure an up to date hard copy is available at all times. Regional Child Care Services staff have been directed to change this practice immediately.

AG Recommendation # 5

The Department should ensure that annual inspections by social workers, consultants, and Government Services are performed and documented as required by the Act and Regulations.

EH Urban Response:

Since the 2008-2009 fiscal year, Eastern Health has identified annual inspections as a key performance indicator for the Child Care Services program and is working towards 100% compliance within the timeframe outlined in provincial policy.

The issue of inspections not being completed annually by Government Services Center officials was not identified as an issue for this region.

AG Recommendation # 6

The Department should ensure that violation orders are issued in accordance with the Act and Regulations when warranted.

EH Urban Response:

Eastern Health acknowledges the importance of issuing violation orders when appropriate and as required. Over the past few years, the region has worked to develop consistent practices in the issuing of violation orders to centers and to communicate these practices to centers.

The social worker is expected to make a determination whether a violation is needed or whether another means of addressing issues could be effective in changing the practices of the center. These include: providing support and direction to the center on how to address the issue, verbal warnings (documented in the file), written notice on a Visit Summary Form, and formal written warning letters to the operator and licensee.

Recommendation # 7

The Department should ensure that all required documentation is on file for family child care homes and providers as required by the Act and Regulations.

EH Urban Response:

Since 2008, the agency responsible for approving family child care homes has implemented changes to its policies for family child care homes. Child care providers are expected to complete a new application when their original approval requires renewal. As a result of the Auditor General review, the agency will require that child care providers submit applications for renewal 60 days prior to the expiry of their approvals.

Eastern RHA's (Rural) Response

AG Recommendation #1

The Department should ensure that child care centers submit all required documentation and applications specified for the licensing and relicensing processes within the timeline prescribed by the Act and Regulations.

EH Rural Response

Eastern Health Rural is committed to supporting all licensees in the licensing and relicensing process and to ensuring that all licensing requirements are met. We have been working diligently with Licensees to increase quality in child care and have seen tremendous improvements in many areas. Social Workers and Child Care Consultants continue to work with licensees to address conditions outlined in Child Care Licences. Support and training are used to build on the positive things that are happening in Child Care.

Central RHA's Response

Introduction

Central Health appreciates the opportunity to respond to the Auditor General's findings from the Child Care Services Program review as outlined in the subsequent report provided to us.

Child Care Services has put significant focus on workload analysis and file audits in the past nine months, which has helped inform quality improvement initiatives in our program. In particular, improvements to frequency and duration of centre visits and consistent completion and documentation of annual assessments are helping to address the issues identified in the Auditor General's report. The Response section of this document will speak to these issues in detail and outline the strategies and processes that are in development and/or implemented to address the issues identified.

Auditor General's Report

Licensing Issues – Central

We reviewed the files of 5 centres in the Central region to determine whether licensing requirements had been met. We identified the following issue:

- *3 of the 5 centres applied for license renewal after the 60 day minimum notice required for a license renewal submission. Application dates ranged from 46 to 52 days prior to expiration.*

Recommendations

The Department should:

- *ensure that child care centres submit all required documentation and applications specified for the licensing and re-licensing processes within the timeline prescribed by the Act and Regulations; and*

- *ensure that documentation required for continued licensing, such as insurance policies, and Government Services inspections continue to be updated and maintained.*

Central Health Response

Central Health acknowledges that it is a requirement that licensees submit all required documentation within the prescribed timelines. Although we acknowledge the challenges we face in getting licensees to submit in a timely fashion, it is ultimately the responsibility of the licensee to meet this requirement. In an attempt to facilitate more timely submission of re-licensing applications and documentation Central Health has established timelines for our staff with respect to notification to licensees concerning re-licensing. Written correspondence is sent to remind licensees of license expiry dates and required documentation for re-licensing, including submission due dates. Two documents are sent out 6 weeks prior to the submission date and include: License Renewal Notice and Required Documentation – Child Care Centre Licensing/Re-Licensing.

As a licensing authority, we are severely hampered in our ability to apply consequences when this requirement is not adhered to by the licensee. In some cases where re-licensing documentation has been significantly late, we have elected to issue a license for a one year period in place of the three year period for which a license may be eligible. Alternately, in cases where there is repeated significant lateness, we would issue a violation order.

In all situations where license applications are submitted late, due diligence is applied to all applications and all requirements are met prior to issuing the license renewal. It is worth noting that late applications have implication for Child Care Services staff as it results in shortened time frames to process the renewal application, which further impacts work schedules as our staff deal with significant workload in a compressed time period. The logical consequence of late submission of license renewal applications would be non-renewal or delay in the processing of the license; however we are not prepared to apply this consequence as it would result in significant hardship for families using the centres.

Auditor General's Report

Operator issues – Central

We reviewed the files of 5 child care centres in the Central region to determine whether operator information was collected and monitored by the RHA. We identified the following issues:

- *1 of the 5 files did not contain documentation that the operator had current Level II Certification for Child Care Services. This certification must be renewed every three years;*
- *1 of the 5 files did not contain a current Certificate of Conduct for the operator. This documentation must be renewed every three years;*
- *1 of the 5 files did not contain documentation that the operator had current first aid certification. This documentation is required by all centre operators and requires renewal every three years; and*
- *1 of the 5 files did not contain a current Child Protection Records Check for the operator. This documentation must be renewed every three years.*

Staff issues –Central

We reviewed the files of 5 child care centres in the Central region to determine whether staff information was collected and monitored by the RHA. We identified the following issues:

- *2 of the 5 centre files did not contain evidence to show that a total of 2 staff had a current Certificate of Conduct on file; and*
- *2 of the 5 centre files did not contain evidence to show that a total of 2 staff had a current Child Protection Records Check.*

Inspection issues – Central

We reviewed the files of 5 child care centres in the Central region to determine whether the required annual inspections were carried out. We identified the following issues:

- *2 of the 5 files did not contain evidence that an annual inspection had been completed by the social worker in the last year*

Recommendation

The Department should ensure that:

- *all required documentation is on file for the Operators as required by the Act and Regulations*
- *all centre staff in contact with children meet the requirements of the Act and Regulations*
- *annual inspections by social workers, consultants, and Government Services are performed and documented as required by the Act and Regulations*
- *violation orders are issued in accordance with the Act and Regulations when warranted*

Central Health Response

- ***Operator Issues***

Central Health disagrees with 2 of the Auditor General's findings with respect to the following Operator issues:

- *1 of the 5 files did not contain documentation that the operator had current Level II Certification for Child Care Services*
- *1 of the 5 files did not contain documentation that the operator had current first aid certification*

Staff Summary Sheets were submitted on November 13, 2009 to the Auditor General's office as part of the Child Care Services file submission. Upon review of these files, two Staff Summary Sheets (both dated November 05, 2009) indicate that Operator documentation for ECE Certification and First Aid Certification were actually both current. These Staff Summary Sheets were resubmitted to the Auditor General's office on December 07, 2009 in response to the request for validation of the report.

- ***Staff Issues***

Central Health disagrees with 2 of the Auditor General's findings with respect to the following Staff issues:

- *2 of the 5 centre files did not contain evidence to show that a total of 2 staff had a current Certificate of Conduct on file*

Staff Summary Sheets were submitted on November 13, 2009 to the Auditor General's office as part of the Child Care Services file submission. Upon review of these files, two Staff Summary Sheets (both dated November 05, 2009) indicate that staff documentation (2) for Certificate of Conduct were actually both current. These Staff Summary Sheets were resubmitted to the Auditor General's office on December 07, 2009 in response to the request for validation of the report.

Comments on Operator Issues/Staff Issues:

Central Health maintains files for all licensed child care centres in the region which includes documentation related to the Operator and a staff summary sheet which delineates expiry dates of required documentation for the Operator and centre staff. Centres also maintain staff files which should contain required documentation on all employees. Licensees are responsible to ensure that Operator and staff documentation is current and on file; they are not required to submit that documentation to Central Health. As part of our monitoring protocols, Central Health staff complete a review of staff files while conducting site visits and the Operator is advised of any missing and expired documentation. Therefore, while staff summary sheets may indicate expired documentation, it is often the case that the documentation has been renewed but the sheet has not been updated pending the next site visit.

With respect to the Auditor General's recommendations concerning Operator and staff documentation, Central Health is working to strengthen our child care monitoring protocols. A review of all operator and staff documentation has been conducted and written notice has been provided to the licensee advising them of any missing and/or expired documentation and a reminder of the policy they are required to follow. In addition, Central Health advises all licensees of this requirement when an initial and re-license approval letter is sent. The letter states:

> *As licensee, it is your responsibility to ensure that all staff have required documentation which is valid, current and on file. Any staff documents which have expiry dates must be renewed prior to expiration and confirmation of same must be submitted to our CCS Social Worker. Failure to do so can result in a Violation Order being issued as per Child Care Services Act and Regulations.*

The management of monitoring licensees' compliance with this policy is being re-assigned to a clerical position and we are in the process of developing a KIV system to alert licensees prior to specific Operator and staff documentation expiry dates.

- ***Inspection Issues:***

The Central Region is quite large geographically and the locations of child care centres are widely dispersed. It is worth noting that our geography presents unique challenges to delivery of the Child Care Services program in the central region with centres located across the entire region and serviced from two regional offices. Over the past few years we have seen steady growth in the number of child care centres in both urban and rural areas. Our region experienced an influx of license applications and renewals over the past 18 months which created a backlog and impacted the Child Care Services social worker's ability to complete social worker annual assessments.

With respect to the Auditor General's recommendations concerning annual inspections, Central Health is working to strengthen our child care monitoring protocols. In September 2009, a workload analysis of the social worker position was undertaken. As a result of that analysis, a number of the social work duties were identified to be clerical in nature and these have been re-assigned to our clerical support. In addition, a workload analysis of all positions on the child care services team is near completion and further workload re-assignments is under review. The purpose of the workload analysis was to confirm that each team member's assigned responsibilities was the most appropriate for their scope of practice. Our intent in re-

assignment of responsibilities is to ensure a better fit with the expertise of each team member and to improve our accountability and the quality of service to our clients.

Conclusion

Central Health is pleased to have the opportunity to respond to the appraisal of the Child Care Services program conducted by the Auditor General's office. In response to the Auditor General's recommendations, we are working through strategies to ensure we are meeting monitoring standards and implementing quality controls with respect to license applications/renewals, annual assessments and operator/staff documentation.

Central Health supports the recommendations contained in the Auditor General's report and will continue to ensure compliance with the Child Care Services Act and Regulations and related policies and standards. Central Health is committed to continuing efforts to improve the quality of service provided to licensees and to the children and families who depend on a quality child care system.

Western RHA's Response

Introduction

Regional Child Care Services are governed by the Provincial Legislation and Regulations; Child Care Services Act (1999) and Child Care Services Regulations (2005). The Health Authority is responsible for licensing, monitoring and supporting all Child Care Services within the Western Region that fall within the scope of these legislation and policies. These services include child care centers, individually licensed family child care homes as well as the Family Child Care Agency. The Family Child Care Agency is responsible for the approval, monitoring and support to approved family child care homes.

In November 2009, the Office of the Auditor General conducted a review of child care center files for center based and agency approved family child care programs. Audits were completed on the files of four center based programs and six approved family child care homes within the Western Region. The center based program files are maintained by Western Health, whereas the approved family child care files are maintained by the Family Child Care Agency.

The following represents Western Health's response to the findings and recommendations identified in the Auditor General report.

Licensing of Child Care Centers

Licensing Issues:

1. *2 of the 4 centers applied for license renewal after the 60 day minimum notice required for a license renewal submission. Application dates were both 26 days prior to expiration.*

Regulation 6(2) of the Child Care Centers Regulation, Policies and Standards (CCCRPS) (March 2007) and associated policy states that:

> *"An application for a renewal of a license shall be made not later than 60 days prior to the expiry of the current license…It is the licensees' responsibility to provide the application in a timely manner. If an application for renewal is not received at the Regional Child Care Services Office minimally 60 days prior to the date of renewal, there may not be sufficient time to avoid a break in the continuity of the license resulting in the centre being closed until the processing is completed and a renewal approved." (CCCRPS, pg 14)*

The requirement for licensees to submit documentation 60 days in advance is intended to ensure that the Western Health (licensing body) has sufficient time to process the application and avoid a lapse in the license. If the licensee does not submit the completed application within the 60-day time frame the licensee takes the risk that the center may need to close to allow time for the application to be processed, and a new license issued.

While there is no policy to require the licensing body to remind applicants of the time frame for license renewal, Western Heath's practice is to inform licensees of this at the time the initial license is issued and also to send a reminder by forwarding a renewal package to licensees' in advance of the 60 day timeframe.

In the two cases cited in the audit report, both the above practices were followed. Licensees were notified of the 60-day timeframe for renewals at the time of issuance of the initial license. Also renewal packages were forwarded 112 days and 74 days prior to expiry of the licenses, both with letters indicating the date the completed application was due to Western Health.

Despite these practices, both licensees did not meet the 60-day timeframe. This is outside the control of the licensing body. Please note that Western Health was able to process both applications such that there was no lapse in the license, or disruption to users of the child care services.

Related to this licensing issue the audit report recommends that:

> *The department should ensure that child care centers submit all required documentation and applications specified for the licensing and relicensing process within the timeline prescribed by the Act and Regulations.*

Western Health's current practices require that licensees submit documentation within the specified timeframes. As it is the responsibility of the licensee to submit documentation, it is not possible for Western Health to "ensure" that this occurs. Our current practices (i.e. notifying at time of initial licensing and reminding at time of license renewal) promote this practice. Western Health is committed to developing, implementing, and monitoring an internal policy to ensure that these practices are consistently followed.

2. 3 of the 4 files did not contain evidence of current liability insurance. The policies on file expired between 15 May 2008 and 27 July 2009 and no evidence of renewal was on file as of 31 August 2009.

Regulation 4(2) of the Child Care Services Regulations state that:

> *"An application for a license referred to in subsection (1) shall be accompanied by the following documentation and information in support of the application…. (c) proof of having obtained $1 million commercial general liability insurance or its equivalent or a statement from an insurer of an intention to provide the insurance." (CCCRPS, pg 7)*

This regulation indicates that licensees are required to submit proof of insurance at time of licensing. Subsequent to issuing a license it is the responsibility of the licensee to ensure that adequate insurance is maintained, and that a copy is onsite at the child care premises and available to inspectors. Inspectors monitor this as a part of the annual inspection of centers. There is no regulation or policy that requires centers to submit copies of current insurance policies to the Heath Authority, or for the Health Authority to have a copy on file.

Provincial Child Care policy requires that all insurance policies for child care centers and family child care homes include the following statement:

> *"In the event of any endorsements, renewal and/or cancellation, notification must be given to the Provincial Director of Child Care Services…. Her Majesty the Queen, as represented by the Minister of Health and Community Services, must be an additional insured with respect to the operation of the child care center or home." (CCCRPS, Appendix A)*

This is an additional safeguard, and insures that if an insurance policy is cancelled that the Provincial Director of Child Care is notified in writing if a child care services insurance policy has been cancelled. The Provincial Director will then notify the respective region of this cancellation.

In the case of the three files identified in the audit report, all of the centers had submitted proof of insurance that was valid at the time it was submitted. Therefore, no policy has been breached in this case.

In each of the three cases cited, regional child care staff have verified that the identified child care services have appropriate insurance coverage in place.

Related to this issue the audit report recommends that:

> *The department should ensure that documentation required for continued licensing, such as insurance policies, and Government Service Inspections continue to be updated and maintained.*

This recommendation is consistent with current practice within Western Health. Current child care policies and practices require that documentation is updated and maintained in keeping with provincial policy. Should provincial policy change to require that copies of centers current insurance be kept on the licensing files within the Health Authorities (as opposed to onsite at child care centers), Western Health will develop, implement and monitor regional policy to support this change.

Monitoring of Child Care Centers

Operator Documentation Issues:

3. *1 of 4 files did not contain evidence of a current Child Protection Records Check.*

Copies of the operator's current qualifications are kept on site at the child care premises and monitored by child care staff to ensure they are kept up to date. A center staff summary, completed on February 10, 2009 (and included as a part of the audited file), clearly indicated that the operator's qualifications had been verified by child care staff, and that a current Child Protection Records Check was on file at the child care center as required. This check expired on July 24, 2009. A new Child Protection Records Check was issued by Child Care Services Staff on March 11, 2009. This was not noted in the Centers file until the center staff summary was updated in November 2009.

Related to this issue the audit report recommends that:

> *The department should ensure that all required documentation is on file for the Operators as required by the Act and Regulation.*

This recommendation implies that Western Health is expected to keep copies of the operator's current documentation on file within the Health Authority (as opposed to on file at the child care center). Western Health views this interpretation of policy to be inconsistent with current provincial interpretation. The Child Care Center Regulations, Standards and Policies Manual clearly states that:

> *"Staff are responsible for renewing their certification; it is the licensee's responsibility to employ staff who have the necessary certification." (CCCRPS, pg 43)*

Western Health maintains that the above policy is followed for all child care staff qualifications including Child Protection Records Checks, First Aid Certification, record of immunization, and Certificate of Conduct. The role of the Health Authority is to monitor the center to ensure that centers are complying with current regional and provincial policy.

Staffing Information Issues:

4. 1 of the 4 centre files did not contain evidence to show that 1 staff had a current first aid certification.

Upon review, Western Health has found that this is incorrect. Western Health acknowledges that the staff center summary on file completed on February 10, 2009 indicated that one staff persons First Aid expired on April 10, 2008. This has subsequently been rechecked and found to be incorrect. This was a recording error by Child Care Services Staff. The actual date of expiry is February 24, 2011.

Related to this issue the audit report recommends that:

> *All centre staff in contact with children meet the requirements of the Act and Regulations.*

Western Health agrees with this recommendation. Western Health will continue to monitor staff qualifications and documentation as a part of the inspection process.

Inspection Issues:

5. *3 of the 4 files did not contain evidence that an annual inspection was completed by the social worker in the last year.*

Regulation 13(1) of the Child Care Services Regulation and associated policy states that

> *"A child care service and an agency shall be inspected by an inspector at least once a year. Regional Child Care Services Staff shall complete an assessment of the centre at least once a year. This may be done during one visit or at times throughout the year but all aspects of the centre shall be inspected over each twelve month period." (CCCRPS, pg. 34)*

Both the regulation and policy address inspections by "child care services staff". Both Child Care Consultants and Social Workers are designated as inspectors and as such are able to make inspection visits. The Inclusion Consultant, another child care service staff member, also makes visits to child care centers. Although not designated as an inspector, the Inclusion Consultant is a member of the team who supports centers; is knowledgeable regarding regulations and policy; and regularly communicates with child care services inspectors through shared files, documentation and team meetings.

Western Health completes inspections cumulatively throughout the year. While there were no annual inspections by the social worker on file for each of these three centers, regular inspections of the services were completed and documented on center files.

Western Health noted that inspectors visited center # 30 a total of 15 times in the twelve-month period from Aug 31, 2008 – Aug 31, 2009. In addition there were 9 visits by the inclusion consultant. The results of each of these visits were documented in center files. Centre #32 had 15 inspections, and 19 additional visits by the inclusion consultant. Centre #31 is a part time center, with a maximum capacity of 8 children, located in a geographically isolated area of the region. The center is only open for 8 months of the year. This center had three inspection visits during this time period.

Western Health acknowledges limitations in the completion of annual social work inspections. A significant limitation has been the availability of adequate social work services. Since its inception, the Child Care Program has shown significant growth in the number of clients, as well as the nature and type of services provided. While there has been additional staffing positions in the past three years (Capacity Coordinator, Inclusion Consultant, Manager, Child Care Consultant, and 0.5 FTE Administrative Support) it has not been sufficient to address the growth in the program. From 2000 – 2009 there has been a 166% growth in the number of licensed programs supported by the program (from 9 to 24), and 121% growth in the number of child care spaces available. This growth has significant implications for staff who must license, monitor and support an increasing number of centers. There are also implications for the child care subsidy program as the growth in the number of spaces available will directly impact the number of subsidies approved. The number of approved subsidies has also risen by 152% over the past nine years. Each of these factors increases the workload of the social worker, who is responsible for completing these inspections.

While the Health Authority has received funding to support a second Child Care Consultant, it still only employs one Social Worker within the program area. This social worker must complete monthly and annual inspections of current 27 licensed services, spread over a large geographic area, in addition to other program responsibilities.

Due to the identified concerns related to increasing workload for the child care social worker, Western Health approved funding for a temporary social worker for the child care program for a six month period. This position was put in place to address issues surrounding outstanding social work inspections. In addition funding for a second permanent full time social worker has been requested from the province for the 2010-11 fiscal year. A second social work position is required for the region to ensure that all child care regulations and policies, including annual inspections, are able to be completed.

In addition it should be noted that Western Health has experienced staffing difficulties due to sickness and retirements resulting in inconsistent Social Work service from August 2008 – December 2008. This also impacted the ability to complete annual inspections.

Related to inspection issues the audit report recommends that:

> *The Department should ensure that annual inspections by social workers, consultants, and Government Services are performed and documented as required by the Act and Regulation.*

Western Health agrees with this recommendation.

Visitations/Violation Orders Issues:

6. *A violation order should have been issued, but was not….. Children were being taken for walks without first aid kit/supplies.*

Western Health does not agree that a violation order should have been issued in this case.

The Provincial Child Care Services Act Standards and Policy Manual (CCSASPM) (draft, 2001) indicates that:

> *"A violation order is issued where serious infractions occur or where a series of minor infractions have occurred but have not been remedied. Where it is determined that a licensee is not meeting the requirements of the legislation and policies, child care services staff must determine what actions are required to bring the service to an acceptable level. Child care services staff have a number of options to consider dependent upon the seriousness of the issue and any associated risk to the children. Should the issue be determined not to pose a threat to the children and/or is a first time occurrence a discussion with the licensee may be sufficient to remedy the concern. It may also be advisable in some instances to provide feedback to the licensee in writing identifying the issue of concern and what actions should be taken. In instances where the matter is of a serious nature or the above-noted actions have not addressed the issue satisfactorily, the Director may issue a violation order." (CCSASPM, pg 14)*

Child care policy under regulation 9 (1) (b) states that:

> *"A pocket first aid kit shall be taken on all children's outings away from the child care centre and when children are in the outside play space." (CCCRPS, 2007, pg 19)*

This child care center was in noncompliance when it was identified that they had taken children for a walk without bringing a first aid kit. However, in this case, regional child care staff identified that the noncompliance was a first time occurrence as the walk occurred in close proximity to the centre providing access to emergency resources should they be required, it was not considered to pose a major risk to children. The issue was addressed with the operator verbally on the date the noncompliance was noted in a manner consistent with provincial policy. A report was also completed on the date of the visit to provide written directions regarding the need for changes to comply with health and safety policy. A copy of the report was signed by the operator. Western Health is of the opinion that a violation should not have been issued in this instance. The action taken by child care staff are in keeping with the standards and regulations associated with violation orders.

7. A violation order should have been issued, but was not….. a staff member was on site without having obtained a Child Protection Records Check.

Western Health does not agree that a violation order should have been issued in this case.

A visit to this center on January 8, 2008 identified that a student was on site without having the required Child Protection Records Check. The student was working in the center, but was not considered part of the staff-child ratio, and as such was never left alone with children. The Child Protection Records Check was completed on February 1, 2008. The operator of the center was reminded of policy verbally on January 8, 2008, and in writing on February 7, 2008.

As with #6 above, provincial policy reinforces that there are a number of factors to be considered when deciding on sanctions for noncompliance. In this case the center in question had only been operating for four months and this was the first new staff or volunteer the program had introduced into the program. The student applied and received a clear Child Protection Records Check within 3 weeks. The Child Care Social Worker reinforced the policy verbally during the visit, and in writing following the visit.

Related to this issue the audit report recommends that:

> *The department should ensure that violation orders are issued in accordance with the Act and Regulation when warranted.*

Western Health agrees that violation orders should be issued when warranted. However
the issuance of a violation order is only one sanction that may be imposed on a regulated provider when noncompliance is confirmed. The Child Care Services Standards and Policy Manual indicates that

> *"Where it is determined that a licensee is not meeting the requirements of the legislation and policies, child care services staff must determine what actions are required to bring the service to an acceptable level." (CCSSPM, pg 14)*

As such, issuing a violation order may not be the most appropriate sanction to meeting the goal of bringing the service into compliance. Western Health supports a model whereby sanctions are imposed in a graduated format, with the least punitive measure possible being administered in order to meet the goal of compliance. Sanctions for non-compliance can include verbal or written notification, increased monitoring, violation orders, fines, suspension or cancellation of a license.

Western Health is currently working with the Province to develop a Licensing Standards, Policies and Procedures Manual for child care services staff. It is anticipated that this new manual will provide increased clarity regarding criteria for issuing violation orders.

Family Child Care Homes

Issues:

8. *6 of the 13 facilities submitted renewal applications dated after the date of expiration on the prior approval. Applications are required to be submitted a minimum of 60 days prior to expiration. Application dates ranged from 2 to 28 days after prior approval expired.*

Three of these seven facilities are noted to be from the Western Region.

Regulation 6(2) states that:

> *"An application for a renewal of a license shall be made not later than 60 days prior to the expiry of the current license." (CCCRPS, pg 14)*

This regulation relates to the issuing licenses to child care centers, family child care agencies, and family child care homes that hold an individual license. This does not apply to family child care homes that are approved by the family child care agency. Each of the files reviewed for the Western Region are for family child care homes that are approved by the family child care agency, as opposed to licensed by Western Health. As such Regulation 6(2) does not apply. There is no provincial policy or standard that deals with specific timeframes for application for renewal of an approval of a family child care home. The family child care agency's practice is to approve renewal applications on an as needed basis.

The audit report identifies that Home #10's application was received after the date of expiration on the prior license. This is not correct. The approval expired on May 27, 2007 and the renewal application was received on March 29, 2007, 59 days prior to expiry of approval.

Home's #8 and #12 are also listed as renewal applications received after the date of expiry of the previous 'license'. Western Health agrees with these findings. Home #8's approval expired December 29, 2008. The renewal application was received on January 27, 2009, 29 days after the expiry of approval. Home #12's approval expired on March 7/09 with renewal application received on March 20/09, 13 days after the expiry of the previous approval.

Western Health has reviewed the individual agency file's for both homes and found that both home's continued to operate as approved homes, maintained appropriate insurance, and Government Service Center inspections and was monitored and supported by the agency during the time between expiry and reapplication. Despite this it is of concern that the homes were in operation without the required approval for a period of time. Western Health has issued a violation order for this noncompliance in keeping with child care regulations.

9. 1 of the 13 files did not contain any application for license renewal.

Home #11 was identified as not having application for license renewal on file. The purpose of the renewal application is for the provider to officially request a renewal of the approval and to verify the parameters of the proposed service. While there was no formal application for renewal received by the agency, the service had continued to be monitored by the agency, and parameters of the services were well established by the agency. A renewal certificate was issued based on this information. Subsequent to this audit report Western Health has followed up with the family child care agency regarding this issue. Western Health will increase its monitoring of the Family Child Care Agency to ensure compliance with policies surrounding approval of family child care homes.

Related to these issues the audit report has recommended that:

> *The department should ensure that all required documentation is on file for family child care homes and providers as required by the Act and Regulations.*

Western Health agrees with this recommendation. As a part of monitoring of the Family Child Care Agency, Western Health completes an annual audit of the Family Child Care Agency files. Western Health will continue this practice as a method of ensuring that all required documentation is on file at family child care homes and the Family Child Care Agency. Western Health will commit to conducting a thorough review of the current approval process used by the Family Child Care Agency to ensure they are in keeping with provincial policy and standards.

Conclusion

Western Health appreciates this opportunity to respond to the Auditors Review of the Child Care Services Program. The Child Care Program will commence transition from Western Health to the Department of Child Youth and Family Services on April 1, 2010. Western Health will work in partnership with the Department to improve the quality of service provided during the transition and as required, after the transition is complete.

Labrador-Grenfell RHA's Response

Introduction

The Labrador-Grenfell Regional Health Authority, through the appointment of a Regional Director of child Care Services (under the Act) accepts responsibility for the day-to-day administration of the provisions of the Child Care legislation within the Labrador-Grenfell Health region, with respect to the licensing and monitoring of Child Care Services.

There were two Child Care Centre files identified and forwarded to the Auditor General's office for review. During this process the licensing of Child Care Centres, monitoring of Child Care Centres, and Family Home Child Care were the primary focus of this review. As Labrador-Grenfell Health did not have any Family Child Care Homes licensed prior to this review, the focus was on:

1. *Licensing of Child Care Centres*
2. *Monitoring of Child Care Centres*

The Labrador-Grenfell Regional Health Authority agrees with the recommendations of the Auditor General's office. Specific detail regarding each recommendation is provided:

Region's Response to findings and recommendations

1. Licensing of Child Care Centres

- *During the review of files of two centres selected from Labrador-Grenfell Health region to determine whether licensing requirements had been met, it was identified that one of two files did not contain evidence of current liability insurance. The policy on file expired November 3, 2007 and no renewal was on file.*

  Response: *The insurance certificate on file is current for re-licensing period of November 3, 2006 - November 3, 2007. Child Care Services policy does not require yearly submission of proof of insurance rather insurance documents are verified during the social worker annual assessment which was completed December 9, 2009. Proof of renewal was verified during this assessment process and supporting documentation was forwarded to Mr. Mark Didham, with the auditor general's office as requested.*

***Recommendation**: In keeping with the Auditor General's recommendation, the Child Care staff have been advised that insurance documents and Government Services Inspections continue to be updated and maintained on the Centre file.*

2. *Monitoring of Child Care Centres*

- *2A. Operator Documentation*

During the review of two child care centre files with respect to operator documentation, no issues were identified.

- *2B. Staffing information*

During the review of two child care centre files it was identified that neither file contained staff summary sheets and therefore the required staffing qualification and documentation could not be verified.

***Response:** Child care centre staffing information is maintained and located at the child care centers as per policy. The required information is verified during the social worker visits and completion of the annual social work assessment. The regional staff summary sheet was completed on December 3, 2009 and submitted to the Provincial Director of Child Care Services. This summary sheet is a requirement and submitted an annual basis. There is one staff summary sheet maintained for the Region given the number of licensed centers and ease of access for review.*

***Recommendation:** The Regional Director of Child Care Services for Labrador-Grenfell Health has directed staff to maintain separate staff summary sheets for each child care center and maintain on center files. Completed on January 5, 2010.*

- *2C. Inspections*

During the review of two child care centre files with respect to annual inspections being carried out, there were no issues identified.

- *2D Visitations/Violation orders*

During the review of two centre files to determine whether violation orders were issued when warranted, there were no instances identified whereby an order should have been issued but was not.

Conclusion

Labrador-Grenfell Health trusts that this information responds to the recommendations and findings with respect to Labrador-Grenfell Health Regional Child Care Services Team practice and procedures with respect to the legislative requirements. Although the manner in which the required information is verified and maintained differs from that of the recommendations of the Auditor General's office, the legislative requirements are being met in accordance with the child care services policy and standards manual. Consequently, the Labrador-Grenfell Regional Health Authority (through the Regional Director) has directed staff to receive and maintain required documentation in the manner being recommended by the Auditor General's office.

Appendix A
Child Care Services
Chart of Findings – Child Care Centres

Sample	Licensing Issues			Operator Issues					Staff Issues						Inspection Issues		Violations	Total Issues
	Renewal Deadline	No Current Insurance on File	# of Licence Conditions Not Met	Approval of Director Not on File	Current Qualifications Not on File	Current CPRC Not on File	Current First Aid Not on File	Current CoC Not on File	No Staff Summary	Current Qualifications Not on File	Current CPRC Not on File	Current First Aid Not on File	Current CoC Not on File	Immunization Record Not on File	Social Workers	Child Care Consultants	Instances without a Violation Order	
Eastern – Urban																		
Centre 1	X					X												**2**
Centre 2											X	X					1	**3**
Centre 3																		**0**
Centre 4					X		X				X	X	X	X	X			**7**
Centre 5	X			X	X	X				X	X	X	X					**8**
Centre 6	X	X	X		X		X											**5**
Centre 7	X	X								X	X	X		X			2	**8**
Centre 8	X		X			X		X		X	X	X	X	X		X		**10**
Centre 9	X																1	**2**
Centre 10	X																1	**2**
Centre 11		X				X		X		X		X						**5**
Centre 12						X	X						X				1	**4**
Centre 13																		**0**
Centre 14					X													**1**
Centre 15	X		X				X	X									1	**5**
Centre 16																		**0**
Centre 17		X			X	X											2	**5**
Centre 18	X	X																**2**
Centre 19	X												X				2	**4**
Centre 20					X	X	X	X								X		**5**
Centre 21										X			X				1	**3**
Sub-Total	**10**	**5**	**3**	**1**	**6**	**7**	**5**	**4**	**0**	**5**	**5**	**6**	**6**	**3**	**1**	**2**	**12**	**81**
Eastern – Rural																		
Centre 22																		**0**
Centre 23			X															**1**
Sub-Total	**0**	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**1**
Regional Sub-Total	**10**	**5**	**4**	**1**	**6**	**7**	**5**	**4**	**0**	**5**	**5**	**6**	**6**	**3**	**1**	**2**	**12**	**82**
Central																		
Centre 24					X			X			X		X		X			**5**
Centre 25	X					X	X						X		X			**5**

Child Care Services

Sample	Licensing Issues			Operator Issues					Staff Issues						Inspection Issues		Violations	Total Issues
	Renewal Deadline	No Current Insurance on File	# of Licence Conditions Not Met	Approval of Director Not on File	Current Qualifications Not on File	Current CPRC Not on File	Current First Aid Not on File	Current CoC Not on File	No Staff Summary	Current Qualifications Not on File	Current CPRC Not on File	Current First Aid Not on File	Current CoC Not on File	Immunization Record Not on File	Social Workers	Child Care Consultants	Instances without a Violation Order	
Centre 26	X																	1
Centre 27	X										X							2
Centre 28																		0
Regional Sub-Total	**3**	**0**	**0**	**0**	**1**	**1**	**1**	**1**	**0**	**0**	**2**	**0**	**2**	**0**	**2**	**0**	**0**	**13**
Western																		
Centre 29	X	X																2
Centre 30	X					X									X		1	4
Centre 31		X													X		1	3
Centre 32		X										X			X			3
Regional Sub-Total	**2**	**3**	**0**	**0**	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**1**	**0**	**0**	**3**	**0**	**2**	**12**
Labrador-Grenfell																		
Centre 33									X									1
Centre 34		X							X									2
Regional Sub-Total	**0**	**1**	**0**	**0**	**0**	**0**	**0**	**0**	**2**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**3**
Total Issues	**15**	**9**	**4**	**1**	**7**	**9**	**6**	**5**	**2**	**5**	**7**	**7**	**8**	**3**	**6**	**2**	**14**	**110**

PART 2.3

DEPARTMENT OF CHILD, YOUTH AND FAMILY SERVICES

PROTECTIVE INTERVENTION PROGRAM FOR CHILDREN AT RISK

Executive Summary

The *Child, Youth and Family Services Act* (the *Act*), established the Protective Intervention Program (PIP). The PIP is one of four service components of the *Act*. The other three are: Family Services, Youth Services and In Care (Foster Care). The purpose of the PIP is to intervene, assess and secure the safety, health and well being of children under the age of 16 who are at risk of being maltreated by their parent(s). Maltreatment refers to the neglect of a child or the non-accidental infliction of injury or harm to a child. It would also include the failure to protect a child from the non-accidental infliction of injury or harm by another person. Section 14 of the *Act* defines what would constitute a child in need of protection.

Prior to 9 April 2009 the Department of Health and Community Services had responsibility for the PIP. On 9 April 2009 the Government established the Department of Child, Youth and Family Services. This new Department assumed responsibility for the oversight of the PIP from the Department of Health and Community Services. This review of the PIP was conducted during the period when it was the responsibility of the Department of Health and Community Services (the Department).

During our review of the PIP we determined that, as a result of issues with the delivery and monitoring of that program, there was an increased risk that harm may occur to children. In particular, there were numerous examples where visits and assessments were not completed within the established timeframes, and documentation was either not on file or was incomplete. The following are details on issues which contributed to the increased risk:

Referrals not investigated within the required time frames

The Risk Management System is comprised of a computerized database (CRMS), a series of procedures and reports, and a policies and procedures manual. The System is designed to assist social workers to identify, assess, respond to, and document the risk of child maltreatment within established timeframes.

The most serious failure to meet the required timeframes, which was known by the Department of Health and Community Services and the Eastern RHA, occurred on the northeast Avalon (excluding Conception Bay South) on two occasions, in 2004 and in 2006. Details are as follows:

- In January 2004, the Eastern RHA indicated that there were 559 cases that were considered backlog assessment cases.

Special measures such as the redeployment of social workers, the curtailment of training, along with additional funding from Government to recruit 15 additional temporary staff were taken; however, this backlog was not resolved until June 2005.

- In October 2006 the Eastern RHA determined that it was again experiencing a backlog. As of June 2007, the Eastern RHA indicated that there were 642 cases that were considered backlog assessment cases and again undertook special measures to address the backlog.

  Although the Eastern RHA created a new assessment team to deal exclusively with backlogged cases, due to ongoing issues (such as insufficient staff resources, high volume of assessments being received on an ongoing basis, and increased complexity of cases), at 31 October 2008, there were 613 cases that were still considered backlog assessment cases. Officials indicated that 149 of the 613 related to the June 2007 backlog cases.

In addition to the 2004 and 2006 backlogs whereby cases were not completed within the standard timeframes established, we selected a sample of 74 referrals from 3 RHAs (Eastern, Central and Western) to determine compliance with response times. Our review identified the following issues:

Initial Visit

We identified issues with 31 referrals as follows:

- 27 referrals indicated that the initial visit, to interview or observe the child(ren), was not conducted within the required response guidelines (ranging from immediate response to a maximum of 72 hours) after receipt of the referral and for which there were no acceptable explanations. The delays ranged from 1 day to 16 days.

  In 3 of the 27 referrals, it was ultimately determined that the children were unsafe once the visit occurred. The delays for these 3 cases ranged from 1 day to 15 days.

- In 4 referrals it could not be determined if the response priority was met because either the interview (observation) date or the response priority was missing from the documentation provided.

Safety Assessment

We identified issues with 22 referrals as follows:

- In 3 referrals the required Safety Assessment, to document whether it was safe for the child(ren) to remain in the current home environment while the referral is being investigated, was not completed.

- In 19 referrals the Safety Assessment was not completed within the required 24 hours of interviewing or observing the child(ren). The delays ranged from 1 day to 76 days.

Investigative Summary

We identified issues with 40 referrals as follows:

- In 11 referrals the required Investigative Summary, used by a social worker to document the verification of the initial referral allegations, determine if further protective intervention was required and to document other information gathered during the investigation, were not completed, or not fully completed.

- In 29 referrals the Investigative Summary was not completed within the required 30 days after receipt of the referral. The delays ranged from 1 day to 303 days.

History of Referral Verification

We identified issues with 16 referrals as follows:

- In 8 referrals the required History of Referral Verification, which documents previous referrals received and provides an overview of the findings of those referrals, was not completed.

- In 8 referrals the History of Referral Verification was not completed within the required 30 days after receipt of the referral. The delays ranged from 2 days to 124 days.

Risk Assessment

We identified issues with 24 referrals as follows:

- In 4 referrals the required Risk Assessment was not completed for cases where the need for long-term intervention was identified.

- In 9 referrals the Risk Assessment was not completed within the required 30 days after receipt of the referral. The delays ranged from 5 days to 144 days.

- In 11 referrals, it could not be determined if a Risk Assessment was necessary because the required Investigative Summary was not completed or not fully completed.

The Risk Management System was not fully implemented in the Labrador-Grenfell RHA

There are concerns with the Labrador-Grenfell RHA's ability to comply with the Provincial standards established by the Department when intervening and investigating situations where the safety, health and well being of children may be at risk. This situation exists because the RHA was not able to implement the Risk Management System in all locations as a result of difficulties in recruiting and retaining social workers.

Issues regarding the adequacy of monitoring and evaluation of the PIP

- The Client and Referral Management System (CRMS) was not capable of producing reports that would allow the Provincial Director and the RHAs to monitor whether the PIP standards are being achieved.

- The Provincial Director did not regularly review or evaluate any RHAs' file information during the period of our review.

- The Provincial Director did not have sufficient staff resources available to monitor and evaluate the PIP.

Ministerial Advisory Committee not fulfilling reporting requirements

Contrary to the requirements of the *Child, Youth and Family Services Act*, the Ministerial Advisory Committee did not prepare biennial reports to the Minister as to whether the purposes and principles of the *Act* are being achieved. Since 2000, only one report, in 2005, was prepared.

Furthermore, the Department of Health and Community Services has not formally reported on its efforts to address the recommendations contained in the 2005 Report. In particular, one of the findings not addressed was that the Department must increase its capacity to monitor and evaluate programs and services.

The RHAs have not included performance measures on the PIP in their strategic plans and annual reports

Although the PIP contains performance standards against which actual results could be reported, none of the RHA's Strategic Plans established any goals and objectives with respect to their performance in relation to these standards. As a result, none of the RHAs made any reference in their Annual Reports to their actual performance in relation to the PIP's performance standards.

As a result, Members of the House of Assembly are not being informed about the performance of the PIP relative to established performance standards.

Background

Overview

The *Child, Youth and Family Services Act* (the *Act*), established the Protective Intervention Program (PIP). The PIP is one of four service components of the *Act*. The other three are: Family Services, Youth Services and In Care (Foster Care). The purpose of the PIP is to intervene, assess and secure the safety, health and well being of children under the age of 16 who are at risk of being maltreated by their parent(s). Maltreatment refers to the neglect of a child or the non-accidental infliction of injury or harm to a child. It would also include the failure to protect a child from the non-accidental infliction of injury or harm by another person. Section 14 of the *Act* defines what would constitute a child in need of protection.

Prior to 9 April 2009 the Department of Health and Community Services had responsibility for the PIP. On 9 April 2009 the Government established the Department of Child, Youth and Family Services. This new Department assumed responsibility for the oversight of the PIP from the Department of Health and Community Services. This review of the PIP was conducted during the period when it was the responsibility of the Department of Health and Community Services (the Department).

In accordance with the *Act*, five directors at the four Regional Health Authorities (RHAs) (there are two at the Labrador-Grenfell RHA) have authority to administer the PIP. In addition to the five regional directors, there is a Provincial Director of Child, Youth and Family Services who is appointed under the *Act* to:

- establish Province-wide policies, programs and standards;

- monitor, evaluate and research the established policies, programs and standards;
- represent the Province in interprovincial and territorial and other discussions and agreements;
- maintain a Province-wide, computerized child, youth and family service information system; and
- advise and report to the Minister on matters related to child, youth and family services.

As required by the *Act*, the Department of Health and Community Services operates a Province-wide computerized system known as the Client and Referral Management System (CRMS). The CRMS serves as the central information management system for the PIP and other programs and services delivered by RHAs. The Department of Health and Community Services also assisted the RHAs in providing training to social workers.

Risk Management System

The *Act* requires the establishment of standards of practice that social workers must maintain. As of February 2005, the Department of Health and Community Services introduced an updated Risk Management System for the PIP based on internationally accepted risk management standards. The Risk Management System consists of legislative authority, standards, commentary, specified decision points, and procedures to guide decisions. Documentation of the results of referral investigations are primarily recorded in the CRMS.

Initiation of a protective intervention investigation

In order to investigate a case of reported child maltreatment, an RHA would receive a referral. A referral received by an RHA can originate from one or more sources and can be anonymous. Any person who is aware of a child that is, or may be, in need of protective intervention is required to report it. The Risk Management System outlines a process for assessing a referral to determine if it is within the scope of the *Act* and should be investigated. Certain professional groups, especially groups that are in regular contact with children, are subject to a higher standard to report suspected instances of child maltreatment. Referrals can be received from different sources related to the same issue for a given child.

Number of referrals received

During the calendar years ending 31 December 2005 and 2006 approximately 6,700 referrals were received and screened-in at three of the four RHAs which had adopted the updated Risk Management System that was introduced in 2005.

Referrals from the Labrador-Grenfell RHA were not included in this total because the CRMS, from which the referral numbers were obtained, was not available in all offices of the RHA. Furthermore, the RHA did not adopt the computerized Risk Management System at all office locations; therefore, this region was not comparable to the other three RHAs.

Audit Objectives and Scope

Audit objectives

The objectives of our review of the Protective Intervention Program (PIP) were to determine whether:

- policies and procedures exist and if so, that established standards are being met;
- the Regional Health Authorities and the Department of Health and Community Services were adequately monitoring the PIP; and
- the *Child, Youth and Family Services Act* and other applicable legislation is being complied with.

Audit scope

We interviewed senior officials from the Department of Health and Community Services and the Regional Health Authorities about the PIP.

We also selected a sample of 74 referrals from the approximately 6,700 screened-in referrals received under the PIP by the three RHAs from 1 January 2005 to 31 December 2006. The actual work required to investigate a referral extends into a period after the referral is received.

We completed our review in December 2008.

Detailed Observations

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

1. Protective Intervention Program - Samples
2. Protective Intervention Program - Monitoring and Evaluation
3. Ministerial Advisory Committee
4. Reporting on Protective Intervention Program performance standards

1. Protective Intervention Program - Referral Samples

During our review we assessed the process associated with a random sample of 74 referrals as well as the overall backlog of assessment cases in the Eastern RHA. Our findings are contained in the following sections:

A. Referral Samples
B. Backlog of Assessment Cases in the Eastern RHA
C. Risk Management System not fully implemented in the Labrador-Grenfell RHA

1A. Referral Samples

Overview

In 2003, the Province began the implementation of a computerized Risk Management System to ensure that there was a comprehensive approach to the assessment of risk to children and to facilitate clinical decision making. The Risk Management System is a formalized system for identifying, assessing, responding to, and documenting the risk of child maltreatment throughout the life of a protective intervention case. A risk management system involves the use of assessment tools and specific risk assessment instruments to supplement the social worker's clinical judgement when determining the level of risk to a child throughout the life of a case.

The current Risk Management System was first implemented in the Province in 2005. This system was phased in at various times by each of the RHAs. As of 31 December 2008, the date of our review, Risk Management had not been fully implemented within the Labrador-Grenfell RHA.

In order to test the Risk Management System we selected a random sample of 74 referrals from the 2005 and 2006 calendar years from the three RHAs where the Risk Management System was in place.

Figure 1 provides the detail of the number of samples selected by RHA.

Figure 1

Protective Intervention Program
Sample Distribution
2005 and 2006 Calendar Years

Regional Health Authority	2005	2006	Total
Eastern	31	21	52
Western	5	9	14
Central	2	6	8
Total	**38**	**36**	**74**

Determining if a child is in need of protective intervention

The Department has the legislative authority to establish Province-wide policies, programs and standards. The Department has a policy manual to govern the PIP. The Policy Manual states that *"Child maltreatment encompasses a wide range of parental acts or behaviours that place children at risk of maltreatment."* A child's need for protective intervention is defined in legislation under Section 14 of the *Child Youth and Family Services Act* (the *Act*).

When a report of child maltreatment is received at intake, a decision must be made as to whether the information should be accepted for investigation. Section 14 of the *Act* lists the various grounds that will warrant a referral being investigated and thus determine whether protective intervention involvement is required. This determination is an important protective intervention decision and is the first step of the Risk Management System. More than one of the grounds contained in Section 14 may be present for a given child subject to a referral.

Figure 2 provides details of the types of issues that fall under the authority of the *Act* and the number of issues in each RHA that were contained in our sample.

Figure 2

Protective Intervention Program
Referral Allegations by RHA
1 January 2005 to 31 December 2006

Section of the *Child, Youth and Family Services Act*	Eastern	Central	Western	Total
14(a) physically harmed by action or inaction of parent	26	4	5	35
14(b) sexually abused or exploited by parent	2	0	0	2
14(c) emotionally harmed by parent's conduct	11	1	6	18
14(d) physically harmed by a person and parent does not protect	0	1	2	3
14(e) sexually abused or exploited by person, parent does not protect	1	1	1	3
14(f) emotionally harmed by a person and parent does not protect	1	0	1	2
14(g) parent refuses or fails to obtain/permit essential treatment	1	0	0	1
14(h) is abandoned	0	0	0	0
14(i) no parent living/available-inadequate provision for child's care	0	0	0	0
14(j) living in a situation where there is violence	17	5	3	25
14(k)(i) under 12 and left without adequate supervision	3	0	1	4
14(k)(ii) under 12 killed/injured a person or damaged property	0	0	0	0
14(k)(iii) under 12, caused or threatened injury, parents encouraged or did not respond adequately	0	0	0	0
Totals	**62**	**12**	**19**	**93**

Initial Visit

When an RHA receives a referral that is considered to fall within the mandate of the RHA to investigate, a social worker must determine the initial required response time. The Risk Management System has guidelines that require response times ranging from immediate response up to a maximum of 72 hours, based on the assessed risk of harm that has, or may occur, to the child(ren).

Figure 3 provides a summary of the response times for each RHA for our sample.

Figure 3

Protective Intervention Program
Summary of Response Priorities by RHA
1 January 2005 to 31 December 2006

Response Priority	Eastern	Central	Western	Total
Immediate	1	0	0	1
Same Day (24 hours)	10	2	3	15
Two days (48 hours)	17	3	6	26
Three days (72 hours)	23	3	5	31
Not indicated	1	0	0	1
Totals	**52**	**8**	**14**	**74**

Figure 4 shows the number of referrals, by RHA, where the required timeframe to interview (or observe) children was not met.

Figure 4

Protective Intervention Program
Referrals Where the Timeframe to Interview (or Observe) Children Was Not Met
1 January 2005 to 31 December 2006

RHA	Total Number of Exceptions	Exceptions Without Acceptable Explanation	Total Referrals	% Without Acceptable Explanation
Eastern	28	22	52	42
Central	3	3	8	38
Western	3	2	14	14
Totals	**34**	**27**	**74**	**36**

Failure to see children by required deadline

We identified issues with 31 referrals as follows:

- 27 referrals indicated that the initial visit, to interview or observe the child(ren), was not conducted within the required response guidelines (ranging from immediate response to a maximum of 72 hours) after receipt of the referral. The delays for each RHA ranged as follows:

  - Eastern - 1 day to 15 days.
  - Central - 1 day to 5 days.
  - Western - 1 day to 16 days.

  In 3 of the 27 referrals, all in Eastern RHA, it was ultimately determined that the children were unsafe once the visit occurred. The delays for these 3 cases ranged from 1 day to 15 days.

  In 7 of the 34 referrals noted, we found that the RHA had what was, in our opinion, an adequately documented reasonable explanation for not interviewing (or observing) the children within the required time frame. The most common acceptable explanation was that the child(ren) could not be located when home or school visits were attempted and other attempts to make contact (e.g. via telephone) were also unsuccessful.

- In 4 referrals in the Eastern RHA it could not be determined if the response priority was met because either the interview (observation) date or the response priority was missing from the documentation provided.

Safety Assessment

Upon seeing a child(ren), a social worker must complete a Safety Assessment. The Safety Assessment is a tool that documents the results of an interview or, where not practical (e.g. where the child is not old enough to be interviewed), an observation of each of the child(ren) who are the subject of the referral. For each referral, a safety decision (either safe or unsafe) must be made for each child in the home that is the subject of the referral. Different safety decisions can be made for different children in the same home.

The Risk Management System identifies 13 factors that assist the social worker in determining if a child is safe or unsafe in the current home environment while the referral is being investigated. The social worker may also identify other factors. If a child(ren) is found to be unsafe, then an immediate safety plan is required. In the most serious cases where a child(ren) is found to be unsafe, the child(ren) will be removed from the home and placed in the care of the Director of Child, Youth and Family Services for

that RHA. A court warrant is generally required in such circumstances. If a child is placed into the custody of the Director, different policies and procedures, including court decisions, will govern the case.

Where a child is found to be unsafe and is not required to be removed from the home, further work, normally in the form of a Safety Plan, will be required to be undertaken by the social worker. The purpose of the Safety Plan is to document and otherwise attempt to mitigate risk to the child(ren)'s safety so that the child(ren) can remain in the family environment during the period of the investigation. Other services may also be provided to assist in mitigating the risk to the child(ren).

Given the importance of the safety decision, a social worker is required to have completed the Safety Assessment and make the safety decision within 24 hours of seeing the child(ren). The social worker's manager has an additional 24 hours to approve the decision.

Figure 5 indicates the safety decisions by RHA for each of the 111 children included in the 74 referrals that we sampled.

Figure 5

Protective Intervention Program
Safety Decisions by RHA
1 January 2005 to 31 December 2006

Safety Decision	Eastern	Western	Central	Total	%
Child Safe	64	16	10	90	81
Child Unsafe	14	6	1	21	19
Total	**78**	**22**	**11**	**111**	**100**

Figure 6 shows the number of referrals, by RHA, in our sample where the required deadline to complete Safety Assessments was not met.

Figure 6

Protective Intervention Program
Referrals where the Required Deadline to Complete Safety Assessments Was Not Met
1 January 2005 to 31 December 2006

RHA	Total Number of Exceptions	Total Cases	%
Eastern	16	52	31
Central	2	8	25
Western	4	14	29
Total	**22**	**74**	**30**

Safety Assessments not completed by the required deadline

We identified issues with 22 referrals as follows:

- In 3 referrals (all in Eastern RHA) the required Safety Assessment, to document whether it was safe for the child(ren) to remain in the current home environment while the referral is being investigated, had not been completed.

- In 19 referrals the Safety Assessment was not completed within the required 24 hours of interviewing or observing the child(ren). The delays for each RHA ranged as follows:

  - Eastern - 1 day to 76 days.
  - Central - 1 day to 3 days.
  - Western - 1 day to 8 days.

Within 30 days of receiving a referral a social worker is required to complete the investigation of the referral. There are several key reports that assess and document the referral that are completed as part of the investigation. These reports include the Investigative Summary and the History of Referral Verification.

Figure 7 indicates the number of referrals, by RHA, that did not meet the required deadlines to complete the Investigative Summary and the History of Referral Verification.

Figure 7

Protective Intervention Program
Referrals Where the Required Deadlines to Complete Investigative Summary and the History of Referral Verification Were Not Met
1 January 2005 to 31 December 2006

Document	Eastern	Western	Central	Total
Investigative Summary	35	1	4	40
History of Referral Verification	14	0	2	16

Investigative Summary

In the Investigative Summary a social worker is required to assess if each allegation in a referral is verified. Additionally, they are required to assess if a referral requires further protective intervention. In the first decision the social worker assesses whether the initial referral allegations are substantiated or not. A referral can be verified and not require protective intervention if the issue is isolated and not likely to reoccur.

In the second decision the social worker must assess, by allegation, if the child(ren) is in need of further protective intervention. In cases where a referral is found not to be verified, a social worker can still find that other conditions are present which require that protective intervention is required. In cases where further protective intervention is required, the child will be transferred from referral status to long term intervention status.

We identified issues with 40 referrals as follows:

- In 11 referrals (8 in Eastern RHA, 2 in Central RHA, and 1 in Western RHA) the required Investigative Summary was not completed or not fully completed.

- In 29 referrals the Investigative Summary was not completed within the required 30 days after receipt of the referral. The delays by RHA ranged as follows:

  - Eastern - 1 day to 303 days.
  - Central - 36 days to 54 days.

History of Referral Verification

The History of Referral Verification report documents previous referrals received and provides an overview of the findings of those referrals.

We identified issues with 16 referrals as follows:

- In 8 referrals (6 in Eastern RHA, 2 in Central RHA) the required History of Referral Verification, which documents all previous referrals received and provides an overview of the findings of those referrals, was not completed.

- In 8 referrals (all in Eastern RHA) the History of Referral Verification was not completed within the required 30 days after receipt of the referral. The delay ranged from 2 days to 124 days.

Risk Assessment

Where a child(ren) is found to require protective intervention during the referral investigation (and thus the file is to be transferred to long term intervention), a Risk Assessment is required to be completed. The Risk Assessment supplements the clinical judgment of a social worker in determining whether there is risk of future harm to a child. The completion of a Risk Assessment involves the completion of a detailed assessment of the parents, the home environment and the factors that resulted in finding that further protective intervention was required. The risk is rated high, moderately high, medium, moderately low, or low / no risk.

If a referral is received on a new or reopened case and it is determined that a Risk Assessment is required, a social worker has to complete the Risk Assessment within the 30 day period from the receipt of the referral. Social workers have 90 days to complete the Risk Assessment for active cases as such cases are already subject to other forms of monitoring and evaluation.

Figure 8 indicates the number of referrals, by RHA, that did not meet the required deadlines to complete the Risk Assessment.

Figure 8

Protective Intervention Program
Referrals Where the Required Deadlines to Complete Risk Assessments Were Not Met
1 January 2005 to 31 December 2006

RHA	Total Samples	Risk Assessment Required	Risk Assessment Not Completed by Deadline	% Not Completed By Deadline
Eastern	52	14	9	64
Central	8	3	1	33
Western	14	3	3	100
Total	**74**	**20**	**13**	**65**

We identified issues with 24 referrals as follows:

- In 4 referrals (3 in Eastern, 1 in Western) the required Risk Assessment was not completed for cases where the need for long-term intervention was identified.

- In 9 referrals the Risk Assessment was not completed within the required 30 days after receipt of the referral. The delays for each RHA ranged as follows:

  - Eastern - 5 days to 105 days.
  - Central - 88 days.
  - Western - 139 days to144 days.

- In 11 referrals (8 in Eastern RHA, 2 in Central RHA, and 1 in Western RHA) we were unable to determine if a Risk Assessment was required because the required Investigative Summary was not completed or not fully completed.

Causes of failure to meet established Risk Management standards

A review of the documentation provided and discussion with RHA officials indicated that a number of factors contributed to RHAs' inability to meet established Risk Management standards. The factors included:

- **Lack of training provided to staff prior to commencing field work:** We found that as a result of the lack of specific training in the Risk Management System used by the Province and in the use of CRMS for new social workers prior to undertaking their first cases, one or more required procedures were not always completed as is required by the Risk Management System.

  Problems resulting from a lack of training for social workers are a concern. The lack of training can lead to an inconsistent application of policies and procedures or inappropriate decisions. Training is critical to ensure the safety and welfare of the children served by the PIP.

  For example, we found instances of new social workers not completing the required Risk Management procedures as they had not yet received any training in this process. We also note that the Turner Review and Investigation report (issued September 2006) made several recommendations with respect to initial and continuing training that should be provided.

- **Staff recruitment and retention:** In response to our inquiry as to why the RHAs were unable to meet the required response times it was indicated that they were having difficulties with the recruitment and retention of qualified staff.

- **Case complexity:** It was noted that the complexity of cases also impacted on the ability to meet deadlines.

- **CRMS:** Other system related issues also played a role in not meeting PIP requirements. For example, indications were that the process of completing the referral documentation in CRMS could be difficult and time consuming.

Recommendation

The Regional Health Authorities should comply with the required response times.

1B. Backlog of Assessment Cases in the Eastern RHA

Introduction

The most serious instances of non-compliance with PIP standards occurred on the northeast Avalon (excluding Conception Bay South) on two different occasions, in 2004 and in 2006. The Eastern RHA considers a backlog to have occurred when there are a significant number of assessment cases that have not been completed within the 30 day assessment period. The first backlog was identified in January 2004 and was not resolved until June 2005; while the second backlog was identified in October 2006 and some of this backlog still existed as of the date of our report.

These backlogs present a potential safety risk to the children involved and also a potential liability to the RHA and Government, should harm come to a child that otherwise could have been prevented. Officials of the RHA indicated that they attempted to mitigate this risk by placing emphasis on ensuring that the initial visit and Safety Assessment was completed within or as close to the standard as possible.

2004 backlog

In March 2004, the Eastern RHA informed the Department of Health and Community Services (Department) that it was not able to comply with Provincial standards regarding response times for referrals and assessments. At that time the Eastern RHA indicated that there were 559 cases that were considered backlog assessment cases.

Beginning in January 2004, the Eastern RHA implemented the following internal measures to address the backlog of cases:

- redeployed 5 social workers to the assessment division to bring the staff complement up to 15;
- exempted the PIP from the Board's vacancy policy;
- limited training; and
- established a management committee to review open assessment cases that had not received social work intervention for more than three months. The goal of this review was to identify any immediate response requirements, establish a plan for intervention and prioritize these backlogged assessment cases.

The measures taken by the RHA to address the backlog were not successful. As a result, the RHA requested funding from the Department for 13 social worker positions, 1 manager, and 1 clerical position. In response to this request, the Department provided funding of $400,000 to hire the requested personnel for a six month period.

In October 2004, the RHA informed the Department that the situation had still not been resolved. As a short term response, the RHA assigned 3.5 social workers from another program.

In December 2004, the RHA informed the Department of that the short term measures were still not sufficient to address the backlog and requested funding to extend the extra resources to 31 March 2005. In response, Treasury Board approved an extension of funding for the extra resources to 31 January 2005. As part of Treasury Board's approval of the extra funding it directed the Department, in conjunction with Treasury Board Secretariat, to conduct a detailed analysis of the PIP in the affected area of the Eastern RHA. This review was to be completed by mid-January 2005.

The analysis provided to Treasury Board by the Department found that:

- There was a significant increase in referrals in February and March 2004 when the RHA began experiencing a backlog. The number of new referrals subsequently started to decrease after that time;
- Caseloads had been increasing; cases were open longer and there were fewer case closures;
- The number of complex cases had increased;
- There had been an increase in other types of investigations required to be undertaken by PIP social workers (e.g. caregiver investigations); and
- Other organizational and practice issues were present that required further consideration by the RHA.

In January 2005, Treasury Board approved another extension of the extra resources for the period 1 February 2005 to 30 June 2005.

This backlog was not resolved until June 2005.

2006 backlog

In October 2006 the Eastern RHA again found itself with a backlog of assessment cases. RHA officials indicated that, as with the 2004 backlog, the RHA took a number of measures in an attempt to address the backlog. These measures were not successful in addressing the backlog.

In June 2007 the RHA had to implement additional special measures in an attempt to address the backlog. At that time, there were 642 cases that were considered backlog assessment cases. Of the 642 cases, 512 were assigned to a new assessment team of 8 social workers and one manager (known as the Backlog Team) put in place to address the backlog. Subsequent to the establishment of the new Backlog Team, an additional 7 backlogged cases were assigned to the Team, bringing the total number of backlogged cases to be completed to 519. Between June 2007 and December 2007, the Backlog Team worked exclusively on the 519 cases, completing 263 cases and leaving the remaining 256 in various stages of completion.

The remaining 130 of the 642 backlog cases that existed in June 2007 stayed with the Assessment Rotation Team for completion. The Assessment Rotation Team is responsible for completing the referrals that are received on an ongoing basis. Between June 2007 and December 2007, the number of active files assigned to the Assessment Rotation Team had increased from 130 to 351. Given the number of accumulating files on the Assessment Rotation Team, the Backlog Team and the Assessment Rotation Team were reorganized and staff from both teams were assigned referrals that were received on an ongoing basis. Therefore, staff assigned to the Backlog Team were not working exclusively on completing the cases from the June 2007 backlog as they had been doing previously. This resulted in a decline in the rate at which the backlog cases were being completed.

For the period January 2008 to October 2008, both teams worked to complete cases from either: the June 2007 backlog, the cases that had accumulated on the Assessment Rotation Team at December 2007, or new cases that had been received between January 2008 and October 2008.

At 31 October 2008, there were 672 assessment cases in various stages of completion. Figure 9 shows an aging of these assessment cases:

Figure 9

Eastern RHA
Aging of Assessment Cases
As at 31 October 2008

Description	Cases
Non-backlog cases (30 days or less)	59
Sub-total	**59**
Backlog cases (greater than 30 days)	
30 – 60 days	62
60 – 90 days	52
Greater than 90 days	499
Sub-total	**613**
Total	**672**

Source: Eastern Regional Health Authority

Included in the 613 backlog cases as at 31 October 2008 are 149 cases from the initial June 2007 backlog and 140 cases from those accumulated by the Assessment Rotation Team at December 2007.

Causes of the 2006 Backlog

The Eastern RHA indicated that the backlog of assessment cases at October 2006 was caused by a number of factors including:

- **Lack of experienced social workers in assessment division:** In June 2007, when additional measures were implemented, 47% of the social workers were newly graduated and had no experience in child protection, 24% of the social workers had less than six months work experience in child protection and only 5% had over three years experience.

- **Number of staff:** Insufficient number of social workers to meet work demands.

- **Lost time:** High number of hours lost due to sick leave, annual leave, unfilled vacancies.

- **High turnover of assessment staff:** Information provided by the RHA indicated that between June 2007 and May 2008 there was a 48% turnover of social work staff in Assessment.

- **Complexity:** Increased complexity of cases.

- **CRMS / Risk Management System:** The CRMS system was noted as not being user-friendly. The introduction of the Risk Management system in CRMS also created additional work for social workers when documenting a child protection investigation.

The Eastern RHA indicated that it had originally hoped to complete the cases backlogged in June 2007 in six months. The Eastern RHA indicated that it was unable to complete the cases backlogged as of June 2007 in the time period planned because it experienced considerable staffing challenges.

For example, between 1 July 2008 and 31 October 2008 the equivalent of 18.5 weeks in staff time was lost due to sick leave. As of 31 October 2008, six workers were off assessment duties due to medical reasons. Also, staff who were originally assigned to the Backlog Team were not working exclusively on completing the backlog cases as they were reassigned to referrals that were received on an ongoing basis. This resulted in a decline in the rate at which the backlog cases were being completed.

The Eastern RHA further indicated that additional cases have become backlogged since June 2007 because of the staffing challenges and other issues identified. At the time of our report, there was still a backlog of assessment cases in the northeast Avalon area of the Eastern RHA (excluding the Conception Bay South).

Recommendations

The Department of Child, Youth and Family Services and the Eastern RHA should take steps to address the backlog assessment cases.

The Eastern RHA should complete cases within 30 days as required.

1C. Risk Management System not fully implemented in the Labrador-Grenfell RHA

Our sample of 74 referrals excluded referrals from the Labrador-Grenfell RHA. We were informed by the Department and Labrador-Grenfell RHA that during the 2005 and 2006 calendar years, the time period from which our samples were selected, most of this RHA was not using the computerized Risk Management System. Therefore, our testing procedures would not apply to most of the referrals in this RHA and our sample results would not be comparable to those of the other RHAs.

In addition, the Labrador-Grenfell RHA did not have the CRMS available in all areas of its jurisdiction during the 2005 and 2006 calendar years and, due to workload issues, there could have also been significant delays in data being entered into the CRMS in the areas where it was available.

Risk Management System not fully implemented in all areas of Labrador

We were informed by officials of the Labrador-Grenfell RHA that subsequent to the 2005 and 2006 calendar years, the CRMS became available in all areas of its jurisdiction. Discussions with the RHA officials have also indicated that, due to staffing and workload challenges, there can still be delays in entering information into CRMS.

We were also informed by officials of the Labrador-Grenfell RHA that subsequent to the 2005 and 2006 calendar years, the Risk Management System was phased into more areas within the RHA. However, as of the completion of our fieldwork in December 2008 the RHA had still not implemented the Risk Management System in all areas of its jurisdiction.

Discussions with officials of the RHA and the Department indicated that this RHA has experienced challenges, particularly in the Labrador region, in recruiting and retaining social workers. The staffing challenges and resulting higher workload have negatively impacted on the RHA's ability to implement the Risk Management System throughout its jurisdiction. Officials of the RHA indicated that in place of the Risk Management System it was continuing to use the previous methodology to investigate its protective intervention cases. While there are some similarities between the initial steps (i.e. initial screening and response priorities) used in both of the assessment methodologies, the actual assessment tools and timelines used in the remainder of the investigation process differ.

These issues raise concerns with the RHA's ability to comply with the Provincial standards established by the Department when intervening and investigating situations where the safety, health and well being of children may be at risk.

Recommendation

The Department of Child, Youth and Family Services and the Labrador-Grenfell RHA should:

- continue the deployment of the computerized Risk Management System in the Labrador region of the RHA.
- take steps to address the recruitment and retention issues in the RHA, particularly in the Labrador region.

2. Protective Intervention Program - Monitoring and Evaluation

Overview

The Director of Child, Youth and Family Services at the Department is given responsibility by Section 5 of the *Child, Youth and Family Services Act* for:

- establishing Province-wide policies, programs and standards;
- monitoring, evaluation and research of the established policies, programs and standards;
- representing the Province in inter-provincial and territorial and other discussions and agreements;
- a Province-wide, computerized child, youth and family service information system; and
- advising and reporting to the Minister on matters related to child, youth and family services.

As required by the *Act*, the Department operates the Client and Referral Management System (CRMS) that serves as the central information management system for the PIP and other programs and services delivered by RHAs.

The CRMS, which first became operational in 1998, contains individual client records that include demographic information and information on programs and services that are provided by the RHAs to residents of the Province. In addition to PIP information, the CRMS also contains information necessary to manage the continuing care, health promotion and protection, and rehabilitation services. The CRMS is accessible by nurses, social workers, occupational therapists, dietitians and others.

Department does not monitor and evaluate whether PIP standards are being met

Department

During our review, we requested that the Department provide us with an overview of the monitoring activities it performs on the PIP, in particular, monitoring activities to determine if PIP standards are being achieved. Departmental officials indicated that the resources (e.g. staffing and information systems development) to fulfill the mandate provided by the *Act* were not available.

Departmental officials indicated that the CRMS is not currently capable of preparing reports that would enable them to monitor the PIP. Officials indicated that monitoring reports are in the process of being developed and tested; however, obtaining the necessary resources to complete this task has been a challenge. Requests for funding to complete the development and testing of the monitoring reports have been made to the Office of the Chief Information Officer.

Departmental officials also indicated that there are insufficient staff resources available to monitor and evaluate the PIP in accordance with the *Act*. For example, Departmental officials indicated that they did not regularly review or evaluate any information contained in the CRMS or client files at the RHAs. While certain information needed to monitor the PIP could be obtained from the CRMS, it would still be necessary to review paper copies of client files maintained by the RHAs to assess clinical quality of the case management processes at the RHAs.

The Department indicated that it does perform some monitoring of the PIP. The Department indicated that it interacts regularly with the Regional Directors at each RHA to discuss matters of significance. For example, the Department was in communication with Eastern RHA regarding the assessment backlogs that this RHA has experienced. In addition, it has undertaken other ad hoc monitoring activities in conjunction with the RHAs.

Regional Health Authorities

We also requested that the RHAs provide us with an overview of the monitoring activities performed, in particular monitoring activities to determine if PIP standards are being achieved. The CRMS does not provide the RHAs with the ability to readily prepare any reports to ensure that Provincial standards for Risk Management System are being met. For example, the only way for a social worker, their manager, or the Department to determine, in any given case, if there are any procedures that are near due or are overdue for completion is to access that specific file in the CRMS to determine its status.

We were informed by each of the RHAs that, in lieu of CRMS-generated reports, the RHAs use their own monitoring processes. For example:

- Eastern RHA does perform some PIP monitoring which consists of manually prepared reports outlining case statistics. These reports are prepared on a monthly basis. However, these reports do not provide enough detail to clearly establish if PIP standards are being met. Also, Eastern RHA is separately tracking the progress of cases that they have identified as being backlogged.

- Central RHA does not prepare formal monitoring reports; however, the RHA indicated that it conducted manual monitoring by having PIP managers check the status of individual case files in the CRMS to determine compliance with PIP standards.

- Western RHA does perform some PIP monitoring which consists of manually prepared reports outlining case statistics. PIP managers and a Coordinator position also conduct manual monitoring by checking the status of individual case files with workers to determine compliance with PIP standards.

- Labrador-Grenfell RHA manually compiled monitoring reports on a monthly basis, which allows them to determine if key Risk Management System procedures have been completed (in areas where the Risk Management System has been implemented). However, these reports do not provide enough detail to clearly establish if all PIP standards are being met.

Importance of monitoring reports

It is important to respond to referrals and complete the related investigation within the established PIP standards, as failure to do so may increase the risk that maltreatment of children may not be addressed in a timely manner.

CRMS-generated monitoring reports would allow the Department and RHA to more readily monitor compliance with established PIP standards to whatever degree of detail is necessary - from the individual case level to the Provincial level. The reports could also be prepared with a variety of frequencies (weekly, monthly, quarterly) as considered necessary. As a result, if there were issues identified with the failure to achieve compliance with PIP standards, such as the backlogs experienced in Eastern RHA, then corrective action could be implemented by either the Department or the RHA in a more timely manner to deal with these situations.

CRMS-generated monitoring reports would also enable the Department and the RHAs to more readily monitor case load statistics at various degrees of detail. This would ensure that resources are allocated to RHAs, or areas within RHAs, based on case load requirements and to make comparisons between RHAs or areas within RHAs. Appropriate allocation of resources would assist in ensuring compliance with established PIP standards.

In addition, the CRMS is currently not capable of producing reports to inform social workers and their supervisors when certain procedures are due, or overdue, for completion. The operation of the Risk Management System would be enhanced if the CRMS had this capability. These reports would assist social workers in completing the Risk Management System within the established standards and also provide supervisors with a means of following up on outstanding procedures.

Manually completed monitoring reports are time consuming to prepare and, considering the limited timeframes available to complete certain Risk Management System procedures, they may not be available on a frequent enough basis. As the manually prepared reports do not come directly from the CRMS, there is greater potential that the reports may not be complete and accurate as some information may be omitted from the monitoring reports in error. There is also greater potential for errors to be made in compiling the information. In addition, the manual monitoring process currently being used by the RHAs does not contain any means to alert or prompt staff to complete various tasks.

Finally, weaknesses in monitoring capability makes it very difficult for the Provincial Director to fulfill the requirement to provide advice to the Minister.

Recommendation

The Department of Child, Youth and Family Services should ensure that appropriate monitoring and evaluation is taking place and that the Provincial Director can meet the requirement to advise and report to the Minister on the status of the PIP.

3. Ministerial Advisory Committee

Overview

The *Child, Youth and Family Services Act* came into force on 5 January 2000.

Section 75 of the *Act* requires that *"The minister shall establish an advisory committee whose function is to review every 2 years the operation of this* Act *and to report to the minister concerning its operation and stating whether, in its opinion, the principles and purpose of the Act are being achieved."* This Advisory Committee is to be appointed by the Minister and be comprised of representatives of various stakeholder groups.

The report prepared by this Committee is to be tabled in the House of Assembly within 30 days of the receipt of the report if the House is in session or within 15 days of the beginning of the next sitting if the House is not in session.

Failure of Advisory Committee to prepare required reports

The Committee and the Department have not complied with Section 75 of the *Act*. The Committee was established in September 2002, two years after the *Act* came into force and, since then, only one review was conducted. The Report, issued in August 2005, had a number of findings and made recommendations to address these findings such as:

- *"The Department of Health and Community Services must increase its capacity to monitor and evaluate programs and services and provide policy and program support to the regional health authorities.*

- *The Department of Health and Community Services must develop and deliver a Public Awareness Campaign to inform the public about the programs and services offered under the Child, Youth and Family Services Act. This initiative should also include in-service sessions for community agencies and staff within the regional health authorities.*

- *Updated training on the Act is essential and has not been provided to service providers since its implementation."*

As the *Act* requires that a review be conducted every two years, as of 31 December 2008, four reviews should have been completed by the Advisory Committee. However, the Committee has only produced one report in the eight years that the *Act* has been in effect. Furthermore, the Department has not formally reported on its efforts to address the recommendations contained in the Report.

The Activity Report prepared by the Ministerial Advisory Committee for the fiscal year ended 31 March 2008 indicates that the Committee is functioning. It also indicated that the Committee is planning to produce its next report by the fiscal year ending 31 March 2011.

Recommendations

The Department of Child, Youth and Family Services should comply with the *Child, Youth and Family Services Act* and ensure that the Ministerial Advisory Committee undertakes the review required by the *Act.*

The Department of Child, Youth and Family Services should formally report on its efforts to address recommendations identified in the Report of the Ministerial Advisory Committee.

4. Reporting on Protective Intervention Program Performance Standards

Overview

In December 2006 the *Transparency and Accountability Act* was proclaimed in force. This *Act* requires that the Department and the RHAs develop strategic plans that detail goals and objectives to be achieved during the duration of that plan. The *Act* also requires that objective performance standards be developed and set out in the strategic plan.

The *Act* then requires that the Department and RHAs produce annual reports that report actual results as compared to projected results and that any variances be explained.

The PIP contains performance standards against which actual results could be reported. For example, there are timeframes established for the initial response to referrals that are received and there is also a deadline for the completion of the investigation of a referral. Therefore, it would be reasonable to expect that the RHAs would include goals and objectives in their Strategic Plans in relation to the PIP's performance standards. It would also be reasonable to expect that the RHAs would then report, in their Annual Reports, on their

actual performance in relation to the performance standards and explain any variances that may be present.

We reviewed the most recent strategic plans and annual reports for all four RHAs. We found that none of the RHAs' strategic plans established any goals and objectives with respect to the PIP's performance standards. We also found that that none of the RHAs made any reference in their annual reports to their actual performance in relation to the PIP's performance standards. As a result, Members of the House of Assembly are not being informed about the performance of the PIP relative to established performance standards.

Recommendation

The Regional Health Authorities should develop appropriate goals and objectives for the PIP and report on their actual performance in relation to these goals and objectives on an annual basis.

Department's Response

Introduction

The Department of Child, Youth and Family Services (DCYFS) acknowledges that improvements are required in the Protective Intervention Program (PIP). Some initiatives have been implemented or are underway to address the recommendations made in the Auditor General's (AG) report. Since the initiation of the AG's review in 2006, Government has made significant investments in the area of Child, Youth & Family Services (CYFS) aimed at strengthening the capacity of the system. There have been 223 new positions added to the CYFS system at both the regional and provincial levels with a total of 24 million dollars invested in the areas of training, human resources, technology, quality improvement, as well as policy and program development.

In Budget 2009, government announced the creation of the new DCYFS. The Department is mandated to build a revitalized child protection system that is responsive to the priority needs of children and that operates within a culture of accountability and excellence. To achieve this goal, government has accepted the recommendations of the Clinical Services Review Report (2008) in full. This Review was an evaluation of the clinical social work and management practices within the child, youth and family services programs including the Protective Intervention Program. Authored by external consultant and child protection expert, [name provided], the clinical review

found that significant improvements are needed in the areas of case planning, documentation, social worker contact, policies, standards, and risk management. It stresses the need to stabilize the workforce, implement mandatory professional training, create a new system for managing complex cases and develop and implement consistent procedures and quality controls. These are the areas of focus as part of the mandate for the new department over the next 3-5 years.

As per recommendations in the Clinical Services Review, a leadership team had been established to drive change, and a comprehensive review of the Child, Youth and Family Services Act was announced by the DCYFS on December 7, 2009. A series of consultations is scheduled with key stakeholders, including representatives from advocacy, client, aboriginal, education, health, judicial and community groups. The Department is also redesigning the organizational structure to ensure that frontline staff and managers have the tools and supports required to effectively provide services to children who require protective intervention.

The report contains eight (8) recommendations. They are addressed below in the order they appear in the report:

The regional health authorities should comply with the required times.

The AG report identifies four areas as causes of the failure to meet established Risk Management System (RMS) standards. These include:

- *lack of training provided to staff prior to commencing field work*
- *staff recruitment and retention*
- *case complexity*
- *CRMS*

Training *- Training is a priority area for the Department and significant progress has been made in developing training to equip social workers and supervisors with the specialized knowledge and skills required for effective child welfare practice.*

When the RMS was implemented in 2004/05, a train the trainer approach was used. Provincial staff trained regional staff as trainers for RMS and the CRMS application associated with the use of the RMS. Training materials were developed and provided by the Department for both areas.

Since 2006, the Department has established a provincial training unit (one manager and two consultant positions) and provided funding to hire six regional learning facilitators. In 2007/08, funding was also provided to the RHAs for regional CYFS/CRMS positions to provide CRMS training for staff and support to CFYS social workers and managers using the system.

The CYFS Training Plan focuses on:

- ***Mandatory Orientation*** *- the Orientation Program includes a Learning Needs Assessment, Mentoring Program, Basic Orientation and Pre-Core Training and is provided to all new social workers in CYFS. This Orientation became departmental policy in May 2007 and every effort is made to ensure this is completed before the employee takes responsibility for cases. RMS and CRMS training are included as mandatory components to this orientation. Basic Orientation has been provided to approximately 250 social workers.*

- ***Core Training*** *- this training provides social workers and managers with specific job related skills for investigation and intervention in the area of child welfare. There are eight modules in the Core Training Program. The curriculum and resources to support delivery of Core Training has been developed for four of the eight modules and implementation for supervisors and directors began in November 2009. There have been 26 managers and five directors trained in Modules 1 and 2 for Core Training. Social Worker training is slated to begin in January 2010.*

- ***Supervisory Skills*** *- this training is an intensive training program offered to all managers that incorporates best practice approaches to supervising staff in child welfare. There are five modules in the Supervisory Skills Program. The curriculum and resources required to implement this training have been developed for three modules. Supervisory Skills sessions began in the spring of 2009 and have been delivered to 50 managers for Module 1 (Clinical Supervision) and 69 managers for Module 2 (Transfer of Learning). Module 3 (Building an Excellent System) is developed and scheduled to begin in early 2010.*

- ***Specialized Training*** *– this training focuses on advanced skill development in areas such as violence prevention training, joint investigations with police in the areas of child sexual abuse and family violence. Since 1993, 43 courses have been offered in the Collaborative Approach to the Investigation of Child Sexual Abuse to 984 police and social work participants. Since 2007, nine courses have been offered in the Introduction to Family Violence to 167 police and social work participants.*

Recruitment & Retention *- The DCYFS recognizes that stabilizing the workforce is key to an effective child protection system in the province. The RHAs have experienced difficulty in recruiting and retaining experienced staff because of the shortage of social workers and because of the nature of child protection work which is among the most difficult and complex areas of social work practice. The DCYFS has supported a Work Force Analysis project initiated in Eastern Health to look at retention. This project will conclude in early 2010.*

In response to the need for more social workers, in Budget 2008/09, government provided funding to Memorial University to increase its enrollment in both the Bachelor of Social Work (BSW) and Master of Social Work (MSW) programs from 45 to 60 and 15 to 30 respectively. The BSW degree has also been restructured from a five to a four year program. As well, the School of Social Work will be offering a BSW degree as a second degree program beginning in May 2010. This is a 16-month program and will take up to 15 students. Government also supported a partnership with the Nunatsiavut government for a two-year post undergraduate degree in social work. This program will result in the graduation of 23 additional social workers in Labrador in August 2010.

In addition to initiatives in training noted earlier which are expected to support recruitment and retention, the Department is focusing on two key strategies. These are based on input from social workers through discussion held by the Minister and executive team at 50 of the 52 CYFS office sites throughout the province:

1. Redesigning the organizational chart to ensure front-line operations have the support they need including access to supervisory, clerical, assistant and technological supports. The new organizational chart will be in place in 2010/11 as part of the transition of programs and employees from the Regional Health Authorities to the new department.

2. Developing a system to measure workload to assist in employee/work allocation and caseload management. This is a long term objective and work will commence in this area once the services are transitioned and stabilized following the initial reorganization.

Complexity of Cases *- It has been well established through the Clinical Services Review (2008) and other reports that the current RMS (2003) requires review and revisions to ensure we are appropriately addressing protection issues, particularly in complex cases. Development in this area will be informed through feedback from CYFS field staff and review of best practices in the area of RMS regarding the investigation and assessment of risk to children. The DCYFS has instituted some interim changes, based on input from the field, to make the system more responsive while it undertakes a more comprehensive assessment of the current system and protocols for complex cases.*

CRMS *– A Technical Review of CRMS was completed by the Office of the Chief Information Officer (OCIO) in May 2008. The purpose of the CRMS Technical Review was to identify how to improve the usability of the application. The final document outlines in excess of 80 recommendations to improve the CRMS system. A Business Review of CRMS was completed in 2009 to determine how functional the program was in the context of business processes and documentation standards required by CYFS. Recommendations from both reviews, as they pertained to CYFS programs, were considered by the new department. It was determined that a major retrofit would be required to address program requirements and that this would be neither cost effective nor sustainable over time. Consequently, work is underway to develop a new CYFS information system.*

The Department of Child, Youth and Family Services and the Eastern RHA should take steps to address the backlog assessment cases.

The AG report identifies six areas as causes of the failure to meet established RMS standards. These include:

- *lack of experienced social workers in assessment*
- *number of staff*
- *lost time*
- *high turnover of assessment staff*
- *complexity*
- *CRMS/ Risk Management System*

The first four issues noted above are related to staff recruitment and retention as well as training and how the work is organized. The Department's strategies in these areas as well as for complex cases and the CRMS/RMS have been noted in the previous section and so they will not be repeated here.

In terms of the current backlog, the Clinical Services Review (2008) recommended that the DCYFS carry out a review of the PIP to determine the current workload to ensure that children in need of protection are receiving service and that inactive cases are closed. In January 2009 the DCYFS, in partnership with the RHAs, began this review to identify the work required to bring files up to date. There were a total of 3447 files, 2283 of which were from Eastern RHA.

For the entire province, there were a total of 952 files that were considered eligible for assessment for closure. These included cases in both the assessment/investigation stage and the long term protection stage. In November 2009, the DCYFS and the RHA's initiated a "Case Closure Project" to address this issue. This included changes to RMS program standards and CRMS. As of December 7, 2009 there have been a total of 406 files closed, 267 of which are from the Eastern RHA. Of these, 121 were in assessment/investigation. The Closure Project is ongoing and will conclude at the end of March 2010. Follow up on actions required on files which will remain open, to ensure they are up to date, will continue. The OCIO are providing reports to the DCYFS to assist in the evaluation of the progress of this project.

The Eastern RHA should complete cases within 30 days as required.

As noted earlier in this response, the DCYFS has undertaken some interim measures to improve the ease at which staff can enter information into the electronic system and comply with standards. These were initially focused on the cases requiring closure, however, additional changes are currently under review with the regions to facilitate efficiencies and the application of appropriate standards. Implementation of these changes is targeted for the 2010/11 year. In the long term, the review of the RMS and redesign of the organizational structure is expected to have a positive impact in this area.

The Department of Child, Youth and Family Services and the Labrador-Grenfell RHA should:

- ***continue the deployment of the computerized Risk Management System in the Labrador region of the authority.***

- ***take steps to address the recruitment and retention issues in the Authority particularly in the Labrador region.***

Risk Management for child welfare practice has been implemented in the province since 1993. The implementation of the current RMS (revised 2003) became a policy requirement in 2005. Implementation of the system varied depending on regional capacity to train staff and implement the new system. While progress has been made, this remains an issue in Labrador in two sites.

Implementation of RMS in this region is highly linked to recruitment and retention of social work staff. Government has supported initiatives directed at improving recruitment and retention of social workers in Labrador. This included provision of funding for a recruitment video, support for the previously referenced two-year BSW program in Labrador and housing in remote communities.

The new DCYFS is actively working with the LG-RHA and the Public Service Secretariat (PSS) to determine if there are additional measures that can be taken to recruit and retain staff or alternate service delivery models that would support the delivery of protective intervention programs in remote areas of Labrador. Some discussions have taken place with aboriginal representatives and input from aboriginal governments will be essential to improving services in aboriginal communities.

The Department of Child, Youth and Family Services should ensure that appropriate monitoring and evaluation is taking place and that the Provincial Director can meet the requirement to advise and report to the Minister on the status of the PIP.

There are 10 reports identified in CRMS to monitor compliance with each of the Risk Management standards. However, the Office of the Chief Information Officer (OCIO) indicates there are technical problems preventing their implementation for general use by department and RHA staff. While work has been advanced in this area based on changes recommended in the fall of 2008, they have not been completed because of lack of resources at the OCIO. This work is now being reevaluated in the context of the decision to proceed with a new system.

At the commencement of the Auditor General's review in 2005, the Department identified lack of resources as an issue in program monitoring. Since that time, staff have been hired and the Clinical Services Review was one of the first major quality initiatives undertaken. In December 2008, a Manager for Quality Initiatives was hired at the DCYFS. In addition to this, a Quality Consultant and CRMS Consultant were also hired in 2008. Funding for Quality Manager positions (4) was also provided to each of the RHAs in 2008.

As part of the redesign of the organization chart, the new department is assessing regional services as well as provincial functions including the Quality Unit. It is intended that this will be a strong feature of the new department with a comprehensive system for gathering and analyzing information and reviewing results to affect positive change in areas of policy, practice, program design, and workload on an ongoing basis.

The Department of Child, Youth and Family Services should comply with the Child, Youth and Family Services Act and ensure that the Ministerial Advisory Committee undertakes the review required by the Act.

The Department of Child, Youth and Family Services should formally report on its efforts to address recommendations identified in the Report of the Ministerial Advisory Committee.

The Child, Youth and Family Service Act (CYFS) was proclaimed on January 5, 2000. Several accountability provisions were introduced in the Act, including section 75 which provides for the establishment of a Minister's Advisory Committee (MAC).

Since the proclamation of the CYFS Act in 2000, there have been two Minister's Advisory Committees. The first committee was appointed in April 2002 and concluded in December 2005 with the tabling of a report in the House of Assembly (HOA). A second committee was appointed in the spring of 2006 and is expected to complete its work with the tabling of a report in the spring 2010 sitting of the HOA. The 2nd committee plans to report on the progress made with respect to the recommendations of the MAC 2005 Report.

The CYFS Act in 2000 provided the first mandate for an operational review of child welfare legislation in this province. The timelines set out for the completion of the review were considered appropriate at the time. However, the experience has shown that the two year timeframe is not sufficient to allow fulfillment of this legislative mandate.

In light of the substantive changes introduced in the 2000 Act, it was necessary to allow for a period of time to obtain experience working within this legislative framework and to revise and enhance policy, programs and services in accordance with the new framework before the first review of the operations of the Act was undertaken. The tabling of a report in December 2005 allowed a two year implementation period for the new CYFS Act.

The work of the second committee is following a similar process in terms of providing an eighteen month to two year period to allow for implementation of the recommendations of the MAC 2005 Report, to be followed by a progress report which will be tabled in the Spring 2010 session of the HOA.

There are several other provinces in Canada that have similar accountability provisions contained within the child welfare legislation, namely Prince Edward Island, Nova Scotia and the Yukon. Both Prince Edward Island and Nova Scotia have experienced similar difficulties in meeting the legislative timelines for operational reviews of their respective legislation (two and one year timelines respectively). The Yukon requires a five year review of the operation of the Act; the first review will be due in 2010.

Section 75 will be reviewed as part of the legislative review of the Child, Youth and Family Services Act currently underway.

The recommendations of the MAC 2005 report has been used in conjunction with recommendations from the Turner, Deloitte and Clinical Services Review to inform current and future directions and priorities of the DCYFS. The Act does not require the Department to report publicly on the status of its response to the MAC recommendations.

The regional health authorities should develop appropriate goals and objectives for the PIP and report on their actual performance in relation to these goals and objectives on an annual basis.

The provincial RMS establishes standards which may undergo some revision as a result of the review currently being undertaken by the new department. As part of its long term objectives, the Department will introduce monitoring mechanism for these programs to assist in following up on specific cases, managing workload as well as informing training and policy.

In addition, the new DCYFS is developing a Strategic Plan under the provisions of the Transparency and Accountability Act. As part of this process the Department will develop goals, objectives and indicators and will report on these specific commitments annually as required by the Act. As noted in the Transparency and Accountability guidelines for performance-based planning, issues which are addressed in the Strategic Plan are governance issues and strategic in nature. The annual reports are required to provide the status of the issues identified. There is no requirement in the Transparency and Accountability Act to report on the performance of all programs.

Eastern RHA's Response

Introduction

The issue of compliance with the updated Provincial Risk Management Standards of 2003 has been a challenge for Eastern Health and its legacy organizations – St. John's Health and Community Services (SJHCSB) and Eastern Health and Community Services (EHCSB) – since its introduction. Rural Eastern (former EHCSB) activated the electronic Risk Management system in June 2004 and St. John's (former SJHCSB) in April 2005. Even prior to implementation, there were concerns that the standards were not achievable; however, it was hoped that the electronic system would improve documentation and that evaluations would demonstrate if the established standards could be met with existing resources.

The Clinical Review Report, released by the Honourable Joan Burke in 2009, was the first formal review of Protective Intervention Services since the introduction of the Provincial Risk Management Program in 2003. This review indicated a need for change and outlined a number of systemic issues in the Child Protection system. There were a number of critical recommendations including the need for a review and revision of the current risk management process. This current report completed by the Auditor General is welcomed by Eastern Health as another process in the identification of systemic issues and barriers which hamper the efforts of a Child Protection Service system in addressing risks to children.

Eastern Health acknowledges and generally accepts the findings of the Auditor General with respect to its inconsistency in meeting Provincial Risk Management Standards. While there are certain outliers which have caused concern and warrant follow up, it is also important to recognize the impact of incomplete or delayed electronic documentation as a significant contributing factor to not meeting the established time frames.

Eastern Health has exercised due diligence in the past by requesting additional resources in its annual budget submissions to government. Additionally, there has been identification of concerns as well as recommendations made to the Department of Health and Community Services regarding the current challenges of the Child, Youth and Family Services (CYFS) Program in meeting response times, difficulties with the risk management system and actions undertaken to improve compliance by addressing training of staff, recruitment and retention of staff, case complexity and solutions for CRMS. Eastern Health continues to work in partnership

with the Department of Health and Community Services and the new Department of Child, Youth and Family Services in issue identification and creation of solutions.

Recommendation: The Regional Health Authorities should comply with the required response times.

Eastern Health's non-compliance with Risk Management Standards as identified in the Auditor General's report primarily pertains to the organization's inability to meet documentation standards and complete the Risk Assessment Tool within prescribed timeframes. Eastern Health has implemented strategies and made recommendations to the Department of Health and Community Services for measures to improve in the area of compliance to Risk Management Standards; however, systemic barriers as noted by the Auditor General continue to create difficulties for the Regional Health Authorities (RHA).

The Auditor General notes the following factors contributing to the RHA's inability to meet the established Risk Management Standards:

1. *Lack of training provided to staff prior to commencing field work*
2. *CRMS*
3. *Staff recruitment and retention*
4. *Case complexity*

Eastern Health acknowledges the impact of these issues; however, Eastern Health also believes that the timeframes associated with the standards are problematic. These standards have not been evaluated since implementation despite repeated concerns expressed by the Regional Directors of CYFS. The Clinical Review 2008 commissioned by government noted the need for review and revision of these standards. Recently, the new Department of Child, Youth and Family Services has proposed changes to current standards and policies.

Eastern Health also notes that lost time due to sick leave, annual leave and workplace accommodations has impacted its ability to meet standards. The lack of available and reliable monitoring tools has impacted the ability to audit and manage documentation standard compliance as required by provincial policy. Perhaps most critical is the absence of workload measurements and lack of provincial guidelines for caseload size. Eastern Health continues to advocate in its budget submissions for additional resources to meet workload demands. While there have been resources added through both provincial government funding and reallocation of Eastern Health resources, it has not been sufficient to meet the needs of the Protective Intervention Program.

Training

Currently, there is a provincial orientation plan which includes Risk Management training for new staff. Eastern Health is compliant with the new provincial standards as currently written. Eastern Health and its legacy organizations have consistently provided Risk Management training to new hires prior to their investigating PIP referrals. Eastern Health (and the former SJHCSB) has a dedicated leadership position to manage staff orientation/development and CRMS education and support. The provincial budget of 2008-2009 and 2009-2010 provided new resources for provincially defined staff training and will have a long-term positive impact on all aspects of clinical practice.

A significant issue for Eastern Health is the training of social workers involved in child protection investigations. There is limited capacity to complete specialized training in a timely manner for all staff in the areas of sexual abuse investigations and family violence.

Eastern Health is participating in a provincial working group mandated by the new Department of Child, Youth and Family Services to examine the issue of documentation. During the past two years, Professional Practice within Eastern Health has worked with Child, Youth and Family Services to provide in-services to social workers and managers with respect to appropriate clinical documentation.

CRMS and Documentation

The report indicates that the CRMS documentation system has been an issue with respect to achieving standard compliance. Eastern Health staff have provided feedback concerning ongoing difficulties with functionality and lack of flexibility by way of provincial user groups and steering committees and have participated in recent provincial business and technical review processes with respect to CRMS. CYFS has two dedicated coordinators who train and update staff to use the electronic system for client registration and documentation.

Eastern Health is pleased that the new Department of Child, Youth and Family Services has recognized the limitations of CRMS and current documentation challenges. Proposed changes to the Risk Management system have some potential to eliminate CRMS issues. Closure Project 2009 will assist in the closure of certain cases.

Staff Recruitment and Retention

Provincially, there have been difficulties with respect to retention and recruitment of CYFS workers. Eastern Health has experienced similar challenges; however, the most significant issue is retention.

In order to manage recruitment challenges and to reduce lost service time due to staffing gaps, Eastern Health recruits CYFS staff based on actual and anticipated vacancies. This strategy has had some impact although vacancies still occur due to staff exiting the program with minimal notice as well as unanticipated sick leave and workplace accommodations. As a retention strategy, Eastern Health has also been offering permanent status to new hires in the urban part of the region. This has been effective both in recruitment and retention of junior staff. Eastern Health has identified the need to address other significant issues such as workload standards, safety issues, overtime, mentoring supports to new hires, appropriate debriefing processes and clinical supervision. Additionally, appropriate resources must be available to assist social workers, i.e. social work assistants, clerical and supervised access workers.

Since 2007, Eastern Health received funding for 13 social work assistants and additional clerical supports. While more resources are required to meet desired levels of worker support, the new positions have resulted in reducing social work involvement in non-social work tasks.

Overtime is a significant issue for Eastern Health with respect to fiscal and human resources. CYFS workers are often required to perform overtime in relation to their work. Without appropriate relief funding, Eastern Health has been unable to significantly reduce social worker overtime.

Resolution of issues related to the practice and provision of supervised access could reduce overtime, provide additional time for social workers to meet their workload demands and improve social worker morale. A recent study of supervised access, commissioned by Eastern Health, identified the need to design appropriate programming. This report has been provided to the new Department of Child, Youth and Family Services and other Directors of CYFS. The new Department has indicated there will be follow-up discussion on the issue in the near future.

The new provincial training program is currently focusing on skill development for managers. This mandatory specialized training will provide managers with enhanced supervisory skills which will improve clinical support for staff and also help in the recruitment and retention of managers. All Eastern Health CYFS managers are accessing this program.

Eastern Health implemented a pilot Mentoring Program as a demonstration project with its May 2009 hires. The evaluation of the pilot is not yet complete. Anecdotal reports from mentors and protégées are positive.

Case Complexity

Unfortunately, there is a lack of current research from this province to validate the beliefs of long-term practitioners that the complexity of protection cases is increasing. Eastern Health is experiencing challenges with respect to young parents who have significant narcotic addictions and mental health issues. Homelessness and poverty are growing issues. The Children in Care in Newfoundland and Labrador Report by [name provided] validates Eastern Health's concerns about the number of young children under the age of five coming into care because of the issues of young parents. Complex cases take more time; collaboration is more difficult and intense. Standards were not designed for this degree of complexity. There is a need for increased specialized training and a review of the tools utilized to assess risk. This complexity also speaks to the need to have skilled and experienced managers and social workers engaged in this role.

Monitoring and Evaluation

CRMS has not been fully developed to produce monitoring reports accessible to the Regional Health Authorities. Although Eastern Health does not have the ability to utilize the electronic registration system (CRMS) to produce monitoring reports, there are manual reporting systems in place. These systems are primarily designed to report caseload numbers and a few key indicators. Given the volume of cases, the manual system is unable to provide timely, accurate information. Eastern Health has advocated for development of the CRMS reporting component.

The issue of incomplete and timely documentation has been a critical area for Eastern Health. Prior to the Clinical Review, Eastern Health recognized the need to address this issue. Throughout 2007 and 2008, CYFS managers completed three documentation audits. As a result of the audit findings, managers worked with staff to identify plans to improve documentation. Eastern Health has implemented a process whereby managers must have scheduled Individual Supervisory sessions with their staff which is to include case review and the identification of high and moderate-high cases.

In May 2008, a presentation was made to the Child, Youth and Family Services Division of the Department of Health and Community Services outlining Eastern Health's process, findings, actions and issues related to documentation.

These audits and the presentation to the Department clearly identified the need to update files so they could be closed. Eastern Health anticipated that 15% of long term files could be closed. In its presentation to the Department and a subsequent letter to the Provincial Director in March 2009, Eastern Health requested that a provincial group be brought together to create solutions for these issues. In the summer of 2009, each Regional Health Authority participated in a working group to recommend solutions to the new Department. The new Department of Child, Youth and Family Services has since implemented a Closure 2009 Project which will assess files for closure.

Since the formation of the departmental Quality Unit and the workload analysis which was completed in the spring of 2009, documentation audits have not continued. Audit resources have since been redirected to implementing the Closure Project initiated by the new Department of Child Youth and Family Services. When the Closure Project 2009 is completed, the intent is to refocus on resolving any remaining documentation issues.

Recommendation: The Department of Child, Youth and Family Services and Eastern Health should take steps to address the backlog assessment cases.

The Eastern Regional Authority should complete cases within 30 days as required.

Eastern Health has identified a number of factors that contributed to a growing number of incomplete assessments within the Urban Assessment Teams. These factors include lack of experienced social work staff in Assessment; high numbers of hours lost through sick leave, unfilled vacancies, and annual leave; insufficient numbers of social work staff to meet work demands in this program area; increased complexity of cases; high turnover of staff in Assessment; and the CRMS/Risk Management System.

The Assessment Teams are unable to complete assessments within the 30-day timeframe and at the same time complete assessments which have accumulated over time, often referred to as backlog files. The term "backlog" has been used to identify files that exceed this 30-day timeframe in which all investigation, assessment and documentation is to be completed for new and reopened PIP cases. The use of the term "backlog" should not be confused with waitlisted files or files without response, investigation or assessment of safety and risk. A priority is made to ensure that a timely initial response, safety assessment, professional assessment of risk and intervention occurs.

Often the Risk Management system documents are not completed on CRMS before social workers are refocused to a newly received referral and file. Caseload prioritization is based on assessed safety and risk even if all Risk Management documentation is not completed within 30 days. Files that are beyond 30 days in assessment (backlogged) require various tasks to complete including additional investigation and/or documentation. If there are safety or risk issues identified, safety and risk reduction interventions are implemented by the Assessment Teams. Even though there are high levels of involvement, the file would be considered backlogged until the file is transferred and/or closed. Eastern Health acknowledges identified concerns regarding potential risks and liabilities due to incomplete assessments carried by the Urban Assessment Teams.

In June of 2007, Eastern Health provided additional resources to reduce the number of cases in Urban Assessment. The staffing complement increased from 10 to 21 social workers on a temporary basis with 1 additional manager. One manager and eight workers were assigned exclusively to "backlogged cases". All files in Assessment were reviewed by managers with recommendations for action made prior to the teams starting the work.

In January 2008, the number of permanent workers in assessment was confirmed at 18 including 4 unfunded positions. Eastern Health has requested permanent funding for these positions. Three permanent assessment teams were created. Priority was given to new and reopened cases and the high/moderate-high risk cases from the "backlog".

In December 2008, Eastern Health made a presentation to the Department of Health and Community Services outlining the issues which contributed to the high volume of incomplete assessments. At that time, a number of recommendations were made to the Department regarding the Risk Management system and human resources issues.

A separate tracking system for Urban Assessment occurs on a monthly basis. As of December 2009, there are 55 files remaining from the June 2007 backlog. However, the underlying challenges facing the Urban Assessment Teams have not changed and these factors continue to challenge Eastern Health.

A stabilized, experienced and highly skilled Urban Assessment Team is required to maintain any long-term success in completing assessments within reasonable timeframes. The level of child welfare experience among Urban Assessment Team social workers has been limited for several years. Assessment has become an entry level position within the PIP program. Forty-seven percent (47%) of current Assessment staff have less than 7 months' experience in child welfare. Seventy percent (70%) have less than 18 months'

experience and 29% have 2 to 3 years' experience. Only 1 social worker has 3 years' experience in child welfare. In order to support all staff, a Social Worker II has been added to the Urban Assessment Program to assist in mentorship of junior staff.

Additionally, the Urban Assessment Teams have continuously experienced rapid social work turnover. As of the end of December 2009, only one social worker and one program manager of the 2007 cohort still work in Assessment. Seventy percent (70%) of the social workers have less than 7 months' experience in assessment and 94% have less than 18 months in Assessment. The ongoing turnover contributes to and exacerbates numbers of incomplete assessments and the possibility of unaddressed risk to children. Frequently, staff turnover directly impacts the quality of client service as some clients will need to deal with several social workers during the course of the assessment process.

Loss of work time due to sick leave and wellness accommodations continues to be an issue. There are limited resources for relief within the program budget allocation.

Eastern Health is seeing a continued increase in the number of newly assigned cases per month exceeding the number of files closed or transferred thus the number of files outside of the 30-day standard for completion of the assessment process continues to increase.

As of December 21, 2009, six social workers and one manager have been assigned to completing assessments that were identified for possible closure as part of the Clinical Review and subsequent Provincial Closure Project 2009. In November 2009, all Urban Assessment Team files were reviewed by social workers as part of a formalized process to assist in caseload prioritization. A standardized form was used as part of this process. Once this Closure Project is completed, the plan to dedicate an Assessment Team for Mount Pearl/Paradise will be implemented.

Recommendation: The Regional Health Authorities should develop appropriate goals and objectives for the PIP and report on their actual performance in relation to these goals and objectives on an annual basis.

The Child, Youth and Family Services Program of Eastern Health has a three-year Operational Plan which ends in March 2011. This plan was created and approved prior to the announcement of the new Child, Youth and Family Services Program. While the objectives do not exclusively relate to the Protective Intervention Program, they are designed to improve service delivery and reduce systemic issues which contribute to Eastern Health's difficulties in complying with provincial standards.

Specifically, the CYFS Operational Plan identified objectives and indications to enhance safety and well being of program staff. This is a critical issue for social work retention.

CYFS, Eastern, identified a need to have a Clinical Standard Audit Plan by March 2011. A quality improvement strategy was also to be developed by March 2011 which would include the development of CRMS indicator lists and annual documentation audits.

It is envisioned that these objectives will be further defined as the program moves to the new Department of Child, Youth and Family Services.

Central RHA's Response

Recommendation:

The regional health authorities should comply with the required response times.

Our Response:

Compliance with the required response times as outlined in the Risk Management System is a complex issue. In the 8 referral samples from the Central region, there were varying reasons as to why all of the standards were not met; most were in relation to caseload demands, staff turnover challenges, time lag between service provision and documentation, and CRMS related issues. During the 2005-2006 period of the review, Central Health experienced significant challenges in social worker turnover and capacity for clinical supervision. In the environment of the 2005-2006 period, the human resource structure was comprised of approximately 40 social workers, 2 program managers, and a Director with approximately 19 employees (both social workers and managers) reporting to the Director. Both program managers were geographically responsible for half the region and for clinically supervising in excess of 15 social workers plus clerical staff across all program areas under Child, Youth & Family Services – protective intervention, foster care, caregiver homes, youth services, family services and adoptions. The addition of 5 managers to our management complement now allows for 3 program managers to clinically supervise the Protective Intervention Program and Family Services programs exclusively within smaller geographic areas.

In addition to the challenges within the region as outlined above, there are other factors to consider when looking at compliance with response times outlined in program standards. Two such critical factors are the implementation approach and evaluation of a new tool in an electronic documentation environment. The current Risk Management System, including documentation requirements, was introduced in 2003 with a plan for full implementation by early 2005. Implementation of the Risk Management System in CRMS was done in various stages. Throughout this phased-in approach, a number of issues came to light and solutions were not always readily available before the next phase of implementation was introduced. This created a snowball effect of barriers for staff to work through in that the system was functioning as intended, thus impacting on the ability to meet program standards. There was no evaluation of the process or the timeframes dictated in the Risk Management System.

With respect to failure to meet the standards as detailed within this report, Central Health would like to take this opportunity to outline our rationale as to why program standards were not met in these particular referral samples.

***Figure 4**, references 3 of 8 samples or 38% where there were exceptions to the timeframe to interview children without acceptable explanations. Upon review of those files, in 2 of those samples the children were actually seen within 72 hours as per policy, but outside of the response time of 48 hours. This was due to caseload demands. In the third sample, the child was interviewed 5 days after the appropriate response time. Central Health therefore suggests that only 1of 3 samples or 13% was without acceptable explanation.*

***Figure 6**, references 2 of 8 samples or 25% where the required deadline to complete a Safety Assessment was not met. In both samples, the children were interviewed or observed within the required time, however documenting the Safety Assessment in CRMS was outside of the required timeframe. This delay in documentation was due to other demands for both the social workers and the manager. It is important to note that in all 8 samples, safety assessments were completed.*

***Figure 7**, references 4 of 8 samples or 50% where the required deadlines to complete the Investigative Summary were not met. In 3 of those samples, turnover in social workers impacted the timeliness of service provision. In 1 of the samples, the social worker had completed the required work but did not sign off the documentation until well after the response timeframe.*

*Also within **Figure 7**, there were 2 of 8 samples or 25% where the History of Referral Verification was not met. In CRMS, there is no prompt for the manager to sign off this particular report and because the manager did not sign it off within the required timeframe, it fell outside the standard. In the other sample, it appears there was a technical CRMS error with the dates of signoff by the manager.*

***Figure 8,** references 3 of 8 samples where Risk Assessments were required. In 1 of the 3 samples or 33%, the required deadline to complete the Risk Assessment was not met. This occurred in an office where multiple workers had been assigned the caseload (approximately 6 different workers in 12 months). Central Health acknowledges that the Risk Assessment Tool was completed but significantly outside of the required timeframe by 88 days.*

Causes of failure to meet the established Risk Management standards are outlined in the Auditor General's report on [page number]. The Auditor General cites a number of factors that contributed to the RHA's inability to meet established Risk Management standards. Factors cited include a lack of training provided to staff prior to commencing field work, staff recruitment and retention, case complexity, and challenges with documentation in CRMS. As outlined above, Central Health has experienced all of these challenges.

Significant progress has been made by Central Health in the past two years to address these challenges. Central Health has adopted a standardized training process for our staff upon hiring. We have recruited, orientated and trained 35 new social workers since May 2007 with the assistance of board implemented recruitment incentives and initiatives implemented by our Learning Facilitator and other dedicated positions introduced in the region since 2007. In relation to Risk Management System training, we revised the process of delivery, lengthened the training, and implemented Learning Labs. We believe this model is more responsive to social workers needs and more conducive to their learning. Risk Management System training is now evaluated on an ongoing basis and revisions are made based on feedback. In addition to the Risk Management System training, Central Health provides workers many learning opportunities including Basic and Advanced CRMS training, Legal Aspects training, On-Call training, First Aid and Non-Violent Crisis Intervention.

In relation to recruitment and retention, retention of staff was a challenge during this sample period of 2005-2006. Social worker turnover in caseloads was frequent and this seriously impacted on compliance with response times in the Protective Intervention Program. Cases were increasingly complex and social workers were involved with families for short periods of time before they moved on. Supervision of these files was compromised due to lack of capacity of the two managers to provide regular, consistent, and evaluative supervision of staff. With the investment of new funding in 2006-2007, as a

result of the Turner Review and Investigation Report, we filled new positions with current staff thus opening up many vacancies. We experienced significant recruitment and retention challenges in 2007-2008. In 2008, our management complement increased to 7 clinical supervisors from just 2 in 2005-2006, however we were then experiencing an approximate 40% social worker vacancy rate. Financial incentives were successful in recruiting staff in 2009 to where we currently have a very low vacancy rate and stability in both social work and management positions at this time.

Central Health believes that relevant training, effective clinical and casework supervision, and workforce stability are critical requirements to be more successful in complying with response times.

Protective Intervention Program – Monitoring and Evaluation

Recommendation:

The Department of Child, Youth & Family Services should ensure that appropriate monitoring and evaluation is taking place and that the Provincial Director can meet the requirement to advise and report to the Minister on the status of the Protective Intervention Program.

Our Response:

In addition to the program managers manually monitoring Protective Intervention Program files with their staff to determine compliance with Protective Intervention Program standards, there has been considerable activity performed in the region in relation to monitoring standards, particularly in the Protective Intervention Program.

From 2004-2007 there were comprehensive manual reviews performed on all caseloads in Child, Youth & Family Services program in the Central region. The initial review provided Central Health with baseline data to begin to set goals to measure our progress. The analysis of the assessment concluded that in some areas within the region serious breaches of provincial standards were occurring. It identified the outstanding work on every file in areas of documentation, risk assessments, family assessments, plans of care, etc. Through each subsequent review, we were able to measure our progress, identify issues and develop plans in an attempt to address same. However given the challenges faced in the region, such as supervisor-supervisee ratios, staff turnover, etc., we acknowledge that meeting the standards in 100% of cases was not possible. In October 2007, funding was provided for a new position - Clinical Information Specialist (CIS). In January 2008, the CIS prepared a report based on a comprehensive review of all CYFS workloads in CRMS and, as a result of that report, there was significant monitoring and

review of client files, particularly in the Protective Intervention Program. The CIS individually reviewed all workloads in CRMS with the program managers/and or social workers and a detailed plan for addressing CRMS data quality was developed and implemented.

Reporting on Protective Intervention Program Performance Standards

Recommendation:

The regional health authorities should develop appropriate goals and objectives for the Protective Intervention Program and report on their actual performance in relation to these goals and objectives on an annual basis.

Our Response:

Central Health reports on the protective intervention program performance standards through regular mechanisms that have been created in the RHA. The Regional Director for CYFS monitors the ability of staff to meet the standards for the Protective Intervention Program along with identifying associated risk and communicates same to the VP for Community Health/Primary Health Care as part of the regular monthly reporting process. The VP submits this information, along with strategies to mitigate risk, to the CEO for inclusion in CEO report that is distributed to the Board of Trustees at their monthly board meetings.

Conclusion

Central Health welcomes the critical appraisal performed by the Auditor General in completing this report. We look forward to continuing to work with our colleagues at Central Health, the anticipated support and infrastructure that will be available to use through the newly created Department of CYFS, our community partners and our clients in our quest to continuously improve the quality of services that we offer to children and their families in the Central region.

Western RHA's Response

Introduction

In February 2005 the Department of Health and Community Services introduced an updated Risk Management system for the Protective Intervention Program. The current Auditor Generals report is based on a sample of 74 referrals to the program in the January 1, 2005 to December 31, 2006 time period. It must be noted that significant changes have occurred in the province of Newfoundland and Labrador in the Child, Youth and Family Services program since that time due to significant efforts to review the system, including The Turner Review and Investigation (September 2006) the Provincial High Risk Case review (October 2006), the Deloitte Organizational and Operational Review (March 2007) and the Child, Youth and Family Services Clinical Review (December 2008). These initiatives have been in partnership between the Department of Health and Community Services and the Regional Health Authorities. Actions coming out of these reviews have resulted in significant improvements in the Child Youth and Family Services system. The most significant change has been the substantial increase in human resources at both the Department and Health Authority levels. In 2007/2008, 6.0 million dollars was approved provincially to strengthen the Child, Youth and Family Services system. This amount included the addition of eight permanent social work positions for the Child, Youth and Family Services Program in the Western Region. Also, significant investments were made in other positions to support social workers such as Behaviour Management Specialists (2), Family Support Workers (2), Financial Assistance Officers (2) and a Manager (1). This substantial increase in funding provides validation that the program was severely under funded and thus unable to effectively meet its mandate and the standards established to meet the mandate. In addition to a significant increase in Human Resources, a standard orientation and training program has been developed and was implemented in May 2007 for staff in the Child, Youth and Family Services program. This standardized training program ensures that staff are greater prepared for the significant challenges of their role. These efforts have resulted a far greater stability in the Child, Youth, and Family Services Program in the Western region with significant improvements made in the recruitment and retention of staff.

Recommendations

Recommendation

The regional health authorities should comply with the required response times.

Western Health identifies that there are numerous factors contributing to the ability to comply with the Risk Management standards. As identified on [page number] of the Auditor Generals current report, lack of training provided to staff prior to commencing fieldwork, staff recruitment and retention, case complexity, and CRMS have all negatively impacted the RHA's ability to meet the risk management standards. For example, a review of social work vacancies in the Western Region that occurred in July, 2007 indicated ten vacancies within social work positions in the Child, Youth and Family Services Program.

In addition to the numerous factors impacting the RHA's ability to meet the Risk Management Standards, Western Health also strongly recommends the need for an evaluation of the current Risk Management System. The System was introduced in 2003 with complete implementation by 2005. The system was implemented in stages without evaluation occurring at each stage. An evaluation of the Risk Management System would determine if the required response times are appropriate. At present, a provincial committee with membership from the Department of Child, Youth and Family Services and the RHA's is reviewing the risk assessment process to determine if timelines are appropriate. Also, issues identified during the Provincial Technical Review and the Business Review of the CRMS system, currently in progress, must be addressed to ensure the CRMS Risk Management System is effectively able to do what it is intended to do.

The following are comments as it relates to Western Health specific Protective Intervention Program Sample.

Protective Intervention Program – Sample

The Western Region provided 14 sample files for the purpose of the Auditor General's review of the Protective Intervention Program.

Out of these 14 cases from Western Health, the report highlights that in two cases there was a failure to see the children in the required timeframe. Western Health accepts that the two children were not seen in the standard timeline. However, in both cases, the risk assessment timeline was not met as the social worker involved, based on clinical judgement, assessed that the children involved were not in unsafe situations.

One of these cases involved a call to the On Call Worker from the family requesting supportive services, and when follow up was attempted, several times, contact was unsuccessful. Upon receipt of the information to the appropriate district office the next working day, the information was reassessed as being a Family/Supportive Services Referral (voluntary service) and not a Protective Intervention case. In a Family/Supportive Services referral, it is not required that the child be seen or interviewed within a 72 hour period. Unfortunately, the referral was already inputted into CRMS under Protective Intervention by the On call Social Worker rather than the appropriate Supportive Services which results in the system indicating a 16 day delay in seeing the child within the required timeframe for the Protective Intervention Program. This case did not proceed to a long-term protection case.

In the second case identified, there was a one-day delay whereby the fifteen-year-old youth was no longer residing with the parent and had returned to live with a significant other whom he/she had lived with since birth. The Social Worker verified the plan and that the youth was not at risk and follow up took place as soon as possible.

In practice, Social Workers interview children upon receipt of a referral as soon as possible and within the response priority timeframes. The current standard for Risk Decision #2, however, states that the Social Worker shall observe/interview child within 72 hours, it does not specifically state to observe/interview child within the response priority timeframe, which may be response within 24 or 48 hours.

This review indicates Western Region had four Safety Assessments not completed within the required timeframes. Western Health accepts the findings that four Safety Assessments were not completed within the required timelines. However, it must be noted that in two of the four cases the children were not residing with the parent immediately following the referral and there was no intent from the parents to resume care of their child. These children remained out of their parents' care and were therefore assessed as safe.

This review indicates that there were three referrals with Risk Assessments not complete within required timeframes. Western Health accepts that the Risk Assessments were not completed within the timeframes for these three cases. However it must be noted that in the case whereby the delay in completing the document was by 139 days, the case was assessed as low risk upon referral. In the other case whereby the document was not completed in 144 days, the child was not residing with the parent and there was no intent from the parent to resume care, therefore the child was not at risk. In this case, eventually this parent relinquished their parental rights/custody of the child.

Recommendation

The Department of Child, Youth and Family Services should formally report on its efforts to address recommendations identified in the Report of the Ministerial Advisory Committee.

Western Health notes that the Report of the Ministerial Advisory Committee was used in the development of Western Health's Strategic Plan 2006 – 2008. The Strategic Plan identified the following goal, "By March 31, 2008, Western Health will have a plan for Integration of Priority Based Programs for Children and Youth". Based on the environmental scan developed to guide this work, including the Report of the Ministerial Advisory Committee, three priority areas were identified: Child Protection, Healthy Beginnings long term follow up and, Pregnancy, Childbirth, and Early Parenting Standards. An Action Plan was completed for each of these areas. For example, the Action Plan for Child Protection identified the following as one of its objectives, "Education and training opportunities will be provided to appropriate staff within Western Health to support the coordination of services to families and children receiving Child Protection Services." This action is consistent with the recommendation, "This initiative should also include in-service sessions for community agencies and staff within the regional health authorities,"made by the Ministers Advisory Committee, as noted in the current Auditor General Report.

Recommendation

The regional health authorities should develop appropriate goals and objectives for the PIP and report on their actual performance in relation to these goals and objectives on an annual basis.

As identified on [page number] of the current Auditor General Report, "The Client and Referral Management System (CRMS) is not currently capable of producing reports that would allow the Provincial Director and the RHA's to monitor whether the PIP standards are being achieved," therefore, Western Health was not able to develop appropriate goals and objectives for the PIP and report on these goals and objectives in its Strategic Plan.

In the absence of a provincial standardized monitoring system, Western Health implemented manual reports. The manual reports were not able to capture the level of detail required for indicators specific to PIP standards to include in a Strategic Plan. Although PIP standards were not used as indicators in the Strategic Plan for Western Health for 2006 -2008, the Board of Trustees recognized the Child Protection Program as a critical area of monitoring and developed an Action Plan to address priority areas in the program in its 2006-2008 Strategic Plan. The objectives in the Strategic Plan 2006-2008 specific to Child Protection included:

1) *Policy and Procedures are in place to support the integration and coordination of services.*
2) *Education and training opportunities will be provided to appropriate staff within Western Health to support the coordination of services to families and children receiving Child Protection Services.*
3) *All staff persons working within the area of services to Children and Youth work from a collaborative practice approach.*
4) *Accountability and evaluation processes to be developed and implemented in relation to the activities to promote integration and collaboration between professionals involved with Children, Youth and families who are receiving Child Protection Services.*

The above objectives were regularly monitored by the Board of Trustees of Western Health and the Strategic Plan for the organization was reported on an annual basis in the Western Health Annual Report.

In addition to the Boards Strategic plan, Western Health has a well-developed process for annual planning. For the Child, Youth and Family Services (including Child Protection) this includes an annual risk assessment survey whereby compliance with Provincial Policies/Standards is monitored. This information is then used to develop annual program plans. In addition, manual reports are used by frontline managers on a regular basis to monitor workload and risk management issues. For example, while there are no CRMS monitoring reports, the Western Region has been reviewing CRMS documentation requirements on a case-by-case basis to identify outstanding Risk Management documentation. This process is very labor intensive, however has been beneficial in identifying outstanding work required of staff planning to leave the Child, Youth and Family Services Program and ensuring that the outstanding work is completed.

Conclusion

Western Health agrees that the standards reviewed by the Auditors Generals Review for the Protective Intervention Program for Children at Risk were not met due to longstanding and complicated factors that have been outlined in this report and the other reviews previously mentioned. Significant changes have been made to enhance the quality of the services provided to children at risk. These changes have occurred in partnership with the Department of Health and Community Services, and since March 2009, the newly developed Department of Child, Youth, and Family Services and the Regional Health Authorities. Although Child, Youth and Family Services will be transferred from the Western region commencing in April, 2010 to the Department of Child Youth and Family Services, Western Health is committed to working with the new department to continue to move forward our efforts to improve the health and safety of all children in our region.

Labrador-Grenfell RHA's Response

Introduction

The Labrador-Grenfell Health Authority, through the delivery of Child, Youth and Family services accepts responsibility to intervene, assess and secure the health and safety of children under the age of 16 at risk of maltreatment. We believe that positive outcomes are achievable when child centered and culturally sensitive policies, procedures and standards exist; and where there are sufficient resources available to respond to the highly complex needs that we are observing in the children, youth and their families in the region.

Since 2006

The Labrador – Grenfell Health Authority is actively engaged in initiatives to strengthen the CYFS service delivery system. Since 2006 multiple reviews of the service delivery system have confirmed an extensive level of social distress across the region as well as significant mental health and addictions issues within the population. In response to those reviews a continuous effort has been made to structure the service delivery system to better respond to the clinical, social and cultural complexity of the region. Specifically, the service delivery system has been enhanced to incorporate an interdisciplinary approach. New positions have been added to the system such as a clinical psychologist, behavior/child management specialists, family intervention workers, social worker assistants, financial assessors, community service workers, and transcriptionists/CRMS positions to support compliance with documentation. Additional social work positions including Clinical Managers were also added to strengthen the Child Protection Practice and facilitate enhanced access to clinical supervision. The focus on quality and accountability was further strengthened by the implementation of a Quality Manager in CYFS. This has enabled the Labrador-Grenfell Health region to implement strategies aimed at achieving compliance with Provincial Standards. The goal of strengthening Child, Youth, and Family Services is also contained within Labrador-Grenfell Health's strategic plan.

In collaboration with the Department of Health and Community Services there has been a significant investment in professional support and development. All staff, with the exception of administrative support, is oriented to their positions and is engaged in ongoing professional development. This has been identified as a gap and is being addressed. The region is working closely with the province to ensure professional development is a focus at all levels in the organizational structure and furthermore that it is culturally sensitive.

The region is, as well, engaged in developments unique to the region which includes the development and implementation of training in documentation aimed at achieving compliance with documentation standards.

Most recently community service workers and social worker assistants were surveyed to identify their training needs. The data was analyzed and a training curriculum has been developed. The first training involved a transfer of learning specific to the roles and functions of community service workers and social worker assistants respective of the formalized Risk Management process.

Implementation of Risk

Labrador-Grenfell Health has been challenged with the implementation of the Computerized Risk Management System as noted in the Report of the Auditor General. Significant advancements have been made since 2006 to fully implement the process throughout the region. At the writing of this response, implementation has been achieved across the majority of the region. While the formalized Risk Management System through CRMS had not been fully implemented, child protection services were, and continue to be, provided in all areas of the region.

There are challenges with the implementation of the computerized Risk Management Process which are province wide and will require a significant role for the province. The Auditor General's report highlights many of the challenges and stabilization of a strong Child, Youth, and Family Services workforce is critical in moving forward in the Labrador-Grenfell Health region. Issues have also been identified with the application of the formalized risk management system by Labrador-Grenfell Health. This Health Authority is working closely with the Province to identify and implement appropriate on-going changes with a long term goal of creating a new information system for Child, Youth and Family Services.

Recruitment and Retention

The Office of the Auditor General has observed that the implementation of the formalized Risk Management System in Labrador has been compromised by the significant recruitment and retention challenges particular to the region. The lack of stability in the workforce, for extensive periods of time, has impacted what can get done within a reasonable period of time. Compliance with standards while operating with a 50% vacancy rate in our remote locations is not possible.

A compounding issue is the level of clinical activity. The region accounts for one-third of all children coming into care and custody in the province. Young and inexperienced workers; long term vacancies; clinical complexity and lack of infrastructure have contributed to the challenges experienced by this region moving forward.

Several initiatives, however, have been identified to address the chronic recruitment and retention issues, most particularly the Labrador Bachelor of Social Work program. It is anticipated this program will assist in stabilizing our workforce and move forward to stabilize the service delivery system. As well, efforts are ongoing to diversify the staffing infrastructure to provide greater supports in the interest of retention and as well to broaden the types of positions available which can be utilized effectively to meet the service delivery challenges.

Reporting and Accountability

The region has taken steps to identify indicators which trace the assessment and management of risk. Efforts have been made to support the monitoring of compliance with standards. Subsequent to the completion of a review of more than 400 protective intervention files, the region reviewed and modified its narrative reporting process. The monthly report now contains indicators which will allow us to monitor the application of the risk management process at each site. Specifically, the intention is to measure the application of the risk management process across sites and to measure overall compliance with policy and standards. This tool is currently developmental and being piloted. We hope to be able to identify where any one office may be struggling with application and to ensure that the appropriate resources are made available to support compliance. We recognize, however, that this initiative is very much a manual process and consequently labour intensive and subject to error. A computer generated reporting process would be more efficient in supporting monitoring and system improvement. Significant investment will be required to develop and implement an information system which will generate the information needed to inform the management of risk as well as service development. Client specific as well as aggregate data, if available, would support more effective case management practice as well as strategic investment in program development.

In conclusion

The review of the Protective Intervention Program for the period of April 2005 – December 31, 2008 completed by the Office of the Auditor General identifies several areas where processes can be strengthened. We agree with the recommendations contained. We would add that progress has been achieved in all areas. Despite ongoing challenges and significant regional disparity, we will continue to strive for positive outcomes for our children, youth and families and services which address the complexity and cultural diversity that we are experiencing in our region.

Protective Intervention Program for Children at Risk

PART 2.4

DEPARTMENT OF ENVIRONMENT AND CONSERVATION

ADMINISTRATION AND MANAGEMENT OF CROWN LANDS

Executive Summary

The Department of Environment and Conservation (the Department) through its Lands Branch (Branch) is responsible for the administration and management of Provincial Crown land resources, including among other things: administering the licensing, leasing, sale and transfer of Crown land; maintaining the Provincial Crown land registry; implementing the Provincial Geomatics Strategy; maintaining a digital mapping system that includes an inventory of cadastral and land use information; and enforcing lands legislation, including legislation to prevent the illegal occupation of Crown land.

Our review of the administration and management of Provincial Crown land resources indicated a number of issues with regard to illegal occupation of Crown land, lack of an inspection program for shoreline Crown land and lack of an inspection program for compliance with leases and licences. In addition, the Lands Branch Geographic Information System (GIS) was outdated, incomplete and inaccurate. In particular, our findings included the following:

Illegal Occupation of Crown Land

The Department estimated that there were in excess of 9,000 structures illegally occupying Crown land as at November 2009, comprised of approximately 4,200 trailers, 3,800 cabins and 1,000 other structures such as fences and gates. The Department has authority under the *Lands Act* to inspect and order the removal of illegal structures within 60 days of serving a "removal notice" on the person(s) who placed, occupies or uses the illegal structure on Crown land. Our review indicated the following:

- The Branch did not maintain an adequate database of information on inspections, removal notices and final disposition of required actions. As a result, the Branch did not have information readily available to manage this activity. For example:
    - For fiscal years 2005 to 2009, the Branch issued 1,151 removal notices. As a result of not having adequate information available, the Branch could not readily determine the status of 726 or 63.1% of the removal notices and whether structures were legal, had applications to legalize in progress, were removed or continued to illegally occupy Crown land.

- The Branch had difficulty in readily providing complete information on its inspection activities as evidenced by the fact that we had difficulty obtaining and analyzing the information provided by the Branch with respect to inspections of illegal structures. Regional listings detailing the illegal structures inspected and the removal notices issued in 2009 were provided only after significant delay. We had difficulty determining the number of removal notices issued, the number of structures legalized, the number of structures removed and the number and reasons why the remaining structures were not legalized or removed. We also found that removal notices were not pre-numbered and accounted for. Therefore, the Branch did not, and could not, ensure that the listings of removal notices were complete.

- Each year, the Branch receives a significant number of complaints from the public regarding, among other things, the illegal occupation of Crown land. Only the Western Region maintained a database on complaints. As a result, the Branch could not readily provide us with the number, nature or resolution of complaints received at the other three regional offices.

- The Branch estimates that there are in excess of 4,000 recreational campers illegally occupying Crown lands on a long-term basis. This situation has resulted in numerous public health, safety and environmental issues. The Branch indicated that approximately 1,400 of these campers were concentrated in 42 sites throughout the Province. The Branch had only recently started to take action to curb this practice and, as at November 2009, had only been successful in removing approximately 600 structures from 10 of the 42 known sites.

- The Branch had no inspection report that could be used by inspectors to record and attest to the results of inspections carried out. The results of inspections carried out, including the identification of potential illegal structures, the monitoring of compliance with removal notices issued, and the monitoring of inspection performance dates stated in the annual work plans cannot be effectively managed without an inspection report to provide such information. Furthermore, an inspection report would be a necessary source document to populate an information database.

No Inspection Program for Shoreline Crown Land

The Branch did not have an inspection program to address the illegal occupation of shoreline Crown land to determine whether such things as wharves, boathouses and other structures exist without a proper licence. As at 31 December 2008, the Department had issued approximately 9,300 grants for the purpose of recreational cottages; however, only 179 licences were issued for the purpose of wharves and boathouses.

No Inspection Program for Compliance with Leases and Licences

The Branch did not have an inspection program to determine whether there was compliance with the terms and conditions of the approximately 22,600 leases and licences which had been issued up to December 2008. The only inspection activity carried out by the Branch related to ad hoc inspections performed during other activities.

Humber Valley Resort Corporation

In April 2001, the Humber Valley Resort Corporation (the Corporation) entered into a five-year lease with the former Department of Government Services and Lands relating to 160 hectares of land. In August 2005, the Corporation entered into a five-year lease with the Department relating to an additional 613 hectares of land. In September 2008, the Corporation sought bankruptcy protection under the *Companies' Creditors Arrangement Act*. Our review indicated the following:

- The Branch granted the Corporation all 160 hectares of land under the 2001 lease without completing an inspection to confirm that development conditions under the lease were complied with. These development conditions included specific work to be completed on the golf course and the requirement for poured foundations for the chalets.

- The Branch entered into the 2005 lease without confirming that development under the 2001 lease had been completed as required. The Branch completed an inspection of the resort in November 2009, after we enquired about whether development conditions under the 2001 lease had been met, whether there was any chalet development under the 2005 lease, and whether there were any buildings or facilities constructed on Crown land under the 2005 lease.

The inspection completed in November 2009 identified the following:

- of the 138 chalet lots granted in the 2001 lease, 96 chalets were completed, 8 chalets were in-progress and 34 lots were vacant; and
- of the 71 chalet lots granted in the 2005 lease, 16 chalets were completed, 7 chalets were in-progress and 48 lots were vacant. There was also a storage building constructed on Crown land.

- Under the terms and conditions of the 2005 lease, the Branch issued grants to the Corporation for the development of 71 chalet lots. The Corporation was required to pay a 6% premium on the greater of the fair market value or the actual purchase price of each chalet lot sold. Our review indicated:
  - The Branch did not obtain a purchase and sale agreement that was signed by the Corporation and the chalet lot purchaser indicating an agreed upon purchase price, and did not determine the fair market value of the chalet lots in relation to the purchase price as required under the lease. As a result, the Branch could not demonstrate whether the 6% market value premiums paid by the Corporation were appropriate.
  - The Branch received market value premiums totalling $2.2 million or an average of $31,460 per chalet lot. The Corporation, upon sale of the chalet lots, would have received a total of $37.2 million or an average of $524,390 per chalet lot. As of September 2008, when the Corporation sought bankruptcy protection, the Branch had received three of the five annual lease payments totalling $3.8 million of the total $6.4 million in payments due over the term of the lease.
- The terms and conditions of the 2001 lease were favorable to the Corporation compared to the 2005 lease. For example:
  - The annual lease payments under the 2001 lease amounted to $4,900 per hectare while under the 2005 lease, the cost per hectare increased by $5,500 to $10,400.
  - The 2001 lease did not contain a mechanism to compensate the Province for the fair market value of the chalet lots that were granted to the Corporation for chalet development. However, the 2005 lease required the Corporation to pay a 6% premium calculated on the greater of the fair market value or actual purchase price of the chalet lots that were sold.

Geographic Information System (GIS)

The Branch uses a computer based Geographic Information System (GIS) to analyze and display geospatial data to assist with the identification, management and disposition of Crown land.

We found instances where the data in the GIS was outdated, inaccurate and incomplete. For example:

- There was no system to ensure that the Branch had access to information from applicable Departments and agencies in a timely manner. We found numerous thematic layers of data provided by other Departments which have not been updated since 2006.

- We found instances where the purpose and total area of grants issued was incorrect or was not recorded at all, lease expiry dates were incorrectly recorded, leases that were converted to grants were not closed, and licences were recorded as leases.

- Approximately 4,600 Crown titles covering 840,000 hectares have yet to be plotted in the GIS due to missing records or inadequate survey and/or base map information.

- Of the 146 lots of land totalling approximately 1 million hectares granted to the Reid Newfoundland Company Limited in connection with the construction of the Newfoundland railway, Government re-acquired 145 of the land lots (44 lots purchased in 1974, 86 lots purchased in 1994 and 15 lots expropriated in 2008). However, the Branch did not know the extent of the land within these lots that had been sold privately prior to reacquisition by Government and therefore would not be Crown land.

Branch officials indicated that the master file of GIS data cannot be accessed by staff efficiently because the server is being used well beyond its capacity.

Geomatics Strategy

In 1997 Government approved, in principle, a Geomatics Strategy to provide direction and policies that support, among other things, the efficient sharing of geographic referenced data among users, and the establishment of standards to ensure the alignment and connectivity of data, including the standardization of GIS software and base maps used. Government also established a Steering Committee co-chaired by Government (Lands Branch) and industry to develop a plan to implement the Strategy.

Branch officials could not demonstrate whether the Geomatics Strategy Implementation Plan developed in 1999 was ever reviewed and approved by the Steering Committee or presented to Government for final approval. Furthermore, there has been no meeting of the Steering Committee since approximately the year 2000 and the Lands Branch makes no formal reference to the plan. A Technical Committee comprised of GIS users throughout Government and chaired by the Lands Branch informally addresses the spirit of the GIS component of the Strategy; however, Branch officials indicated that this committee requires guidance from the executive level of Government to resolve a number of GIS issues.

Background

The Department of Environment and Conservation (the Department) through its Lands Branch (the Branch) is responsible for the administration and management of Provincial Crown land resources under the *Lands Act*, including, among other things:

- administering the licensing, leasing, sale and transfer of Crown land;
- maintaining the Provincial Crown land registry;
- implementing the Provincial Geomatics Strategy;
- maintaining a digital mapping system that includes an inventory of cadastral and land use information; and
- enforcing lands legislation, including legislation to prevent the illegal occupation of Crown land.

The Branch is comprised of three Divisions: the Crown Lands Administration Division; the Land Management Division; and the Surveys and Mapping Division. There are four regional offices located as follows: St. John's (Eastern); Gander (Central); Corner Brook (Western); and Happy Valley-Goose Bay (Labrador). In addition, there is a satellite office located in Clarenville that serves the Eastern region.

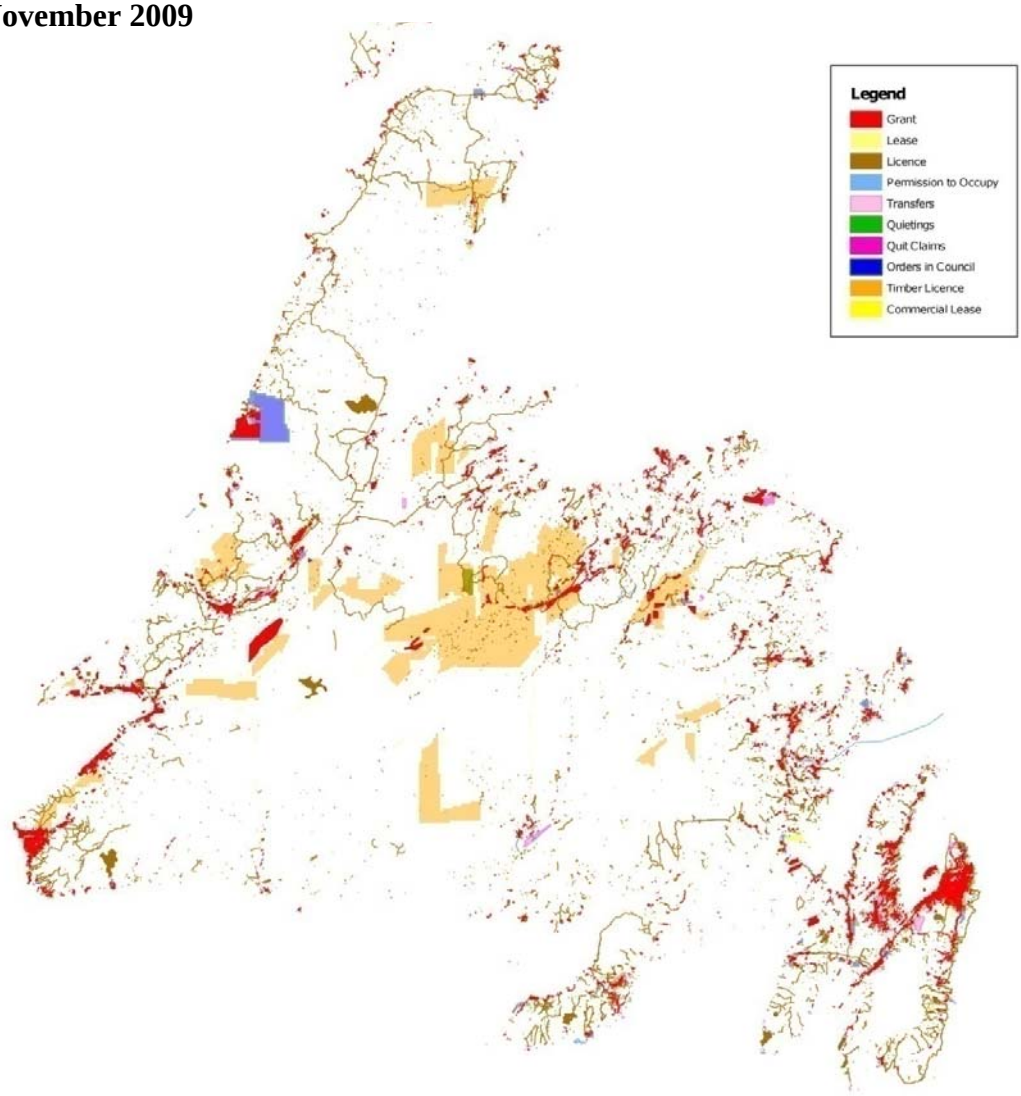
Total expenditure for the Branch for the year ended 31 March 2009 was $5.4 million (2008 - $5.1 million). In addition, the Branch generated revenue of $5.1 million for the year ended 31 March 2009 (2008 - $6.6 million) mainly from the sale, leasing and licensing of titles to Crown land.

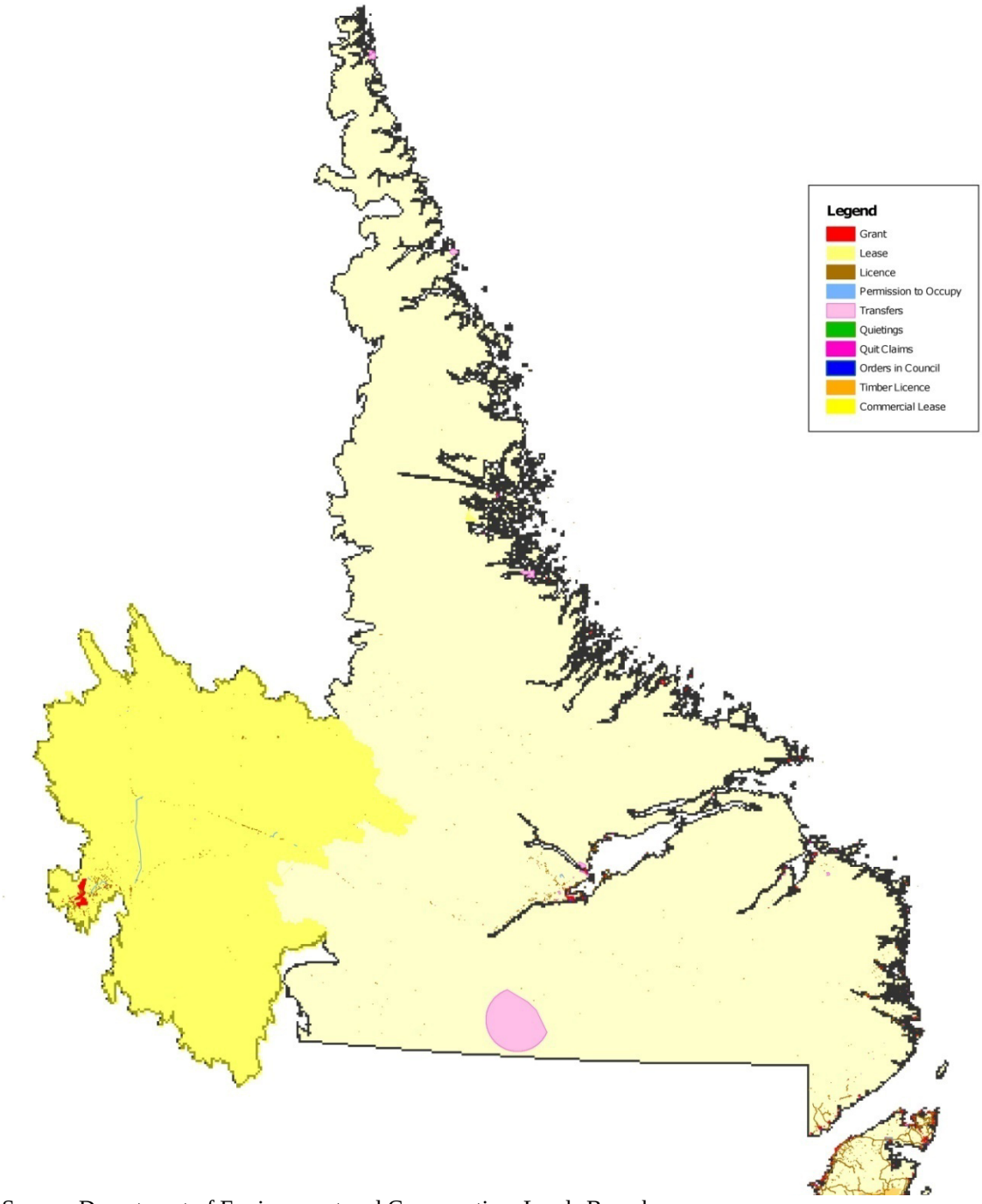
Crown land comprises approximately 88% of the Provincial land mass and is a significant natural resource. The remaining 12% of Provincial land is either privately owned (e.g. grants and quieting of titles) or has been transferred to the Federal Government. The Branch regularly enters into lease, licence, permit and other agreements with individuals and businesses for the use of Crown land in accordance with terms and conditions specified by the Branch.

Figure 1 shows the extent of the various titles issued, transfers and rights to Crown land that have been issued by the Branch as at November 2009.

Figure 1

Titles and Rights to Crown Land
Newfoundland and Labrador
As at November 2009





Source: Department of Environment and Conservation, Lands Branch

Audit Objectives and Scope

Audit objectives

The objective of our review was to determine whether the Department had adequate systems, procedures and plans in place to administer and manage Crown land. In particular, whether there were:

- information systems in place to identify and determine land use; and
- inspection programs to ensure compliance with legislation.

Audit Scope

Our review covered the period 1 April 2004 to 15 December 2009. We completed our review in December 2009.

We reviewed the Provincial Geomatics Strategy, including the geographic information system used by the Lands Branch of the Department to determine whether all relevant information was recorded in a timely, complete and accurate manner. We also reviewed the Department's inspection program to determine whether there was compliance with the *Lands Act*, and whether the Department was addressing the illegal occupation of Crown land. We also held discussions with Department officials.

Detailed Observations

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

1. Geomatics Strategy
2. Lands Branch Geographic Information System
3. Illegal Occupation of Crown land
4. Compliance Inspections
5. Humber Valley Resort Corporation

1. Geomatics Strategy

Introduction

Geomatics comprises the integrated use of a variety of technologies involving the acquisition, management and use of data and information referenced to geographic position. Geomatics includes such activities as surveying, topographic mapping, marine charting, remote sensing and Geographic Information Systems (GIS).

In 1997 Government approved, in principle, a Geomatics Strategy to provide direction and policies that support, among other things, the:

- efficient sharing of geographic referenced data among users;
- establishment of standards to ensure the alignment and connectivity of data, including the standardization of GIS software and base maps used;
- establishment of web based data directories including the access and visualization of such data;
- collection and maintenance of accurate and reliable data at the responsible source agency; and
- elimination of duplicated effort among users.

Government also established a Steering Committee co-chaired by Government (Lands Branch) and industry to develop a plan to implement the Strategy.

Our review of Government's Geomatics Strategy included a review of the Strategy's supporting documents and minutes of committee meetings. We also held discussions with officials of the Lands Branch. Our findings indicated the following:

Status of Geomatics Strategy unknown

The Branch provided us with an Implementation Plan for the Geomatics Strategy that was dated December 1999. However, Branch officials could not demonstrate whether the Plan was ever reviewed and approved by the Steering Committee or presented to Government for final approval. Furthermore, there has been no meeting of the Steering Committee since approximately the year 2000 and there has been no formal reference to the Plan by the Lands Branch, the lead agency responsible for geomatics development.

A significant part of the Geomatics Strategy is the establishment of standards for Geographic Information Systems (GIS) being used throughout Government. These standards prevent duplication of effort and ensure the alignment, connectivity and access to data created and shared by GIS users. The Branch indicated that it chairs a GIS Technical Committee comprised of GIS users from various Departments and agencies of Government which informally addresses the spirit of the GIS component of the Geomatics Strategy.

We reviewed GIS Technical Committee (Committee) minutes and held discussions with Branch officials. We found the following issues need to be addressed:

- The Committee requires guidance from the executive level of Government. Officials indicated that the Committee was established many years ago and was essentially an ad-hoc Committee. While the Committee has recently begun to meet regularly, there are no terms of reference, policies or other forms of guidance.

- The Province is mapped with resource based maps that were created by the Federal Government at scales of 250,000:1 and 50,000:1. These maps do not display sufficient detail to accurately reference data and information.

- The role of the Office of the Chief Information Officer (OCIO) has not been clarified in connection with the creation, supply and access to GIS data within Government. For example, the OCIO is creating a Map Resource Center with GIS data created and/or supplied by GIS users throughout Government. While the Committee places a high priority on the immediate porting of GIS data to the public via the Map Resource Center, the OCIO places a higher priority to other areas of GIS development.

Recommendations

The Department should:

- determine whether the Geomatics Strategy Implementation Plan was approved by Government;
- review the Geomatics Strategy Implementation Plan to determine whether it is still relevant; and
- resolve the issues raised by the GIS Technical Committee and Branch officials.

2. Lands Branch Geographic Information System

Introduction

The Lands Branch uses a computer based Geographic Information System (GIS) to analyze and display geospatial data. The GIS is used to retrieve cadastral and land use information to assist with the identification, management and disposition of Crown land.

The GIS is comprised of the following:

- Base maps which are the foundation of the GIS and include resource and community based maps that display various levels of detail and accuracy throughout the Province.
- Layers of Crown title mapping information including among other things: titles issued by the Crown; titles expropriated by the Crown; and inter-Departmental land transfers. Surveyed titles are overlaid or plotted onto the base maps.
- Crown title information recorded in the Department's database (AMANDA) that is linked to the GIS. This includes text information such as the title holders name and address, consideration paid and the total area granted, leased or licensed.
- Thematic layers of land use information provided by Departments or agencies that may use or control Crown land. For example, a layer(s) of information on forestry roads and trails is provided by the Department of Natural Resources, and a layer(s) of information on sensitive or endangered plant and waterfowl areas is provided by a division of the Department of Environment and Conservation.

Digital information provided is overlaid on the base maps and text information is linked to those maps. The Branch maintains over 130 thematic layers of such information in what is known as the "Land Use Atlas".

Our review of the GIS indicated the following:

Land Use Atlas is outdated

The GIS contains a significant amount of information received from other Departments and agencies. This information is maintained in the Land Use Atlas (Atlas) which is regularly used by the Branch to identify, manage and dispose of Crown land. Our review of the Atlas indicated the following:

- Most of the information contained in the Atlas is static (point in time) and may be effectively outdated when it is received by the Branch. We found numerous thematic layers in the Atlas which have not been updated since 2006.
- There is no system to ensure the Branch has access to information from other applicable Departments and agencies in a timely manner. Officials indicated that only three divisions of Government currently supply the Branch with "real-time" information.

All titles issued are not plotted in the GIS

The Branch has indicated that there are approximately 4,600 Crown titles listed in the AMANDA database covering 840,000 hectares that are not plotted in the GIS. Approximately 2,000 of the 4,600 titles cannot be plotted because the documents are missing or were destroyed by fire many years ago. The Department indicated that it may not be possible to plot some of the remaining 2,600 titles because of inadequate survey and/or base map information. As a result, the Crown titles layer of the GIS is incomplete.

AMANDA database is not accurate or complete

Title information recorded in the AMANDA database is not always accurate. For example, we found instances where:

- the purpose and total area of grants issued was incorrect, or was not recorded at all;
- lease expiry dates were incorrectly recorded;
- leases that were converted to grants were not closed; and
- licences were recorded as leases.

Furthermore, the AMANDA database does not contain all Crown titles that have been issued. The Department indicated that a significant number of title records were destroyed by fire many years ago and that there may be old title documents that were issued by the courts which now reside with another Department.

As a result, the AMANDA database is neither accurate nor complete.

GIS computer system inadequate

The GIS master file of data is maintained on a server located on the premises of the Department of Natural Resources. The master file of data is updated in real time by some divisions and departments of Government who may use and/or supply data to the Lands Branch.

Branch officials indicated that the master file of GIS data cannot be accessed by staff efficiently because the server is being used well beyond its capacity. As a result, the Branch is extracting data from the master file and downloading this information onto a computer network drive at the Branch so that staff can access the data quicker. Extractions are performed at a point in time and the benefits of any real-time updates to the master file are therefore lost. Furthermore, we observed staff spending a significant amount of time waiting for the GIS to retrieve data and draw maps even though the data was contained on the Branch network drive.

Reid lots

In the early 1900's, Government granted 146 lots of land totalling approximately one million hectares to the Reid Newfoundland Company Limited in connection with the construction of the Newfoundland railway. Government has reacquired the land and/or timber rights to 145 of the 146 lots, as follows:

- In 1974 Government purchased 44 Reid lots from Abitibi-Price Inc. with the company retaining the timber rights to 8 of the 44 lots.

- In 1994 Government purchased 86 Reid lots from Corner Brook Pulp and Paper Limited for $15 million, with the company retaining timber rights to a significant portion of this land until 2037.

- In 2008 Government cancelled the land and timber rights to 15 Reid lots held by Abitibi-Consolidated Company of Canada Inc. (Abitibi) when the company announced it was closing operations in the Province. Timber rights held by Abitibi in connection with 8 Reid lots purchased by Government in 1974 were also cancelled.

Our review indicated the following:

- 36 of the 146 Reid lots were never plotted in the GIS and this information was not readily available to the Branch in its management of Crown land.

- The Branch did not know the extent of private ownership of the approximately one million hectares of Reid lots that it reacquired. There was limited information available as to the extent to which the land may have been privately sold prior to acquisition by Government in 1974, 1994 and 2008.

Recommendations

The Department should:

- update the Land Use Atlas;

- plot all Crown titles in the GIS where possible;

- ensure data is keyed accurately into the AMANDA database;

- ensure that computer systems are capable of providing updated GIS data in a timely manner; and

- determine the extent of private ownership of the Reid lots that were reacquired.

3. Illegal Occupation of Crown Land

Overview

The illegal occupation of Crown land means the use or occupation of Crown land without permission by way of a grant, lease or licence. As defined under the *Lands Act*, the illegal use or occupation of Crown lands, "*…includes a building, wharf, fence, trailer, bus or other motor vehicle converted for the purpose of habitation, a wall or materials that may be used in the erection of a structure and the contents of a structure.*"

The Department has authority under the *Lands Act* to order the removal of illegal structures within 60 days of serving a "removal notice" on the person(s) who placed, occupies or uses the illegal structure on Crown land. The 60 day compliance period may be extended to a period up to six months should the person make an application for extension to the Minister of the Department of Environment and Conservation. During the compliance period, should a person apply and obtain approval for a grant or licence to occupy the Crown land, then the occupation of Crown land is legalized.

The Department may remove or demolish any illegal structure not removed or legalized by the end of the compliance period, and any costs or expenses incurred by the Department in the removal of such illegal structures are recoverable from the person(s) who placed, occupied or used the illegal structure on Crown land. Prior to such removal, the Department will post another notice upon the structure indicating that the owner(s) or occupant has 30 days to remove all personal belongings from the structure.

As at November 2009, the Department estimated that there were in excess of 9,000 structures illegally occupying Crown land, comprised of approximately 4,200 trailers, 3,800 cabins and 1,000 other structures such as fences and gates.

The Lands Branch is responsible for enforcing the *Lands Act*, including the issuing of removal notices and the removal or demolishing of illegal structures. Figure 2 shows the number of removal notices issued by the Branch and the number and percentage of structures removed for the five year period ending 31 March 2009.

Figure 2

Illegal Occupation of Crown Land
Removal Notices Issued and Structures Removed
Fiscal Years 2005 through to 2009

	Removal Notices Issued						Structures Removed	
	2005	2006	2007	2008	2009	Total	Total	%
Cabins	74	56	214	102	270	716	60	8.4
Trailers	36	47	161	20	44	308	220	71.4
Other	24	27	34	17	25	127	51	40.2
Total	**134**	**130**	**409**	**139**	**339**	**1,151**	**331**	**28.8**

Source: Department of Environment and Conservation, Lands Branch

As Figure 2 indicates, 331 or 28.8% of the illegal structures were removed in connection with 1,151 removal notices issued over the five year period. The Branch could not readily determine whether all structures in connection with 726 of the 820 remaining removal notices that were issued were legal, had applications to legalize in progress, were removed or still continued to illegally occupy Crown land. The Branch was able to determine that the remaining structures in connection with 94 of the 820 remaining removal notices that were issued were either legal, in the process of being legalized, or continued to illegally occupy Crown land.

We reviewed Branch plans and reports in connection with inspections carried out to determine how illegal structures were identified, and whether they were being removed or legalized, as required. Our findings are outlined in the following sections:

A. Inspection Program
B. Recreational Camping
C. Structures on Shoreline Crown Land

3A. Inspection Program

Introduction

Prior to 2008-09 the Branch did not formally plan or monitor inspection activity with respect to the illegal occupation of Crown land. Most inspections were initiated and carried out at the discretion of the inspector, or as a result of complaints received from the public or other Government officials.

In 2008-09, regional offices of the Branch began preparing annual work plans to support and schedule the inspection of areas where illegal structures were known or were likely to be found. The annual inspection work plan outlines: the specific areas to be inspected; the resources required to complete the inspections; and inspection activity timelines, including the dates by which:

- illegal structures should be identified and recorded;
- removal notices should be posted;
- follow-up inspections should be carried out; and
- illegal structures should be removed.

Inspections are to be carried out by Land Management Officers (inspectors) in accordance with the annual work plan. The Branch has a total of 16 inspectors dispersed throughout the four regions of the Province. Regional managers are required to monitor inspection activity each month to ensure the work plans are carried out.

We reviewed annual work plans and monitoring reports prepared by the Branch in support of the inspection program. We also held discussions with Branch officials. Our review indicated the following:

No inspection report

A critical component of any inspection program is the document used to record the results of the inspection activity carried out. For an inspection in connection with the illegal occupation of Crown land, we would expect an inspection report to contain, at a minimum, the following information:

- the date of the inspection;
- the exact location of the illegal structure;
- a description and photo of the illegal structure;
- the identity of the owner(s) or occupant(s) of the illegal structure;
- a summary of any discussions with the owner(s), occupant(s) or member(s) of the public;
- the date a removal notice was issued;
- a copy of the removal notice;
- the compliance date by which the owner(s) or occupant(s) must remove the illegal structure, or apply for an extension of the compliance period (to legalize the structure);
- the date the structure was removed including a photo showing the condition of the Crown land following removal; and
- signature by the inspector attesting to the work carried out.

Our review indicated that the Branch did not have an inspection report that could be used by inspectors to record this information. We found that inspectors keep their own files for identified illegal structures. Officials indicated that those files would generally contain a hand written listing of the illegal structures that were identified, the location of the illegal structure, the identity of the owner(s) or occupant(s) where possible, any photos of the structure that were taken, and a copy of any removal notice(s) issued.

The results of inspections carried out, including the identification of potential illegal structures, the monitoring of compliance with removal notices issued, and the monitoring of inspection performance dates stated in the annual work plans would be more effectively managed with an inspection report to provide such information. An inspection report would be a necessary source document to populate an information database.

Inadequate information system

We had difficulty obtaining and analyzing the information provided by the Branch with respect to inspections of illegal structures. For example:

- The Branch does not maintain an adequate database of information on inspections, removal notices and final disposition of required actions. However, regional listings detailing the illegal structures inspected and the removal notices issued in 2008-09 were provided to us after significant delay. Furthermore, regional listings originally provided to us by the Branch were incomplete and there were inconsistencies in the information that was provided by the regions.

- Removal notices are not pre-numbered and accounted for. Branch officials indicated that numbers are assigned to removal notices only after they have been issued. Therefore, the Branch did not, and could not, ensure that the listings of removal notices are complete. We found an instance where one number was assigned to 14 separate removal notices that were issued.

- We had difficulty determining the number of removal notices issued, the number of structures legalized, the number of structures removed and the number and reasons why the remaining structures were not legalized or removed.

Regional managers cannot properly monitor the removal of illegal structures without timely and accurate information.

Illegal structures not being removed

The Branch provided us with regional listings of removal notices that were issued in connection with inspections of illegal structures in 2008-09. Information provided in the listings included the removal notice date, the type of structure to be removed, the owner(s') name and any action taken by the owner(s) to comply with the notice. These listings are used by regional managers to monitor whether illegal structures are removed or legalized as required. Figure 3 indicates the results of inspections carried out in 2008-09.

Figure 3

Crown Lands Inspection Program
Removal Notices Issued, Legal Structures, Illegal Structures Legalized, Removed, Not Removed or Removal Status Unknown
Year Ended 31 March 2009

Region	Number of Removal Notices Issued	Number of Legal Structures or Applications to Legalize	Number of Structures Removed	Number of Structures Not Removed	Number of Structures Where Removal Status Not Known
Eastern	117	0	23	0	94
Central	123	59	24	34	6
Western	28	1	0	0	27
Labrador	71	0	0	0	71
Total	**339**	**60**	**47**	**34**	**198**

Source: Department of Environment and Conservation, Lands Branch

As Figure 3 indicates, the Branch has not been successful in the removal or legalizing of structures where a removal notice was issued in 2008-09. Only 107, or 31.5% of the 339 structures that were issued removal notices have been removed, were determined to be legal, or have applications to legalize in progress. Also, the Branch could not demonstrate whether 198 or 58.4% of the remaining structures were removed or continue to illegally occupy Crown land because no follow-up inspection was carried out upon expiry of the removal notices.

Branch officials indicated that removing illegal structures is difficult and the process of removal can take anywhere from 6 months to a number of years, due to:

- Legal disputes between the Department and the owner(s) of illegal structures.

- Complaints by the owner(s) to the Minister which may take time to resolve.

- Many illegal structures must be removed by the Department when the owner(s) fail to remove them. The method of removal is usually by burning in the case of remote structures, or by physical destruction. This process may be slowed when seasonal conditions prevent ready access to the structures.

- Significant delays in carrying out follow-up inspections upon expiry of the 60 day removal notice. Officials indicated that inspectors have other duties which adversely impact the time spent in the field in connection with the inspection program.

Complaints not monitored

Each year, the Branch receives a significant number of complaints from the public regarding, among other things, the illegal occupation of Crown land. Complaints received are documented on an "Inspection Request/ Complaint Form" (complaint form) and assigned to an inspector for investigation. Complaint investigations may take the form of a telephone call or field visit and the results of the investigation, including the action taken by the inspector are required to be recorded on the complaint form. Our review indicated the following:

- The Branch could not readily provide us with the number, nature or resolution of complaints received at three of the four regional offices because the details of the complaints received are not recorded in a database. Only the Western region maintains a complaints database.

- Complaint investigations are considered the responsibility of the inspector. Completed complaint forms are filed in the office of the inspector following completion of his/her investigation. Regional managers do not review complaint forms or monitor complaint investigations to determine whether action taken by the inspector was appropriate and timely.

3B. Recreational Camping

Introduction

The most common and visible illegal occupation of Crown land is by recreational campers (campers) alongside roads, high cottage demand areas and in more secluded areas such as those accessible by forest resource roads. The illegal occupation by campers includes structures such as towed campers, converted buses or vans, and motorized RV's. Illegal occupation peaks during the months of May to September and many structures are permanently fixed to Crown land because of built-on additions and fences. Figure 4 shows a common structure used in recreational camping.

Figure 4

Illegal Recreational Camper



Source: Department of Environment and Conservation, Lands Branch

The illegal occupation of Crown land by recreational campers has been ongoing in many areas of the Province for decades, without any action being taken by Government to curb the practice until 2008-09. The Department has identified numerous areas of concern associated with illegal camping in the Province, as follows:

- the illegal long-term occupation of Crown land continues to grow annually;
- there are increased health and environmental risks associated with the improper disposal of garbage and sewage and the contamination of ponds, rivers and watershed areas;
- there are increased public safety risks associated with traffic problems caused by campers in close proximity to highways and roads;
- there are numerous complaints received from the public regarding unsightliness and the proximity of some campers to Provincial parks and cottages, where licences and grants for land use have been paid for; and
- there is a potential loss of business to Provincial and private parks when Government allows campers to occupy Crown land in close proximity to parks.

Our review indicated the following:

Recreational campers continue to illegally occupy Crown land

The Lands Branch estimates there are in excess of 4,000 campers illegally occupying Crown land on a long-term basis. The Branch recently commenced taking action to address the illegal recreational camping by including a select number of known camping sites in the annual inspection work plans that are prepared by regional divisions each year.

As indicated in Figure 5, a significant number of the estimated illegal recreational campers were known to be concentrated in 42 sites throughout the Province.

Figure 5

Illegal Recreational Camping Areas and Number of Illegal Campers
Newfoundland and Labrador

Location	Approximate Number of Recreational Campers	Action Taken by Department
Eastern		
1. Princeton Big Pond	70	No action taken
2. Birchy Cove (Coffee Pond Area)	60	No action taken
3. Fair Haven Barrens	60	No action taken
4. Feather Bed Pit, Witless Bay Line	50	No action taken
5. Whiskey Pit, Salmonier Line	50	Structures removed
6. Little Gull Pond Access Road, Salmonier Line	40	Structures removed
7. Old Bay de L'eau Road	31	No action taken
8. Arnold's Cove Area	30	No action taken
9. Bonavista Highway (near Princeton)	30	No action taken
10. Hodgewater Pond Area	30	No action taken
11. Ocean Pond	30	Structures removed
12. Catalina Road	20	No action taken
13. Kershaw Place (near Princeton)	20	No action taken
14. Second Pond	20	Structures removed
15. Sook Pond	15	No action taken
16. Southwest Pond, Salmonier Line	15	Structures removed
17. Brien's Pond (near Gushue's Pond Park)	10	No action taken
18. Joyce's Trail, Witless Bay Line	10	Some structures removed
19. Long Harbour, NL T'railway	10	No action taken
20. Heart's Desire	10	No action taken
21. Island Pond	8	No action taken
22. Gull Pond Area	7	No action taken
23. Cowboy Road (Marystown Airfield)	5	No action taken
Total Eastern	**631**	
Central		
1. Flat Water Pond (near Baie Verte)	100	Most structures removed
2. Notre Dame Junction (NL T'railway Park)	100	Most structures removed
3. Shambler's Cove Road (near Greenspond)	100	Most structures removed
4. Baie d'Espoir Highway	75	No action taken
5. Salmonier Cove (South Coast)	30	No action taken
6. North Pond (near Gambo)	25	No action taken
Total Central	**430**	
Western		

Location	Approximate Number of Recreational Campers	Action Taken by Department
1. Howley Road	141	Most structures removed
2. Roddickton Road	60	No action taken
3. Father Kelly's Point	40	No action taken
4. Camp 33 Grand Lake	30	No action taken
5. Goose Arm Road	15	No action taken
6. Bonne Bay Little Pond	10	No action taken
7. Burgeo Highway at Wooden Tilt Brook	10	No action taken
8. TCH 5kms west of Corner Brook	10	No action taken
9. Cook's Harbour Road	8	No action taken
10. Humber Valley Resort Entrance	8	No action taken
11. Rocky Pond / Bonne Bay	5	No action taken
Total Western	**337**	
Labrador		
1. Labrador West (Walsh River Bridge)	10	No action taken
2. Straits (Pinware River area)	6	No action taken
Total Labrador	**16**	
Total Newfoundland and Labrador (42 sites)	**1,414**	**Approximately 600 structures removed from 10 sites**

Source: Department of Environment and Conservation, Lands Branch

As Figure 5 indicates, the Branch was successful in removing approximately 600 structures from 10 of the 42 known sites. No action has been taken to remove structures from the remaining 32 known illegal camping sites. However, the Branch indicated that inspections are currently ongoing with respect to 9 of the remaining 32 known illegal camping sites.

3C. Structures on Shoreline Crown Land

Introduction

The *Lands Act* states, *"Where Crown Lands that border on a lake, pond, river, the seashore or foreshore are granted, leased or licensed…a strip of Crown lands not less than 15 metres wide around and adjoining the lake, pond, seashore or foreshore or along each bank of the river was not intended to pass and did not pass to the grantee, lessee or licencee."* For residential purposes, among other things, the 15 metre shoreline reservation is reduced to 10 metres.

Under the *Lands Act*, the Branch may issue a grant, lease or licence for the use of the shoreline Crown land under certain circumstances, including, among other things, *"…for the purpose of giving a licence only for the construction of boat houses and wharves to the extent that they intrude on the reservation."* Any grant, lease or licence for such purposes does not permit the grantee, lessee or licencee to restrict access to the shoreline Crown land on the part of the general public.

As at 31 December 2008, the Branch had 179 active licences issued to persons for the purpose of boat houses and wharves.

No inspection program

The Branch had no inspection program to ensure that wharves, boathouses and other structures built on shoreline Crown land were legal (licensed) and complied with the terms and conditions of the licence.

It is likely that a significant number of wharves and boathouses that exist throughout the Province were built by cottage owners. As at 31 December 2008, the Branch had issued approximately 9,300 grants for the purpose of recreational cottages, however, only 179 licences were issued for the purpose of boathouses and wharves. Given that a significant number of recreational cottages are built around lakes and ponds of the Province, and include boathouses and/or wharves along the shoreline Crown land, it is very likely that a significant number of boathouses and wharves throughout the Province are illegal.

Recommendations

The Department should:

- determine whether structures in connection with 726 outstanding removal notices issued since 2005 were legal, have applications to legalize in progress, were removed or still continue to illegally occupy Crown land;
- develop an inspection report(s) that can be used by inspectors to record and attest to the results of inspections carried out;
- establish a database to capture data recorded on the inspection report in an accurate, complete and timely manner;
- establish a database to record and monitor the disposition of complaints that are received;

- ensure that regional managers regularly monitor database reports on inspection activity and complaint investigations;
- consider whether the Branch has sufficient inspectors to carry out inspections in connection with the illegal occupation of Crown land and complaint investigations;
- take action to remove all structures known to be illegally occupying Crown land; and
- plan and carry out inspections to determine the illegal occupation of shoreline Crown land.

4. Compliance Inspections

Introduction

The Branch manages approximately 68,000 grants, leases and licences as outlined in Figure 6.

Figure 6

Number of Grants, Leases and Licences Issued
31 December 2008

Title Issued	Number
Grants	45,400
Leases	8,800
Licences	13,800
Total	**68,000**

The *Lands Act* states that *"…a person authorized by the minister may enter onto the lands granted, leased, licensed…for the purpose of determining whether the terms of the grant, lease, licence…are being complied with."* The Minister has authorized 16 Land Management Officers of the Lands Branch to carry out such compliance inspections.

Grants are generally issued without specific terms and conditions that require compliance by the title holder. However, leases and licences are normally issued with terms and conditions that require compliance from the title holder.

For example, the Branch manages approximately 10,000 licences that have been issued to persons for the purpose of erecting cottages on Crown land in remote areas not normally accessible by roads. Generally, a remote cottage licence holder must adhere to the following conditions of the licence, including, among other things:

- the licence number must be displayed on the premises;
- the cottage must be situated at a minimum distance of 30 metres from any water body and 45 metres from any other cottage;
- construction of a wharf or boathouse is not permitted;
- sewage disposal facilities must be installed in accordance with the *Public Health Act*;
- a firebreak of 6 metres must be maintained around all buildings;
- the cottage must be equipped at all times with a working fire extinguisher;
- the cottage must have a fire resistant roof surface and any chimney is to be equipped with a functional spark arrester; and
- access to the cottage is only permitted in accordance with the *Motorized Snow Vehicles and All-Terrain Vehicles Regulations*.

We held discussions with Branch officials and reviewed documentation pertaining to various leases and licences to determine whether title holders were complying with the terms and conditions specified in their leases and licences. Our review indicated the following:

No inspection program

The Branch had no inspection program to determine whether the terms and conditions of leases and licences issued for the use of Crown land were being complied with. The Branch indicated the following:

- affidavits attesting to compliance with lease/licence terms and conditions are obtained from title holders every 5 to 15 years;

- adhoc inspections are carried out by field staff as they investigate applications for Crown land adjacent to title holders;

- compliance with the terms and conditions of certain leases and licences such as agriculture and aquaculture is the responsibility of other Departments; and

- there are insufficient staff resources to carry out compliance inspections.

As a result, the Branch did not know whether the terms and conditions of approximately 22,600 leases and licences were being complied with.

Expired leases not inspected

Our review indicated that the AMANDA database included 137 leases that were expired but not closed. The Branch did not have the resources to investigate the reasons as to why all 137 leases were showing as expired in the AMANDA database. However, the Branch reviewed 11 of the 137 expired leases and indicated the following:

- 5 of the 11 expired leases were not renewed and the Branch had not carried out an inspection to determine whether the Crown land was illegally occupied. One of the 5 leases expired in 1977.

- 2 of the 11 expired leases were not expired because the expiry date was incorrectly entered into the database.

- 2 of the 11 expired leases were actually licences which have since been converted to leases.

- 2 of the 11 expired leases were converted to grants and have since been closed.

Recommendations

The Department should:

- develop an inspection program to ensure that the terms and conditions of leases and licences are being complied with;

- consider whether there are sufficient staff resources to plan and carry out compliance inspections; and

- review the 137 expired leases in the AMANDA database, and correct, close or carry out inspections of expired leases where necessary.

5. Humber Valley Resort Corporation

Introduction

In April 2001, the former Department of Government Services and Lands entered into a 5 year lease agreement with the Humber Valley Resort Corporation (Corporation) for the purpose of developing a golf practice range, a nine hole golf course, chalet units and resort related facilities on 160 hectares of land located on the northwest side of the Humber River and Deer Lake. In accordance with the lease agreement, title to individual chalet lots and surrounding parcels of land could be granted to the Corporation for an arbitrary fee as the golf course and chalet lots were developed and annual lease payments were made. The lease has expired and the Corporation was granted the entire 160 hectares of land after paying the Province a total of $800,000.

In August 2005, the Department of Environment and Conservation entered into a 5 year lease agreement with the Corporation for the purpose of developing additional chalet units, resort related facilities and an eighteen hole golf course on 613 hectares of land located adjacent to the land obtained by the Corporation under the 2001 lease. In accordance with the lease agreement, title to the entire 613 hectares of land could be granted to the Corporation upon:

- total payment of $6.4 million in annual lease payments over the term of the lease;
- development of the golf course and all chalet lots as planned; and
- payment of a 6% premium calculated on the greater of the fair market value or actual purchase price of each chalet lot sold.

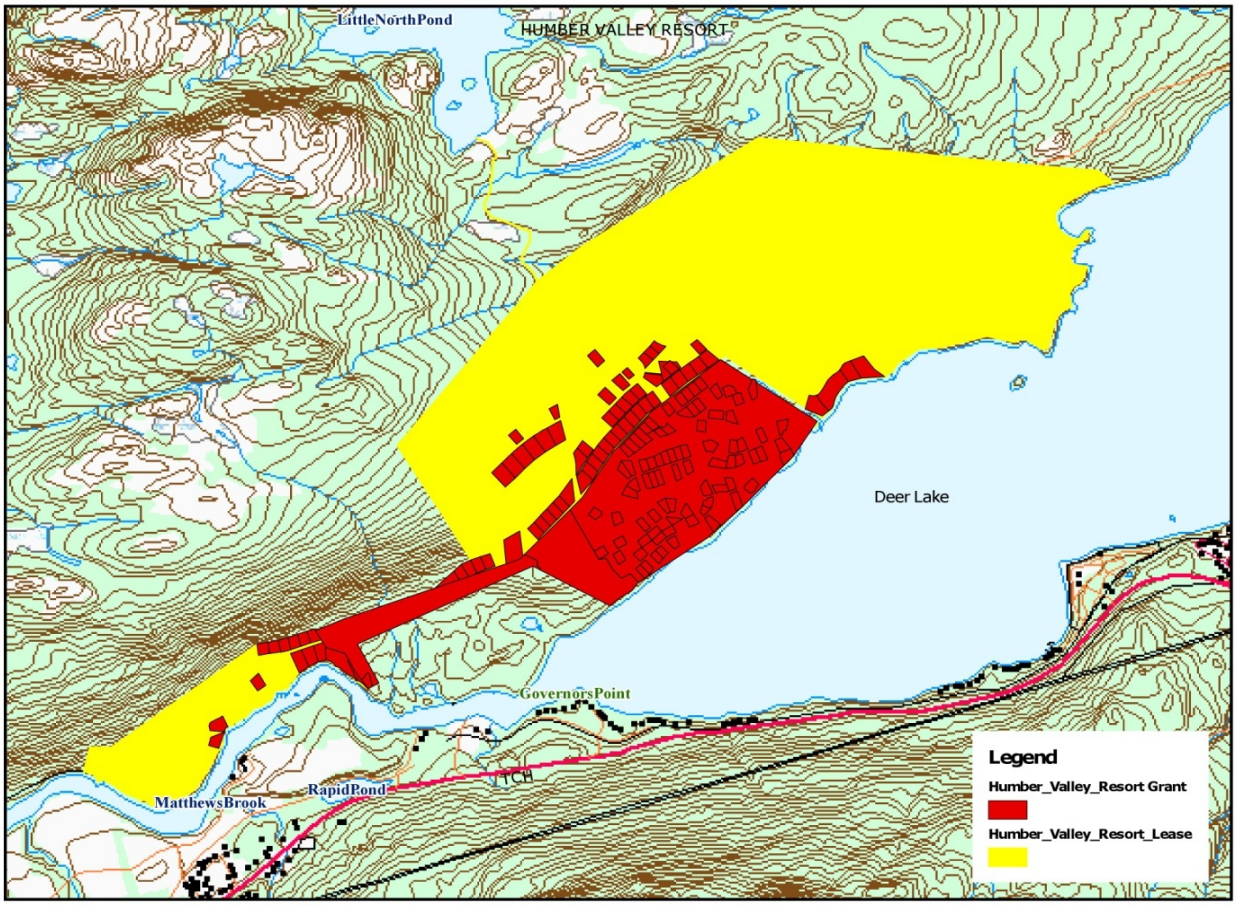
At any time during the lease, grants for individual chalet lots could be issued to the Corporation upon presentation of an Agreement of Purchase and Sale between the buyer and the Corporation and the payment of the 6% premium.

On 5 September 2008 the Corporation sought bankruptcy protection under the *Companies' Creditors Arrangement Act*. On 12 December 2008, Government advised the bankruptcy trustee that the 2005 lease was null and void due to the Corporation's failure to pay annual lease payments as scheduled. Land that was not sold to the Corporation under the terms and conditions of the lease has reverted to the Province and the trustee has indicated that it has no interest in the leased land. The Corporation had not paid the final two annual payments (2008 and 2009) totalling $2.6 million as required under the lease.

Figure 7 shows the land (in red) that the Department has granted to the Corporation. Figure 7 also shows the land (in yellow) that the Department was leasing to the Corporation which has now reverted back to Government. Specific chalet lots granted to the Corporation for the purpose of chalet development are visible as smaller blocks (in red).

Figure 7

Department of Environment and Conservation
Grants and Leases to Humber Valley Resort Corporation



Source: Department of Environment and Conservation, Lands Branch

We reviewed the leases between the Department and the Corporation and held discussions with Government officials. Our review indicated the following:

Lease terms favorable to the Corporation

Under the terms and conditions of the lease in 2001, the Corporation obtained title to 160 hectares of land for $800,000, or approximately $4,900 per hectare.

Under the terms and conditions of the lease in 2005, the Corporation could have obtained title to 613 hectares of land for $6.4 million, or approximately $10,400 per hectare. In addition, the Corporation was required to pay an additional 6% market value premium for a grant for each of the approximately 330 chalet lots it planned to develop in accordance with the lease.

At the time of our review the Branch had issued 71 of a possible 330 grants to the Corporation for the purpose of chalet development, and received market value premiums totalling $2.2 million or an average of $31,460 per chalet lot. The Branch also received three lease payments totalling $3.8 million. The Corporation, upon sale of the chalet lots, would have received a total of $37.2 million or an average of $524,390 per chalet lot.

We found the terms and conditions of the 2001 lease to be favorable to the Corporation in comparison to the terms and conditions of the 2005 lease. The annual lease payments under the 2001 lease were significantly lower ($5,500 per hectare lower) and there was no mechanism in place to compensate the Province for the fair market value of the land that was granted to the Corporation for the purpose of chalet development.

Resort development not adequately monitored

April 2001 lease

Under the terms and conditions of the lease in 2001, five large parcels of land surrounding and including the golf course and surrounding the chalet lots, could be granted to the Corporation for the sum of $1.00 as lease payments were made and the golf course and chalet lots were developed. Development of the golf course meant that the fairways were to be cleared of wood, grubbed and ready for seeding. Development of the chalet lots meant that the foundations for 95 of the 225 chalets planned, were to be poured.

Our review indicated that the Branch granted the Corporation all five parcels of land without completing an inspection confirming that the golf course was ready for seeding and that the foundations for the chalets were poured. Furthermore, the Branch entered into an expansion lease in 2005 for the development of a larger golf course and significantly more chalet lots without confirming that development under the 2001 lease had been completed as required.

By 27 June 2003, the Branch had granted the first two parcels (Parcels A and B) of land to the Corporation. Subsequent to granting these parcels, on 30 July 2003, the Branch completed an inspection of the resort. Inspection documentation indicated that the golf course was in various stages of construction, but did not indicate whether sufficient progress had occurred to satisfy the requirements to grant Parcel A to the Corporation. As a result, we were unable to determine whether the development conditions had been met for the Corporation to be granted Parcel A. Also, it was noted that there were no chalets under construction on Parcels B, C, D, and E. Therefore, there was insufficient development completed on Parcel B to grant it to the Corporation.

On 7 April 2004, the Branch granted the final three parcels (Parcels C, D, and E) of land to the Corporation. The Branch did not complete an inspection to verify that the development conditions were met prior to granting the last three parcels of land.

The Branch completed its second inspection of the resort in November 2009, after we enquired about whether all of the development conditions under the lease were met. The Branch indicated that the golf course was complete and operational and that 104 of the 138 chalet lots granted to the Corporation were developed as required under the lease. Of the 104 chalet lots developed, the Branch indicated that 96 chalets were complete, 3 were partially complete and 5 had foundations poured. The Branch found an additional 34 lots vacant.

August 2005 lease

Under the terms and conditions of the second lease in 2005, the Corporation planned to construct an eighteen hole golf course, resort facilities and approximately 330 chalet units on 613 hectares of land. At the time of our review, the Branch had issued grants to the Corporation for the development of 71 of a possible 330 chalet lots when the Corporation paid the 6% market value premium for each chalet lot. Grant consideration ranged from $12,000 to $165,000 based on chalet lot purchase prices ranging from $200,000 to $2.8 million. Our review of 5 of the 71 grants issued to the Corporation indicated that in all five instances:

- the Branch did not obtain a purchase and sale agreement that was signed by the Corporation and the chalet lot purchaser indicating an agreed upon purchase price; and

- the Branch did not determine the fair market value of the chalet lots and therefore did not calculate the 6% market value premium paid by the Corporation, as the greater of the fair market value or the actual purchase price.

As a result, the Branch could not demonstrate whether the 6% market value premiums paid by the Corporation were appropriate.

At the time of our review, the Corporation had been in bankruptcy protection for 14 months and the Branch had not carried out an inspection to determine the extent of development of the golf course or any of the 71 chalet lots that had been granted to the Corporation under this lease. Furthermore, the Branch did not know whether there were any buildings or facilities constructed on the Crown land that was leased to the Corporation.

The Branch completed an inspection of the resort in November 2009, after we enquired about the extent of chalet development and whether there were any buildings or facilities constructed on Crown land that was leased to the Corporation. The Branch indicated that of the 71 chalet lots granted to the Corporation, 16 chalets were complete, 3 were partially complete, 4 foundations were poured and 48 lots were vacant. In addition, the Branch found a storage building and various fire hydrants on the land that were leased from the Crown. Construction of the golf course had not started.

Recommendation

The Department should ensure that grants pursuant to leases are only issued when:

- the development terms and conditions stated in the leases are complied with; and

- there is documentation that supports the consideration calculated and paid in accordance with the terms of the lease.

Department's Response

Recommendation – Geomatics Strategy

The Department should:

- *determine whether the Geomatics Strategy Implementation Plan was approved by Government;*
- *review the Geomatics Strategy Implementation Plan to determine whether it is still relevant; and*
- *resolve the issues raised by the GIS Technical Committee and Branch officials.*

Department's Response

The Department will determine whether the Geomatics Strategy Implementation Plan was approved by Government.

The Department will review the relevance of the Geomatics Strategy Implementation Plan.

Through the Geomatics Steering Committee GIS software has been standardized in government and most, if not all, GIS users now use the same software and base maps so that the thematic layers created by all Government GIS users can be overlaid and displayed at the same time.

GIS development in hardware and system architecture is expensive and must compete with other IT requirements for limited funding. While advances have occurred, a substantial investment is required to establish a government wide system. The Department and the Office of the Chief Information Officer continues to discuss the advancement of GIS in Government.

The GIS Technical Committee was established to coordinate the technical issues related to GIS software, base maps and data standards. The GIS Technical Committee has regular meetings, with minutes and action items arising out of each session. Each action item is assigned a lead person who is responsible for related investigation and follow-up. This may involve the establishment of sub-committees to develop a plan to resolve the item or recommend a specific course of action.

Recommendation – Lands Branch Geographic Information System (GIS)

The Department should:

- *update the Land Use Atlas;*
- *plot all Crown titles in the GIS where possible;*
- *ensure data is keyed accurately into the AMANDA database;*
- *ensure that computer systems are capable of providing updated GIS data in a timely manner; and*
- *determine the extent of private ownership of the Reid lots that were reacquired.*

Department's Response

The Land Use Atlas (LUA) contains over 130 layers of information, which is provided by various resource Departments to aid in the decision making on land use proposals. This is not live data, therefore, when it arrives it is almost immediately outdated. This has been the case since the Atlas was first created in paper format in 1975 and the Department understands its known limitations. The LUA, with its known limitations, is still a better tool than not having the Atlas. The LUA will not become fully up to date until the LUA datasets are available on the Map Resource Centre. The Branch is presently working with the OCIO to make improvements to the LUA for service delivery. The LUA uses a SDE database which is stored on a server outside the Department. Work has already started to convert the SDE Database to an ARCGIS database. The information will now be stored on the internal network drives in the Department. Early tests show a ten (10) time improvement in speed and the transfer of data. This project arose from the GIS technical review committee which meets regularly with OCIO to improve GIS systems throughout government.

The Department is endeavouring to plot all Crown titles on the GIS. For well over 100 years the Crown has endeavoured to ensure that all Crown titles are plotted and accurately reflected on its mapping and currently its GIS. Approximately 2500 titles were lost in the Great St. John's fire of 1892, or are unplotted as a result of unplottable plans and description dating back over 100 years. It is impossible even with modern professional land surveying practices to locate and map these titles. Unfortunately, there is nothing the Department can do to remedy this problem. There are provisions within the Lands Act to deal with this unique situation.

The Department will ensure data is keyed accurately into the AMANDA database. While there are instances where data has not been keyed accurately into the AMANDA database, they are very minimal in comparison to the tens of thousands of Crown title records that are accurately captured. These errors may have resulted in file and database conversions in migrating from a manual system to a computerized dbase system and then further file conversion errors during the conversion from an outdated dbase system to an Oracle based system. Many of these errors have been identified and action is being taken to correct them by a resource person hired specifically for the administration of the system. Given the considerable volume of Crown title records housed at the Crown Lands Registry, this process will be time consuming.

The Department is working with the OCIO to address concerns related to the timely update of GIS data. The Department is working in collaboration with the OCIO and the GIS Technical Committee to address and resolve these concerns and any similar concerns from other GIS users throughout Government.

The Department will endeavour to determine the extent of private ownership of Reid lots acquired by Government. Determining the extent of private ownership is a lengthy and time consuming process. There is no compulsory land registration in the Province. Therefore any land sales that occurred on the Reid lots, for which the records were not acquired by Government when the Reid lots were acquired, and are not registered at the Registry of Deeds and Companies are difficult if not impossible to identify.

The Reid Lot maps are maintained in the Lands Branch and its Regional Office in paper format. To date not all of this information has been added to the GIS but users are aware of this and consult the paper maps for the data. The Lands Branch is reviewing the plotting of the Reid lots and a process has been implemented to ensure these Reid lots are accurately transferred from the current hard copy Crown titles mapping to its GIS. The Lands Branch investigates private land sales on the former Reid lots acquired by the Crown when resources and time permits. Given the magnitude of land ownership issues, combined with limited human resources, projects are assigned on a Branch priority basis.

Recommendation – Illegal Occupation of Crown Land

The Department should:

- *determine whether structures in connection with 726 outstanding removal notices issued since 2004-05 were illegal, have applications to legalize in progress, were removed or still continue to illegally occupy Crown land;*

- *develop an inspection report(s) that can be used by inspectors to record and attest to the results of inspections carried out;*

- *establish a database to capture data recorded on the inspection report in an accurate, complete and timely manner;*

- *establish a database to record and monitor the disposition of complaints that are received;*

- *ensure that regional managers regularly monitor databases reports on inspection activity and complaint investigations;*

- *consider whether the Branch has sufficient inspectors to carry out inspections in connection with the illegal occupation of Crown land and complaint investigations;*

- *take action to remove all structures known to be illegally occupying Crown land; and*

- *plan and carry out inspections to determine the illegal occupation of shoreline Crown land.*

Department's Response

To address the first five (5) recommendations, the Department implemented a spreadsheet late in 2009, so that the Regional Offices can monitor and manage the illegal occupation investigation process on a regular basis. While there were delays, an effective monitoring tool has been implemented. In addition, the Lands Branch had identified the need for the development and implementation within its computerized application management system a folder dedicated specifically to manage and monitor complaints, inspections and enforcement activities. The business rules for the creation of this folder have been defined and the folder development is 60% complete. A set of query applications will form a part of the final product, and can also link to other applications within the database system relating to the acceptance of an

application, issuance of title, removal, etc. There will also be a set of procedures defined and implemented on process, input and monitoring. The result will be the added insurance that an adequate database of information on inspections, removal notices and final disposition of required actions is readily available in real time by all users of the system. The next step for the Branch is to engage the OCIO to finalize the development of the folder as per the Branch's defined business rules.

The Department will evaluate whether there are sufficient inspectors to carry out inspections in connection with illegal occupation of Crown land.

It is the Department's objective to address the removal of structures illegally occupying Crown land.

The Department in 2009 during the investigation of complaints, or through the course of other inspections and patrols, identified 122 structures illegally occupying the shoreline reservation. The structures were investigated and were either resolved or there is ongoing action. The Department conducts enforcement within the 15m shoreline reservation during normal enforcement operations and does not differentiate between different categories of Crown land.

Staff limitations have been noted by Government and in 2008, the Department received additional funding to hire three (3) field officers and in 2009 two (2) additional field officers to carry out increased inspections relating to illegal occupation and complaints. The Department has made significant progress this fiscal year and will continue its efforts to carry out the Auditor General's recommendations.

Recommendation – Compliance Inspections

The Department should:

- *develop an inspection program to ensure that the terms and conditions of leases and licences are being complied with;*
- *consider whether there are sufficient staff resources to plan and carry out compliance inspections; and*
- *review the 137 expired leases in the AMANDA database, and correct, close or carry out inspections of expired leases where necessary.*

Department's Response

The Department will review requirements in order to develop an inspection program as recommended. The Department will ensure the 137 expired leases in AMANDA database are appropriately addressed.

Risk management decisions were made to concentrate inspection effort on higher risk incidents of illegal occupation of Crown land. Compliance inspections are completed, in conjunction with other field activities and also addressed via sworn affidavits by the client in the renewal or grant pursuant to lease application process.

Recommendation – Humber Valley Resort Corporation

The Department should ensure that grants pursuant to leases are only issued when:

- *the development terms and condition stated in the leases are complied with; and*

- *there is documentation that supports the consideration calculated and paid in accordance with the terms of the lease.*

Department's Response

The Auditor General's recommendations are the policy of the Department. At the time the grants, related to the 2001 Lease, were issued the Department was satisfied with the level of development and investment with the 2001 Lease to issue the grants. The 2001 Lease was based on Fair Market Value which was the Provincial Policy for the sale of Crown land at the date the Lease was issued. The market value assigned to the Lease was a fair market value established by standard appraisal practices.

For the 2005 Lease, the Department based the 6% premium on a review of the purchase/sale agreement which was checked with the document registered with the Registry of Deeds. The sale price of the Lot was set by the Resort, therefore, the sale price was appropriate and could not be appraised by the Branch. To protect the Branch from undervalued lots or resale, covenants were contained in the Lease.

The 2005 Lease was declared null and void in December 2008 following various notices as a result of the Resort not making the 2008 payment. Therefore, these monies are not owed and not required to be collected. In December 2009 the Department of Justice advised the Department that the Lease was declared null and void in December 2008. The Department notified the trustees in bankruptcy accordingly and recorded the cancellation within the Crown Lands Registry.

For the 2005 Lease, the Lands Branch contracted a qualified land appraisal firm to provide a fair market appraisal of the land.

PART 2.5

DEPARTMENT OF FISHERIES AND AQUACULTURE

FISHERIES TECHNOLOGY AND NEW OPPORTUNITIES PROGRAM

Executive Summary

The Department of Fisheries and Aquaculture (the Department) administers the Fisheries Technology and New Opportunities Program (FTNOP). This is a $6 million program over the three fiscal years 2008, 2009 and 2010. As at 31 March 2009, a total of $2.60 million had been approved for 63 projects.

The primary objective of the FTNOP is to fund eligible activities related to harvesting, processing, and marketing initiatives to diversify and increase the overall viability of the Provincial seafood industry. Its focus is to fund research and development in the harvesting and processing sectors.

Our review indicated a number of concerns related to how the Department is administering the FTNOP. We found that project applications were not always assessed and approved in accordance with program criteria, payments were sometimes made without the required documentation and approvals, and projects were not always adequately monitored to determine whether funds were spent as intended. Furthermore, the Department did not establish measurable criteria in order to determine whether the program objectives were achieved. In particular:

Approval and Assessment

The approval and assessment process is required in order to ensure that only eligible activities relating to the primary objectives of the FTNOP are funded. We reviewed 40 approved projects and found a number of weaknesses in the approval and assessment process as follows:

- 10 projects totalling $444,248 – the required application was not on file to provide the required information necessary for a proper assessment and to support either the approval or rejection of the project. These projects were approved based on proposals; however, the proposals did not contain all the information and declarations as required in the application.

- 8 projects totalling $400,542 – the application on file was incomplete. For 2 of these projects, only the signed declaration on the last page of the application was on file. Without a complete application on file, it is questionable how a proper assessment could be performed to support either the approval or rejection of the project.

- 10 projects totalling $416,607 – funding for overhead costs totalling $68,416 was approved even though these expenditures were not considered an eligible FTNOP cost as there was no evidence on file to support that the overhead was directly a result of the project. Existing overhead is not an eligible cost.

- 3 industry-related projects totalling $78,280 – funding was approved in excess of the FTNOP limits. The FTNOP has a limit of 60% funding capped at $100,000 for industry-related projects; however, in these cases, the total maximum funding should have been $38,759 while $49,030 was paid, representing 76% funding.

- 36 projects totalling $2.17 million - Project Summary and Approval Forms (PSAFs) on file were incomplete as follows:

    - 22 projects totalling $1.11 million with 22 PSAFs - there was no information to specify the eligible costs of the project;

    - 15 projects totalling $963,105 with 16 PSAFs - there was no evidence that comments from the Department of Fisheries and Aquaculture, the Department of Fisheries and Oceans and other agencies were obtained as required;

    - 11 projects totalling $772,537 with 11 PSAFs - there was no evidence that comments from the Department of Fisheries and Oceans were obtained as required;

    - 12 projects totalling $879,375 with 12 PSAFs - there was no evidence that comments from other agencies were obtained as required; and

    - 2 projects totalling $104,926 with 2 PSAFs - the required signatures to document the approval were not on file.

- 16 projects totalling $808,518 - the required supplier quotations, to support the estimated costs of the project, were not provided with the application.

- 24 projects totalling $1.55 million - these projects were not approved within the 45 days as outlined in the policy. The delay in processing these 24 projects ranged from 1 day to 108 days in excess of the 45 days.

- The minutes of the Management Committee meetings did not always document the decisions of the Committee relating to projects. For 7 projects totalling $355,709 there was no evidence in the minutes that the projects were recommended for approval by the Committee.

Payments

Adequate documentation and support for eligible project costs are required in order to ensure that payments are made in accordance with policies and procedures. Our review indicated that the required documentation to support payments was not always on file as follows:

- 6 projects with payments totalling $249,476 – there were no supplier invoices on file to support that advance payments totalling $212,122 were used within the required six month timeframe.

- 16 projects with payments totalling $662,232 – there were no supplier invoices on file to support actual costs incurred totalling $511,794. As a result, it was not possible to verify whether the costs were accurate, actually incurred or if they were incurred after the application date.

- 26 projects with payments totalling $1.20 million – supplier invoices to support actual costs incurred were not always signed by the Project Officer to indicate that they were eligible costs.

- 4 projects with payments totalling $201,884 – the required payment memos were not always prepared.

- 30 projects with payments totalling $1.29 million – the required payment memos were prepared but incomplete.

Our review also identified errors totalling $44,747 in 7 projects as follows:

- $26,629 relates to payments for an industry-related project, in excess of the 60% of eligible costs capped at $100,000. Although maximum funding should have been 60% of $122,285 or $73,371, the actual funding was $100,000, $26,629 beyond the maximum allowed.

- $7,518 relates to payments for a project for management and support costs that were not an eligible expense.

- $1,805 relates to payments for a project for office supplies and communications that were not an eligible expense.

- 6 projects (2 previous projects and 4 others) – HST of $8,795 was funded although this expenditure would not normally be funded. In 11 other projects there was insufficient documentation on file to determine whether HST was funded.

Payments were not made in compliance with the terms of the contract. For example:

- 2 projects – final payments totalling $34,637 were made prior to the receipt of the final report; and

- 1 project – final payments totalling $1,908 were made prior to a site visit.

Monitoring

Project monitoring should be conducted by the Department to ensure compliance with policies and procedures, to ensure that funds were used for the approved purpose, to determine whether the funded projects were successful and whether FTNOP met its overall objectives. Our review identified the following:

- 40 projects totalling $2.23 million in approved funding – the required audit and review process was not conducted for any project. This process is intended to determine whether there was compliance with policies and procedures and to determine whether adequate documentation was available to support payments.

- 11 projects totalling $434,585 in approved funding – no site visits were made.

- 40 projects totalling $2.23 million in approved funding – the Department did not provide a Terms of Reference for a Final Report to any proponent as required. As a result, it is likely that Final Reports from proponents will not be comparable or include all information necessary for the Department to determine whether the project was completed in accordance with the approved project's objectives and costs.

- 10 projects with payments totalling $459,093 in approved funding – a written comprehensive final report was not submitted within 30 days of the project completion date as required.

- 7 projects totalling $405,719 in approved funding – these projects were not completed by the proponent as outlined in their original submission. For example, in one instance the proponent was paid $119,642 for 3 projects that were to undertake a resource assessment of a fish species in certain fishing zones. The Final Report identified a number of areas where the actual project was different from the approved project, including 20 sites done instead of 30 sites, 4 days of data collection instead of 6 days and 34 days for surveying instead of 50 days in one zone, 5 days of data collection instead of 8 days and 8 survey days instead of 50 days in the other zone. In addition, there was no evidence of a required power point presentation, incorporation of other exploratory fisheries, and feasibility of assessment of transmitter implants.

- The Department did not identify performance indicators for each of its objectives or establish measurable targets for each of the performance indicators. As a result, it could not measure actual results against any targets to determine whether the FTNOP's objectives were being met.

Background

The Department of Fisheries and Aquaculture (the Department) is responsible for fisheries diversification, fish quality, licensing and regulating fish processing and aquaculture in the Province. The mandate of the Department includes the supervision, control, and direction of all matters relating to the promotion, development, encouragement, protection, conservation and regulation of fisheries and aquaculture.

Figure 1

Department of Fisheries and Aquaculture
Petten Building

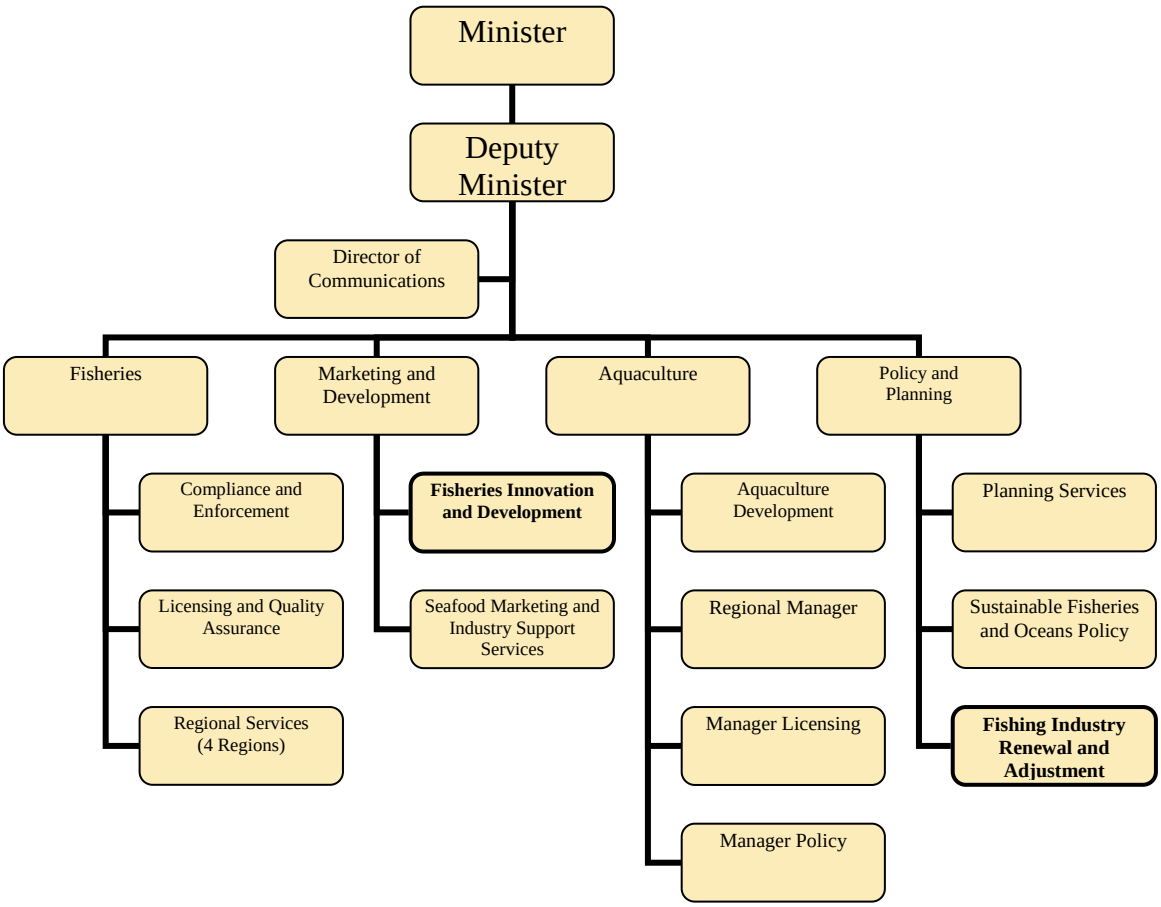


The Department has four branches: Marketing and Development, Fisheries, Aquaculture, and Policy and Planning. The Fisheries Technology and New Opportunities Program (FTNOP) was established in 2007.

The Fishing Industry Renewal and Adjustment Division under the Policy and Planning Branch is responsible for the evaluation and audit of the FTNOP; however, the Fisheries Innovation and Development Division under the Marketing and Development Branch, is responsible for the delivery of the FTNOP. Figure 2 shows the organization chart for the Department.

Figure 2

Department of Fisheries and Aquaculture
Organizational Chart



Source: Department of Fisheries and Aquaculture

Budget

FTNOP is one of the Provincial initiatives announced under the Canada-Newfoundland and Labrador Fishing Industry Renewal Strategy. Under this strategy, Government committed $6 million for the FTNOP over a three year period. Figure 3 shows the FTNOP information for fiscal years 2008, 2009 and 2010.

Figure 3

Fisheries Technology and New Opportunities Program Information
Fiscal Years 2008, 2009 and 2010
($ millions)

	2008	2009	(Note 1) 2010
Program Budget	$2.00	$1.96	$1.96
Funding Approved	$0.0	$2.60	$1.39
Projects Approved	0	63	25

Note 1: Funding and projects approved for fiscal year 2010 is as at 1 October 2009
Source: Department of Fisheries and Aquaculture

Program description

The primary objective of the FTNOP is to provide support for harvesting, processing, and marketing initiatives to diversify and increase the overall viability of the Provincial seafood industry. Its focus is research and development work in the harvesting and processing sectors with emphasis on:

- more efficient use of traditional species;
- better use of underutilized species;
- enhanced value-realization of all fisheries resources;
- recovery of raw material wastage and reduced discard of by-products; and
- market research, development and promotion in support of these initiatives.

Projects may be initiated by the Department, non-profit institutions or associations, community groups or industry. The maximum contribution for any one project is as follows:

- Projects initiated by the Department may be funded up to 100% of eligible expenses to a maximum of $100,000;
- Projects initiated by non-profit groups may be funded up to 100% of eligible expenses to a maximum of $100,000; however, these groups should demonstrate commitment to projects by funding from participating partners or in kind contributions. Funding is not intended to replace existing administrative or overhead expenditures of the applicant; or

- Projects initiated by industry may be funded up to a maximum of 60% of eligible expenses to a maximum of $100,000, with the level of funding depending on the level of risk, the potential for industry application and the nature of the contribution.

Department officials indicated that priority is placed on opportunity identification and quantification, as well as the development of innovative methodologies to improve final product quality. Figure 4 provides details on eligibility requirements, evaluation criteria, eligible activities and ineligible activities for the FTNOP.

Figure 4

Fisheries Technology and New Opportunities Program
Program Requirements

Criteria	Description	
Eligibility requirements	• licensed Newfoundland and Labrador fishers • licensed fish processing establishments • research and development institutions • fisheries organizations • community groups • development associations • corporate entities involved in harvesting, processing or marketing of fish products in Newfoundland and Labrador	• research and development enterprises • consultants • engineering companies • naval architects • fishing vessel designers and fabricators • enterprises involved in harvesting technology • enterprises involved in processing machinery fabrication and design
Evaluation criteria	• eligibility • contribution to program objectives • technical feasibility • project viability • proponents contribution • economic impact • level of risk • relative merit and program balance	• incremental to fishing industry • sustainability • competitive impacts • commercial potential • industry trends and markets • regulatory impact and compliance with policy guidelines, government regulations and management plans • cost
Eligible activities	• recovery of discards • alternate harvesting and processing technology • pilot projects • test fisheries • resource surveys	• gear demonstrations • product development • market research, development, and promotion • quality assurance initiatives • initiatives to improve safety
Ineligible activities	• working capital • commonly used or traditional fish harvesting gear • commonly used or traditional processing technology	• traditional aquaculture activities defined as the culture of commercial species such as salmon, steelhead trout, mussels and scallops

Criteria	Description	
	• normal maintenance expenditures and repairs • renovation or replacement expenditures • construction of buildings and related works • projects by applicants or related entities that are in default of debts to Government of Newfoundland and Labrador	• new technology which may increase plant capacity • projects directed at increasing primary harvesting capacity • site improvements • purchase of normal operating equipment such as forklifts, pallets and wharf boxes • undertakings more suitable for funding elsewhere • debt refinancing • combining of enterprises

Source: Department of Fisheries and Aquaculture

Audit Objectives and Scope

Audit objectives

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

- assessed and approved project applications in accordance with FTNOP criteria;
- made payments only when supported by required documentation and properly approved; and
- monitored approved projects to determine if funds were spent as intended and program objectives were achieved.

Audit scope

Our review was completed in November 2009. It included an examination of projects approved under the FTNOP from its inception in October 2007 to 31 March 2009 and funds disbursed to October 2009 for these projects. Our review included an examination of policies and procedures, committee minutes, interviews with staff, and a sample of project files.

Sample selected

As at 31 March 2009, the FTNOP had received 113 requests for funding. Our sample included an examination of 45 projects, 40 of which were approved for funding totalling $2.23 million and 5 of which were rejected.

Detailed Observations

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

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

1. Approval and Assessment

Application process

Requests for funding under FTNOP are made by completing and submitting an application to the Department along with attachments such as the project proposal, detailed costs, terms of reference and consultancy proposals.

Information in the application should include:

- applicant information;
- type of operation (harvesting, processing, marketing, other);
- description and location of project;
- employment levels expected from the project;
- applicant references (financial, accountant, consultant);
- summary and financing of project costs;
- arrears with any government agency;
- funding received for other projects;
- a signed declaration by the applicant indicating:
    - the information is complete, true, and correct;
    - financial assistance from FTNOP is a significant factor in proceeding with the project;

- authorization for the Department to make enquiries of outside entities in order to reach a decision;
- failure to provide information requested will result in rejection; and
- the applicant is not in default of debt to the Government of Newfoundland and Labrador.

The applications are directed to the Program Coordinator, who assigns a file number, sends an acknowledgement letter to the applicant, and forwards the application to the Director of Fisheries Innovation and Development, along with any comments for general eligibility.

Assessment and approval process

The Director of Fisheries Innovation and Development will review the application for eligibility, and if deemed ineligible before assessment, will send a letter of ineligibility to the applicant. If the Director deems the project eligible for assessment, they will assign a Project Officer and the Program Coordinator will forward the file to the Project Officer.

The Project Officer will complete an assessment of the project in consultation with the appropriate Fisheries Supervisor and complete a Project Summary and Approval Form (PSAF). The PSAF must be completed for all eligible applications. The Project Officer will recommend accepting or rejecting the application for funding and provide key considerations that support the recommendation. The Project Officer forwards the PSAF to the Fisheries Supervisor who will incorporate any comments deemed necessary and then forward the PSAF and applicable documents to the Director for review and signature. The PSAF will then be forwarded to the Program Coordinator who will add the project to the agenda for discussion at the next meeting of the Management Committee.

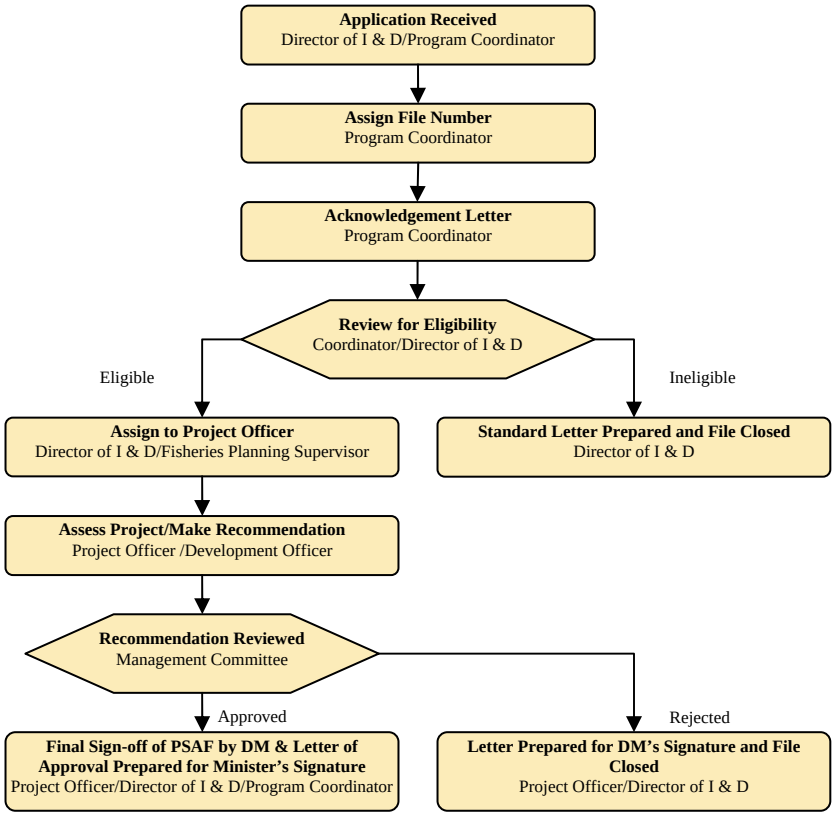
The Management Committee normally consists of 7 members - the Chair, the Director of Fisheries Innovation and Development, the Director of Planning, the Director of Fishing Industry Renewal and Adjustment, the Director of Marketing and Support Services, a Regional Director (rotated on a 6-month basis) and a Fisheries Development Officer (rotated on a 6-month basis). The Committee oversees the project approval process and makes recommendations to the Minister for approval.

All projects are recommended as approved or rejected by the Committee; however, the Minister has final approval. If a project is approved, a Letter of Approval is prepared and signed by the Minister. If the project is rejected, a letter of rejection is prepared and signed by the Deputy Minister. All signatures (the Project Officer, the Fisheries Supervisor, the Director of Fisheries Innovation and Development, Committee Chair and the Deputy Minister) are required on the PSAF whether a project is accepted or rejected. The project assessment and approval process should not take more than 45 calendar days.

Figure 5 provides a flowchart of the application assessment and approval process.

Figure 5

Fisheries Technology and New Opportunities Program
Application Assessment and Approval process



Source: Department of Fisheries and Aquaculture

Our review of 40 approved projects and 5 rejected projects for the 113 requests for funding identified the following issues:

Applications not submitted or incomplete

- 10 projects totalling $444,248 – the required application was not on file to provide the required information necessary for a proper assessment and to support either the approval or rejection of the project. These projects were approved based on proposals; however, the proposals did not contain all the information and declarations as required in the application.

  Furthermore, 7 of the 10 projects totalling $287,894 did not have the standard acknowledgement letter prepared stating the date that a funding request was made.

- 8 projects totalling $400,542 – the application on file was incomplete. For 2 of these projects, only the signed declaration on the last page of the application was on file. For 6 applications either some questions on the application were left blank such as whether other government assistance was expected for the project, whether the applicant was in arrears with any government agency, whether any funding was received for projects not yet completed, or references were not provided. Without a complete application on file, it is questionable how a proper assessment could be performed to support either the approval or rejection of the project.

Ineligible costs approved for funding

- 10 projects totalling $416,607 – funding for overhead costs totalling $68,416 was approved even though these expenditures were not considered an eligible FTNOP cost as there was no evidence on file to support that the overhead was directly a result of the project. Existing overhead is not an eligible cost.

  The FTNOP Policy and Procedures Manual indicates that eligible project costs are incremental capital or operating costs, determined in accordance with accepted accounting principles, linked directly to a project and without which the project could not proceed. Program funding is not to replace existing administrative and overhead expenditures of the applicant.

Funding in excess of maximum limits

- 3 industry-related projects totalling $78,280 – funding was approved in excess of the FTNOP limits. The FTNOP has a limit of 60% funding capped at $100,000 for industry-related projects; however, in these cases, the total maximum funding should have been $38,759 while $49,030 was paid, representing 76% funding. Figure 6 shows the details of the excess funding.

Figure 6

Fisheries Technology and New Opportunities Program
Excess Funding

	Budgeted Eligible Costs	Approved Funding	% Approved	Actual Eligible Costs	Amount Paid	% Funded	60% of Eligible Costs
Proponent 1	$ 30,800	$21,500	70%	$ 7,711	$ 7,377	96%	$ 4,627
Proponent 2	27,000	21,780	81%	6,786	6,653	98%	4,072
Proponent 3	104,100	35,000	34%	50,100	35,000	70%	30,060
Total	**$161,900**	**$78,280**		**$64,597**	**$49,030**	**76%**	**$38,759**

Source: FTNOP project files

For Proponent 1 and 2, funding in excess of 60% was approved at the approval stage. For Proponent 3, total budgeted costs of $104,100 included indirect costs for lost productivity of $54,000. Funding was approved for $35,000 or 34% of total budgeted costs. However, in our opinion, the indirect cost of lost productivity is not an eligible cost as the costs are not linked directly to a project. As such, the total project eligible costs were $50,100, and the Department funded the project at 70% ($35,000) which exceeds the normal 60% limit ($30,060).

PSAF incomplete

- 36 projects totalling $2.17 million - PSAFs on file were incomplete as follows:
  - 22 projects totalling $1.11 million with 22 PSAFs - there was no information to specify the eligible costs of the project;
  - 15 projects totalling $963,105 with 16 PSAFs - there was no evidence on the PSAF that comments from the Department of Fisheries and Aquaculture, the Department of Fisheries and Oceans and other agencies were obtained as required;

- 11 projects totalling $772,537 with 11 PSAFs - there was no evidence on the PSAF that comments from the Department of Fisheries and Oceans were obtained as required;
- 12 projects totalling $879,375 with 12 PSAFs - there was no evidence on the PSAF that comments from other agencies were obtained as required; and
- 2 projects totalling $104,926 with 2 PSAFs - the required signatures to document the approval were not on file.

No supplier quotations

- 16 projects totalling $808,518 – the required supplier quotations, to support the estimated costs of the project, were not provided with the application.

Approval process in excess of suggested 45 days

- 24 projects totalling $1.55 million – these projects were not approved within the 45 days as outlined in the policy. The delay in processing these 25 projects ranged from 1 day to 108 days in excess of the 45 days. In addition, one application received on 3 December 2008 still had no official letter of rejection as of October 2009 (processing time will be at least 306 days). Staff indicated that this applicant had been informed verbally of the rejection.

Projects not approved in minutes

- The minutes of the Management Committee meetings did not always document the decisions of the Committee relating to projects. Our review identified 7 projects totalling $355,709 where there was no evidence in the minutes that the projects were recommended for approval by the Committee. Furthermore, meeting #2 was scheduled for 30 April 2008; however, no minutes or other documentation could be found to determine whether the meeting was held.

Recommendations

The Department should ensure applications are assessed and approved in accordance with the FTNOP Policy and Procedures Manual by ensuring:

- applications are complete and supported;
- approvals are documented by the Committee;
- approvals are within contribution limits;
- PSAFs are completed as required for all projects: and
- applications are assessed and approved within the prescribed 45 days.

2. Payments

Overview

Project payments are disbursed in accordance with signed contracts with claims based upon eligible costs from the date the application is received and noted in the acknowledgement letter. FTNOP also has provisions for advance payments, progress payments, and final payments as follows:

- Advance payments may be made and should not exceed 75% of the total approved amount. Except where there is specific permission to the contrary, the proponent must demonstrate that the advance was applied exclusively to the payment of eligible costs within 6 months after the date of disbursement.
- Progress payments may be made to the proponent based on claims for eligible costs which have been incurred.
- Final payments are project holdbacks that represent 10% of the approved amount. This payment is made based on a claim and a comprehensive written report.

The proponent is required to keep copies of invoices and proof of payment for all claimed costs for the examination or audit for 36 months following the completion of the project. The Minister or delegate may refuse to pay any installment if the proponent fails to carry out the project in accordance with the contract or to his/her satisfaction.

Payments Process

Once a project is approved, a contract is prepared by the Project Officer and forwarded to the Director of Fisheries Innovation and Development. The Director will review the contract and forward it to the Program Coordinator who will ensure all policies and procedures are adhered to and will coordinate the signatures of the proponent and Deputy Minister or delegate. The Program Coordinator will forward signed copies of the contracts to the responsible Project Officer, the proponent, and to the proponent's file.

The Project Officer will review invoices submitted by the proponent to ensure compliance with the terms and conditions of the contract. Invoices will be signed as verified by the Project Officer and submitted to the Program Coordinator, along with a covering memo that clearly indicates:

- the total amount of the invoice;
- the amount eligible for payment in accordance with the contract; and
- the amount of HST included, if applicable.

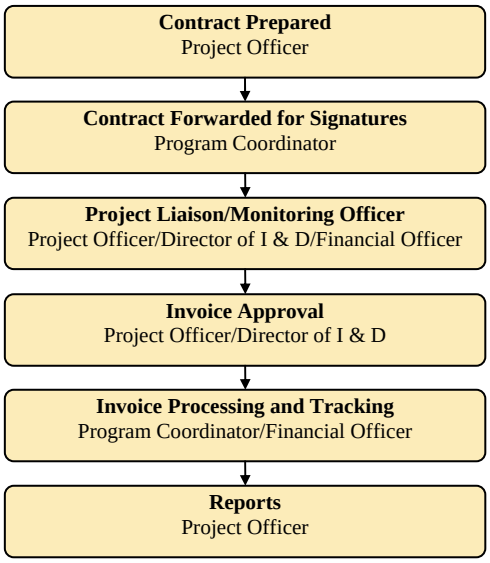
When the memo and the invoices are received by the Program Coordinator, the invoices will again be reviewed for accuracy to ensure adherence to the contract. Once reviewed, the Program Coordinator will have the invoices certified as payable by the Director of Fisheries Innovation and Development. The invoices will be submitted to financial staff along with a copy of the signed contract and covering memo from the Project Officer for payment. The Program Coordinator will indicate the financial tracking code and the account centre on the payment request to financial staff.

The proponent is required to submit a comprehensive written report detailing the progress and the results of the project normally within 30 days of project completion date, and after all eligible costs have been incurred. Once reviewed, a final payment is made.

Figure 7 provides a flowchart of the payments process.

Figure 7

Fisheries Technology and New Opportunities Program Payments Process



Our review identified issues in the following areas:

A. Non-compliance with policies and procedures
B. Errors in payments
C. Payments not in accordance with contracts
D. Inconsistent funding methods

2A. Non-compliance with Policies and Procedures

A policies and procedures manual was completed in October 2008. Our review for compliance with these policies and procedures indicated the following issues with payment processing:

Contract date before application received

- 3 projects with payments totalling $134,314 – the effective date of the contract was dated before the application was received. The differences were 57 days, 14 days and 2 days. FTNOP policy states that eligible costs will be calculated from the date the application is received as noted in the acknowledgement letter. Furthermore, the Department would not provide funding for any costs incurred prior to the date of the application. For 2 of the 3 projects it could not be determined whether funding was actually provided for dates prior to the application date since there were no invoices on file to support the payments. The other project had no payments processed up to the time of our review.

Advance payments not used within 6 months

- 6 projects with payments totalling $249,476 – there were no supplier invoices on file to support that advance payments totalling $212,122 were used within the required six month timeframe.

  For example, one advance payment for $46,814 was made on 2 July 2008 and was to be used as a down payment on equipment. There was no evidence on file that the amount funded was actually paid to the supplier for the equipment. In fact, this equipment was still located at the manufacturers plant for modifications at the time of our enquiry in November 2009 and had yet to be installed at the proponent's plant, approximately 16 months after the advance payment was made.

No invoices on file

- 16 projects with payments totalling $662,232 – there were no supplier invoices on file to support actual costs incurred totalling $511,794. As a result, it was not possible to verify whether the costs were accurate, actually incurred or if they were incurred after the application date. In particular:

  - 10 projects with payments totalling $333,779 had an invoice submitted by the proponent; however, the invoice was based on a budget amount submitted with the application/proposal. For these 10 projects, no supplier invoices of actual costs were submitted and the total actual cost of the project was not known. Therefore, it is not known if funding may have been provided in excess of actual cost. For 1 project with funding of $18,350, a revised proposal on file showed an estimated cost of $17,826; however, $18,350 was funded based on the original proposal;

- 2 projects with funding to date totalling $80,951 had some supplier invoices and a summary of actual costs on file; however, there were no supplier invoices to verify actual costs for $13,495 in expenditures;

- 1 project had no supplier invoices for actual costs on file; however, there was a financial report that showed the actual costs of the project were $81,042. However, $82,715 was still funded by the FTNOP, $1,673 more than the actual cost;

- 1 project with funding totalling $45,000 had an invoice from the proponent based on the budgeted amount submitted with the application/proposal. A statement of cost was on file but the actual cost for the amount funded by FTNOP could not be determined as there were no supplier invoices to accompany the statement;

- 1 project with funding totalling $84,787 had invoices for the actual cost for some expenses; however, $1,805 was based on a budget amount, and therefore, it is not known if funding was provided in excess of actual cost for this item; and

- 1 project with funding totalling $35,000 had a summary of costs on file; however, there were no supplier invoices to verify that the costs were incurred or incurred after the application date.

Invoice and payment memos not adequately verified

- For each payment, a project officer has to sign the applicant invoices as being verified and prepare a memo to indicate the total amount of the applicant invoice, the amount eligible for payment and the amount of HST included in the amount. The memo and supporting invoices must be submitted to the Program Coordinator who will indicate the financial tracking code and the account centre on the documentation. Our review identified the following issues:

  - 26 projects with payments totalling $1.20 million - supplier invoices to support actual costs incurred were not always signed by the Project Officer to evidence that they were eligible costs;

  - 4 projects with payments totalling $201,884 - the required payment memos were not always prepared; and

- 30 projects with payments totalling $1.29 million - the required payment memos were prepared but incomplete. Instances were identified where either the eligible amount, the HST, or the codes were not included on the memo.

2B. Errors in Payments

Our review of 36 files with payments identified 10 errors totalling $44,747 in 7 projects as follows:

Overpayment of $26,629

- $26,629 related to payments for an industry-related project, in excess of the 60% of eligible costs capped at $100,000. Although maximum funding should have been 60% of $122,285 or $73,371, the actual funding was $100,000, approximately 82% of eligible costs for the project.

Ineligible costs of $7,518 funded

- $7,518 related to payments for a project for management and support costs that were not an eligible expense. The PSAF approved by the Management Committee included $7,400 in management and support costs that were to be funded directly by the proponent because the costs were not considered an eligible expense. However, the proponent submitted an invoice with $7,232 in support costs and these were funded by the FTNOP.

  In addition, the minutes of the Management Committee meeting stated that any mandatory employment deductions such as worker's compensation were to be included in vessel lease costs and not itemized as separate costs. However, the invoice submitted by the proponent included $286 for worker's compensation, in addition to the lease vessel costs, and this amount was funded by the FTNOP.

Ineligible cost of $1,805 funded

- $1,805 related to payments for a project for office supplies and communications that were not an eligible expense. Our review indicated that the $1,805 was paid to the proponent even though this expense was deemed ineligible as it would already be in place with or without the project.

HST funded

- $8,795 related to payments for HST on 6 projects (2 previous and 4 additional projects) which would not normally be funded. Furthermore, $3,179 of this amount was funded to an organization for HST on salaries; however, there is no HST charged on salaries. In 11 other projects there was insufficient documentation on file to determine whether HST was funded. Since most organizations qualify for a rebate or an input tax credit of the HST amount, the amount is recoverable; therefore, this amount should not have been paid by the Department.

2C. Payments Not in Accordance with Contract

Once a project has been approved a contract is signed detailing effective dates, project deliverables, project funding, and payment term. Our review of 40 approved projects identified payments being made that were not in compliance with the conditions of the contract as follows:

Final payment made prior to receipt of final report

- 2 projects – final payments totalling $34,637 were made prior to the receipt of the final report as follows:
  - For 1 project, a final payment of $18,262 was made on 31 March 2009; however, the final report was not received until July 2009. Although an interim report was received 9 April 2009, this did not constitute a final report as stipulated in the contract.
  - For 1 project, a final payment of $16,375 was made on 5 October 2009. Although a report was submitted before this payment, it only covered testing for 1 of the 3 species planned in the proposal. A supplement to this report was to be submitted later in 2009 for the 2 other species; therefore, payment was made before submission of a final report.

Final payment made prior to site visit

- 1 project – a final payment totalling $1,908 was made on 16 July 2008 prior to a site visit. The contract indicated 50% would be paid upon delivery and 50% would be paid following an onsite inspection. The site visit report indicated the inspection of the equipment took place on 30 July 2008, 14 days after the payment was made.

10% holdback not applied to payment

- 1 project – the 10% holdback of $105 was not withheld from the payment as required. The contract stated that a 10% holdback would apply to all payments until the final report was received; however, no holdback was applied for the payment of $1,051 on 20 June 2008. Therefore, the payment was not in accordance with the contract.

2D. Inconsistent Funding Methods

Inconsistent funding methods used

For 1 project, funding was approved in the amount of $100,000 based on budgeted total eligible costs of $202,465. However, the proponent was only funded $95,631 even though the total actual eligible projects costs were $206,844. This occurred because the project costs were broken down by component and funding percentages were applied to each component. By using this funding method, the proponent was under-funded by $4,369. Of the 40 approved projects reviewed this was the only project that was paid out in this manner. Department officials indicated that it was thought this would be the best way to manage the components of the project.

Recommendations

The Department should:

- comply with its policies and procedures in making payments for approved projects;
- establish procedures to detect and correct errors in payments;
- ensure payments are made in accordance with the terms of the signed contracts;
- obtain supporting documentation to support all costs funded;
- ensure projects are not funded in excess of actual costs and funding limits; and
- establish procedures to ensure funding methods are consistent among approved projects.

3. Program Monitoring and Assessment

Overview

The Department has a FTNOP Policy and Procedures Manual that provides for the monitoring and assessment of the FTNOP. In addition, the Department maintains a database - a Project Management System, which records general and financial information on each project such as the file number, project officer, applicant name and address, region, applicant type, project description, species, project type, project cost, approved amount, amount paid, balance remaining and the status of file. Our review identified issues in the following areas:

A. Monitoring of Projects
B. Monitoring of Program Costs and Objectives

3A. Monitoring of Projects

Introduction

The FTNOP Policy and Procedures Manual requires that audits and reviews are to be performed by a Financial Officer on an ongoing basis. Audits are to be conducted to ensure compliance with applicable legislation and Government policies and procedures. Reviews are to be conducted to determine if adequate documentation to support the project was examined and appropriate field inspections were performed by Project Officers. In addition, reviews of Final Reports, which are prepared by proponents after a project has been completed, are to be performed. Our review identified the following issues:

Projects audits not conducted

- 40 projects totalling $2.23 million – the required audit and review process was not conducted for any project. This process is intended to determine whether there was compliance with policies and procedures and to determine whether adequate documentation was available to support payments. Discussions with Department officials indicated that audits have not been conducted on any FTNOP projects since the FTNOP was introduced in October 2007.

Site visits not always conducted

- If applicable, site visits are required to be completed as part of the Department's monitoring process. After each site visit, the project officer should prepare a report which sets out the general conditions of the project, both physical and financial, and states their opinion of the overall project at the time of the visit. Our review identified the following issues:
  - 11 projects totalling $434,585 that required a site visit did not have site visits completed.
  - During a site visit, the project officer is to report on the financial condition of the project; however, the site visit report does not provide a section for the reporting of this information.

Terms of Reference not established for Final Reports

- 40 projects totalling $2.23 million – the Department did not provide a Terms of Reference for a Final Report to any proponent. As a result, it is likely that final reports from proponents will not be comparable or include all information necessary for the Department to determine whether the project was completed in accordance with the approved project's objectives and costs. The Terms of Reference would assist the proponent in preparing the required Final Report and provide assistance with reporting the project's description, project's objectives, methodology, project's impact/outcomes, project's expenditures, and potential use for the industry.

Delays in the submission of the final report

- 10 projects with payments totalling $459,093 – a written comprehensive final report was not submitted within 30 days of the project completion date as required. The longest delay was 223 days from the time the project was complete to the submission of the final report. In addition, 1 project had only a verbal final report during a debriefing with the project officer. Furthermore, for 5 projects totalling $246,579 we could not determine if the report was submitted within 30 days as there was no information in the file to determine the date the project was completed.

Actual project not in accordance with approved project

- 7 projects totalling $405,719 – these projects were not completed by the proponent as outlined in their original submission. If projects are not completed in accordance with the approved projects, it is difficult for the Department to determine if the project's objectives were met or if actual project costs (and ultimately funding amounts) were in line with approved amounts. Specifically:

- One project was approved for $64,260 in 2 phases (phase 1 sample production of 10,000 lbs of raw material - $17,190 and phase 2 larger-scale production of 150,000 lbs of raw material- $47,070.) Phase 2 was not to proceed until Phase 1 was completed, and an interim report was received showing the viability of the sample production phase. The Department received a verbal report from the proponent that due to poor fish landings and quality control issues, both phases were conducted in a modified and scaled-down manner and the proponent received $21,540 for the production of 24,000 lbs. If the project was conducted as approved the total payment should not have exceeded $17,190 - the phase 1 funding.

- One project was approved for $100,000 for the purchase and use of equipment on 3 species of fish. However, the Final Report identified that tests and results were based on 1 species of fish; that only preliminary trials were done on the other two species; that further testing would be done in the coming season; and a that separate report would be provided.

- One project (3 combined projects) was approved and paid $119,642 for a resource assessment of a fish species in certain fishing zones. Our review of the Final Report identified a number of areas where the actual project was different from the approved project, including 20 sites done instead of 30 sites, 4 days of data collection instead of 6 days and 34 days for surveying instead of 50 days in one zone; and 5 days of data collection instead of 8 days and 8 survey days instead of 50 days in the other zone. In addition, there was no evidence of a required power point presentation, incorporation of other exploratory fisheries, and feasibility of assessment of transmitter implants.

- One project was approved and paid $99,031 for a review of energy efficiencies in the harvesting sector. A review of the Final Report identified a number of deliverables that were not reported including a cost-benefit analysis of using a trawl monitoring package, a report on regional meetings and telephone surveys conducted, a summary report on workshops held, and whether a follow up was done on whether the goal of a 20% energy reduction was reached.

- One project was approved at $22,786 and paid $22,622 for the analysis of the effects of a later season start and depth ranges on the amount of by-catch fish. Our review of the Final Report identified a number of inconsistent data collection and analysis techniques from the proposed projects. Specifically, the project was to begin in early August but the test fishery was performed from 13 September to 13 October. Furthermore, log sheets used to record fish landings did not record specific depths for each of the vessels' three fleet depths, instead an average depth per test trip was used. In addition, by-catches were recorded for both commercial and under-sized species, whereas allowable limits were based upon commercial size fish only.

3B. Monitoring of Program Costs and Objectives

Introduction

Our review of the Department's monitoring identified the following issues with the monitoring and assessment of the FTNOP's costs and objectives:

Financial database not reconciled to FMS

- The FTNOP's Program Coordinator is responsible for maintaining the Project Management System database. In addition to capturing general project information, the database tracks payments made for each approved project and records the payment date, payment amount and payee.

  Our review of the Department's monitoring of program costs indicated that the amount paid in the Project Management System was not reconciled to the Province's financial management system (FMS). As at 31 March 2009 the Project Management System recorded $1,748,921 in payments; however, the FMS recorded FTNOP expenses of $1,765,360, a difference of $16,439. Our review identified that some of the difference was due to FTNOP expenses not being posted to the correct FMS account and FTNOP expenses not being reported in the database.

  Without reconciling the database to FMS on a regular basis, the Department cannot determine if the database and FMS are complete and accurate.

Program Annual Report not prepared

- The FTNOP's Policy and Procedures Manual requires an Annual Report to be completed at the end of each year that evaluates the program; however, our review identified that an Annual Report was not prepared for the 2008-09 fiscal year.

Department officials indicated that a Fact Sheet is prepared monthly that provides a status of the FTNOP's activities. The Fact Sheet provides information on the number of applications received, total project costs, status of applications, number of projects approved, and amount of project funding approved, and specific project highlights. While this information provides actual program information it does not provide an evaluation of the program.

Performance indicators and targets not established

- The primary objective of the FTNOP is to provide support for harvesting, processing, and marketing initiatives in order to diversify these activities and increase the overall viability of the Newfoundland and Labrador seafood industry. More specifically, the Department's 2008-09 budget notes state that the overall goal of the FTNOP is to increase the number of species harvested and the value of landings. However, the Department has not established performance indicators or measurable targets to adequately measure the FTNOP's success.

Variances not reported or assessed

- The Department has established annual funding targets for the FTNOP's $2.4 million annual funding; however it has not determined if and how the variances in approved funding levels will impact the outcome of the program. Figure 8 shows FTNOP's funding targets and actual results by component.

Figure 8

Fisheries Technology and New Opportunities Program
Funding Targets and Actual

Component	2009 Target	Target %	2009 Actual Approval	Actual %
Resource Assessment	$300,000	12.5%	Note 1	Note 1
Harvesting	$800,000	33.3%	$834,000	33.7%
Processing	$800,000	33.3%	$1,300,000	52.6%
Product/Market Development	$500,000	20.9%	$340,000	13.7%
Total	**$2,400,000**	**100.0%**	**$2,474,000**	**100%**

Note 1: No actual amount allocated to Resource Assessment
Source: FTNOP policies and procedures, and fact sheets.

Evaluation Framework not established

- The FTNOP's Policy and Procedures Manual states that the Department was to prepare an Evaluation Framework for the program; however, the Evaluation Framework had not been completed as at October 2009. Discussions with Department officials indicated that a Committee has been established and it is expected that the Evaluation Framework will be completed by the end of the 2010 fiscal year.

Recommendations

The Department should:

- ensure the FTNOP is monitored in accordance with its Policy and Procedures Manual;
- review and document the reasons for any variances between proposed activities and actual activities;
- develop performance indicators and compare actual results to these indicators; and
- reconcile the Province's FMS to the Project Management System.

Department's Response

We have taken measures, where necessary, to address the administrative issues raised in your review. This will ensure that the program continues to meet its objectives, and assist the province's fishing industry.

As you know, our staff held in-depth consultations with your staff during the review process as we responded to the many questions raised. However, the final report condenses files into general categories, making redress to specific file matters challenging. Nevertheless, responses to the various items identified in the audit report follow.

As background information, the FTNOP was announced in 2007 as part of the provincial component of the Canada/Newfoundland and Labrador Fishing Industry Renewal Strategy. The total commitment to the program was $6 million in new funding over a three-year period. This is in addition to the Department's $700,000 annual base budget for industry development and marketing initiatives.

The primary objective of the FTNOP is to provide support for harvesting, processing and marketing initiatives in order to diversify and increase the viability and global competitiveness of the Newfoundland and Labrador seafood industry. The focus of the program is applied research and development work on activities such as more efficient utilization of traditional species and better use of underutilized species. Emphasis is also placed on recovery of raw material wastage and reduced discarding of fish by-products, as well as research on ways to reduce operating costs. Investments in measures to enhance environmental sustainability, resource surveys, new technology, and market research are also supported under the program.

The FTNOP has been immensely successful in meeting its objectives. We have had strong industry participation and support for the program. To date, there have been 162 applications received, 95 of which have been approved, with a commitment of over $4.4 million from this Department. This investment has leveraged an additional $7.4 million from the fishing industry and from other partners, including Memorial University of Newfoundland (MUN), the Marine Institute, the National Research Council Canada, the Atlantic Canada Opportunities Agency and the Department of Fisheries and Oceans. To date, the FTNOP has helped generate a total of $11.8 million for fishing industry research and development.

Under the FTNOP, the Department has supported industry efforts to maximize production value and sustainability through activities directed at research priorities, including: energy efficiency, safety, product development, improved quality, alternative harvesting and processing technology, resource surveys, sustainable fishing gear and market research.

I wish to note two specific areas of interest - occupational health and safety and energy efficiency. Safety is an important priority for the Department of Fisheries and Aquaculture (DFA) and the fishing industry. To help promote safety, the Department has contributed approximately $115,000 to initiatives such as safety seminars, an education program for stability management, and a safety video for harvesters. These projects will reinforce a safety culture within the fish harvesting sector, with the goal of minimizing the number of fatalities and injuries. Energy efficiency is also a priority. To address this need, our Department has contributed approximately $426,000 to help reduce energy costs and the carbon footprint of the industry.

The Department continues to promote the FTNOP to all sectors of the Province's fishing industry. Through the program, we will continue to build partnerships with the private sector, the Government of Canada, as well as organizations such as the Marine Institute and the Canadian Centre for Fisheries Innovation (CCFI).

We are addressing the recommendations you made regarding administrative issues. We will also be conducting a thorough review of the FTNOP Policy and Procedures Manual to ensure compliance with the items in your report in a timely fashion. We have also completed the program's evaluation framework and will be implementing it in the near future.

I am pleased to respond to each of the Auditor General's main conclusions and recommendations.

AG Conclusions - Section 1: Approval and Assessment Procedures:

AG Comment: *The approval and assessment process is required in order to ensure that only eligible activities relating to the primary objectives of the FTNOP are funded. We reviewed 40 approved projects and found a number of weaknesses in the approval and assessment process as follows: 10 projects totaling $444,248 – the required application was not on file to provide the required information necessary for a proper assessment and to support either the approval or rejection of the project. AG Comment: 8 projects totaling $400,542 – the application on file was incomplete. For two of these projects, only the signed declaration on the last page of the application was on file. Without a complete application on file, it is questionable how a proper assessment could be performed to support either the approval or rejection of the project.*

DFA Response: As part of our due diligence process, FTNOP projects are never approved simply based on an application form alone. All files are supported by a detailed proposal, which must be included in the application process. The proposals would always contain more information than would be captured in an application form. The assigned Project Officer then completes a detailed assessment, based on liaison with the proponent, a review of the detailed proposal, and any other information required to complete a thorough assessment of the proposal. With all FTNOP projects, detailed project proposals are on file and were evaluated prior to funding consideration.

AG Comment: *10 projects totaling $416,607 – funding for overhead costs totaling $68,416 was approved even though these expenditures were not considered an eligible FTNOP cost, as there was no evidence on file to support that the overhead was directly a result of the project. Existing overhead is not an eligible cost.*

DFA Response: The program does not consider overhead expenses by private firms and individual applicants as eligible project expenses. However, the program allows for reasonable overhead charges for public institutions such as MUN, CCFI, and for industry not-for-profit groups such as the Fish, Food and Allied Workers Union. This only applies to project specific overhead costs. While this policy has been consistently applied, it is recognized that this policy is not adequately reflected in the FTNOP Policy and Procedures Manual. We will revise the manual accordingly.

AG Comment: *3 industry-related projects totaling $78,280 in approved funding – funding was approved in excess of the FTNOP limits. The FTNOP has a limit of 60% funding capped at $100,000 for industry-related projects; however, in these cases, the total maximum funding should have been $38,759 while $49,030 was paid, representing 76% funding.*

DFA Response: No individual projects exceeded the maximum limit of approved funds. However, in one case, two projects were grouped together under one umbrella project (i.e., hagfish resource development). The individual projects did not exceed the funding cap. In another case, with an industry client, there were insufficient invoices on file to support the final total payment. Since FTNOP clients are required to keep all project supporting information for a five-year period, we are in the process of retrieving the supporting invoices to justify the advances made. Should there be any discrepancy between the approvals and payments made, any over-payment will be recovered from the proponent.

AG Comment: *36 projects totaling $2.17 million - Project Summary and Approval Forms (PSAF's) on file were incomplete as follows:*
22 projects totaling $1.11 million with 22 PSAF's – there was no information to specify the eligible costs of the project.

DFA Response: Eligible costs are not required to be included in the PSAF form. These costs are included in the project contract, which is prepared prior to the project start.

AG Comment: *15 projects totaling $963,105 with 16 PSAFs – there was no evidence that comments from the Department of Fisheries and Aquaculture, the Department of Fisheries and Oceans and other agencies were obtained as required. AG Comment: 11 projects totaling $772,537 with 11 PSAFs – there was no evidence that comments from the Department of Fisheries and Oceans was obtained as required. AG Comment: 12 projects totaling $879,375 with 12 PSAFs – there was no evidence that comments from other agencies were obtained as required.*

DFA Response: In response to the three preceding AG Comments, it is noted in the Policy and Procedures Manual that comments are sought from other departments and agencies where applicable. Not all projects require comment from other agencies. It is very much dependent on the nature of the project; as an example, projects that deal with issues of resource (e.g., fish stock availability) would usually warrant a DFO comment. By comparison, processing-related projects, as an area of provincial jurisdiction and expertise, would not usually require a DFO comment.

AG Comment: *2 projects totaling $104,926 with two PSAFs – the required signatures to document the approval were not on file.*

DFA Response: In the two files noted, the PSAF was signed by the Deputy Minister, and a proper project assessment was completed. In addition, as per section 6.4 of the Policy and Procedures Manual, the letter of approval was signed by the Minister.

AG Comment: *16 projects totaling $808,518 – the required supplier quotations, to support the estimated costs of the project, were not provided with the application.*

DFA Response: In some cases, specialized equipment costs may be estimated, and we may only be able to source 'general' quotations. Often, equipment selection and cost is finalized after the input and technical assistance of DFA staff and/or other experts. The final contract stipulates specific equipment costs and ensures the equipment will meet the project requirements.

AG Comment: *24 projects totaling $1.55 million – these projects were not approved within the 45 days as outlined in the policy. The delay in processing these 24 projects ranged from 1 day to 108 days in excess of the 45 days.*

DFA Response: As contained in the Policy and Procedures Manual (section 6.1), the 45-day time frame is a guideline only. As part of our due diligence process, assessments can take longer depending on the project; more specifically, the degree of complexity of the project. It can also be influenced by the timing of information provided by the applicant. To help clarify this policy, we intend to amend the Manual to specify that timing is based on the receipt of all required information. I note that the Department has never had a complaint about a delay in the project assessment and approval process.

AG Comment: *The minutes of the Management Committee meetings did not always document the decisions of the Committee relating to projects. We found 7 projects totaling $355,709 where there was no evidence in the minutes that the projects were approved.*

DFA Response: In the first few months of the FTNOP, the Policy and Procedures Manual was being developed, and a formal FTNOP Management Committee structure was not in place. However, all projects approved prior to and following the formation of the Management Committee have the necessary documentation in place. This includes the PSAF and the Minister's letter of approval, which is required for all projects.

AG Conclusions - Section 2: Payments

AG Comment: *Adequate documentation and support for eligible project costs are required in order to ensure that payments are made in accordance with policies and procedures. Our review indicated that the required documentation to support payments was not always on file as follows:*
6 projects with payments totaling $249,476 – there were no supplier invoices on file to support that advance payments totaling $212,122 were used within the required six-month timeframe.
16 projects with payments totaling $662,232 – there were no supplier invoices on file to support actual costs incurred totaling $511,794. 26 projects with payments totaling $1.20 million – supplier invoices to support actual costs incurred were not always signed by the Project Officer to evidence that they were eligible costs.

DFA Response: Every effort is made to collect paid invoices on advances within the six-month time frame; however, in some cases, extra time is required to reconcile these payments. For example, this can occur in projects that are complex and/or have a long duration. The only instances where we have not required supporting invoices relate to projects undertaken with provincial entities (i.e., the Marine Institute, the CCFI, and MUN). These organizations have rigorous accounting practices and records in place that support our requirements. As well, all FTNOP proponents are required, as per clauses 23 and 24 of the FTNOP contract, to keep and make available their supporting invoices for a five-year period for review by the Department. Payment request memos, which accompany invoices, are signed by the Project Officer with the correct payment amount indicated. This signed memo indicates that the Project Officer has reviewed the invoices and has ensured they are in compliance with the project contract. In addition, I note that one of the duties of the Financial Analyst for the Fishing Industry Renewal Strategy is to verify payments to ensure that they comply with the project contract.

AG Comment: *4 projects with payments totaling $201,884 – the required payment memos were not always prepared.*

DFA Response: This is a requirement as per the Policy and Procedures Manual (section 4.6), which was developed in January 2009. Prior to the implementation of the manual, payments were processed following verification by the Project Officer and the Director of Fisheries Innovation and Development.

AG Comment: *30 projects with payments totaling $1.29 million – the required payment memos were prepared but incomplete.*

DFA Response: As per the Policy and Procedures Manual, there are three requirements on a payment memo: 1. total amount of invoice; 2. amount eligible for payment; and 3. amount of HST included if applicable. However, in cases where one or more of these items was not provided on the payment request memo, the required information was evident on the invoice itself.

AG Comment: *We also identified errors totaling $44,747 in 7 projects as follows:*
$26,629 relates to payments for an industry-related project, in excess of the 60% of eligible costs capped at $100,000. Although maximum funding should have been 60% of $122,285 or $73,371, the actual funding was $100,000, $26,629 beyond the maximum allowed.

DFA Response: Following an internal review of this project by DFA, which was conducted in December 2009, we recovered additional invoices from the proponent for this project, and adjustments are being made accordingly.

AG Comment: *$7,518 relates to payments for a project for management and support costs that were not an eligible expense. $1,805 relates to payments for a project for office supplies and communications that were not an eligible expense.*

DFA Response: For each of these projects, the expense was clearly identified as being ineligible by the Project Officer. However, these costs were included as part of an invoice package and, as a result, were reimbursed in error. We are in the process of recovering this portion of these project payments.

AG Comment: *6 projects (2 above and 4 others) – HST of $8,795 was funded although this expenditure would not normally be funded. In 11 other projects there was insufficient documentation on file to determine whether HST was funded.*

DFA Response: We were advised that if HST is included on invoices, it would be paid by the Department of Finance, and would not be disbursed from the FTNOP budget. As per discussions with AG office staff, HST should not have been applied to salaries and adjustments will be made to reflect these changes. We are discussing the HST issue with our Financial Operations Division to clarify the policy and procedures on this matter.

AG Comment: *Payments were not made in compliance with the terms of the contract. For example: 2 projects - final payments totaling $34,637 were made prior to the receipt of the final report. 1 project – final payments totaling $1,908 were made prior to a site visit.*

DFA Response: In these cases, the Project Officer received an electronic draft of the final report, and if they deemed that electronic report was acceptable, would have requested final payment before the paper copy of the report was received and filed. We have reviewed this matter and can confirm that project files contain a final report for all completed projects. As noted in the Policy and Procedures Manual (section 11.2) site visits are completed on an "as applicable basis." Site visits are not always a requirement of the contract. For example, a site visit would be impractical for a resource survey or an international marketing initiative.

AG Conclusions – Section 3: Monitoring

AG Comment: *Project monitoring should be conducted by the Department to ensure compliance with policies and procedures, to ensure that funds were used for the approved purpose, to determine whether the funded projects were successful and whether FTNOP met its overall objectives. Our review identified the following: 40 projects totaling $2.23 million in approved funding – the required audit and review process was not conducted for any project. This process is intended to determine whether there was compliance with policies and procedures and to determine whether adequate documentation was available to support payments.*

DFA Response: The FTNOP evaluation framework has been completed and will be implemented in early 2010. This framework includes a review and audit process that will encompass the full duration of the program.

AG Comment: *11 projects totaling $434,585 in approved funding – no site visits were made.*

DFA Response: As noted in the Policy and Procedures Manual (section 11.2) site visits are completed on an "as applicable basis." Site visits are not always a requirement of the contract. For example, a site visit would be impractical for a resource survey or an international marketing initiative.

AG Comment: *40 projects totaling $2.23 million in approved funding – the Department did not provide a Terms of Reference for a Final Report to any proponent as required. As a result, it is likely that Final Reports from proponents will not be comparable or include all information necessary for the Department to determine whether the project was completed in accordance with the approved project's objectives and costs.*

DFA Response: The Project Officer works in close cooperation with the proponent to develop an appropriate Terms of Reference for each project, and to ensure the report contains the necessary details of the project. The information contained within the report must meet the satisfaction of the Minister. Therefore, before a project is signed off as completed, the Project Officer must be satisfied with the contents of the report.

AG Comment: *10 projects with payments totaling $459,093 in approved funding – a written comprehensive final report was not submitted within 30 days of the project completion date as required.*

DFA Response: The Policy and Procedures Manual (section 4.5) states that, "a comprehensive written report detailing the progress and results of the project must be submitted by the proponent within 30-60 days of the project completion date…". Depending on the project complexity, it is recognized that more time may be required to complete the final report. We have reviewed our files and have found that there is an acceptable final report for all completed projects.

AG Comment: *7 projects totaling $405,719 in approved funding – these projects were not completed by the proponent as outlined in their original submission. For example, in one instance the proponent was paid $119,642 for 3 projects in which they indicated that they intended to undertake a resource assessment of a fish species in certain fishing zones. The Final Report identified a number of areas where the actual project was different from the approved project, including 20 sites done instead of 30 sites, 4 days of data collection instead of 6 days and 34 days for surveying instead of 50 days in one zone, 5 days of data collection instead of 8 days and 8 survey days instead of 50 days in the other zone. In addition, there was no evidence of a required power point presentation, incorporation of other exploratory fisheries, and feasibility of assessment of transmitter implants.*

DFA Response: Resource development projects are usually under the guidance of a Steering Committee, which includes knowledgeable personnel from the Department and other organizations as required. Due to the nature of resource assessment projects (e.g., catch levels, bottom type, sea state, and weather conditions), the survey work needs to be flexible. Changes in the project, if necessary, are made in consultation with the Steering Committee. The project in question involved hagfish surveys and the final report was reviewed and deemed acceptable by the Steering Committee and the Department. The Power Point presentation has been completed and presented during the federal DFO's Regional Advisory Process for Hagfish.

AG Comment: *The Department did not identify performance indicators for each of its objectives or establish measurable targets for each of the performance indicators. As a result, it could not measure actual results against any targets to determine whether the FTNOP's objectives were being met.*

DFA Response: The Department has completed the FTNOP evaluation framework, which will be implemented in early 2010. The framework will include performance indicators to measure the success of achieving the program's targets and objectives. The baseline data to complete this work is on file. The performance assessment will require an analysis of project outputs and results, measured against intended outcomes and objectives.

Thank you again for your valuable input on the Fisheries Technology and New Opportunities Program. We have done our best to respond to your comments, which mainly focus on administrative process and protocols. We have undertaken a thorough review of these matters and have provided clarification where required. Where necessary, we have amended, or are in the process of updating, our policies and procedures to further improve the administration of the program.

Based on feedback from industry participants, the Fisheries Technology and New Opportunities Program is achieving its objective of improving the viability and competitiveness of the province's fishing industry. With the advice from your office, we are confident that the program will continue to efficiently and effectively meet the needs of the fishing industry and the Province.

Fisheries Technology and New Opportunities Program

PART 2.6

DEPARTMENT OF GOVERNMENT SERVICES

INSPECTION AND MONITORING OF RADIATION EQUIPMENT

Executive Summary

The Department of Government Services, through the Occupational Health and Safety Division (OHSD), has responsibilities related to the installation, registration, inspection and monitoring of radiation equipment in the Province under the *Radiation Health and Safety Act (Act)*. The objective is to protect the health and safety of persons, including operators, who are exposed to radiation from such equipment. As at 30 September 2009, there were 608 pieces of radiation equipment in the Province registered with OHSD.

Our review indicated a number of significant deficiencies in how the OHSD discharges its responsibilities related to radiation equipment and ensuring the health and safety of persons including operators. There was non-compliance with the *Act* relating to radiation equipment not being registered, installation not being approved in advance, biennial inspections not always performed and no Radiation Health and Safety Advisory Committee established. In addition, there was no information system relating to the registration of radiation equipment and the information system used to track inspections did not include all necessary information. We found the following:

Registration System

The OHSD did not have a registration system to track radiation equipment which was required to be registered. Instead, OHSD used a manual listing which we determined was neither accurate nor complete in that equipment which was no longer in service was on the listing and equipment in service was not on the listing. Of the 25 pieces of equipment selected for review, we identified 5 pieces that, although they had been removed from service, were still on the listing. We also identified equipment that, although it was inspected, could not be located on the registration listing.

Furthermore, the listing did not contain sufficient information necessary to monitor radiation equipment. For example, in the majority of instances it was difficult to identify a piece of equipment because, either the description of the equipment was incomplete, or the serial number was not recorded, or information on both the location and owner was not always recorded. In addition, there was no information on the age of equipment, installation date and inspection dates.

As the registration system did not allow the OHSD to readily determine either what equipment was at a particular location or to track additions and disposals of equipment, the OHSD could not adequately plan and complete inspection work as required under the *Act*.

Installation and Registration of Radiation Equipment

We noted the following instances where the *Act* was contravened:

- The approval required from the Minister prior to the installation of radiation equipment was never obtained. Such approval would ensure that plans adequately accommodated the requirements of the equipment being installed. As a result of not obtaining prior Ministerial approval, OHSD officials indicated that there had been instances where radiation emission problems existed and expensive modifications had to be undertaken to address the issues.

- Radiation equipment was not being registered within 30 days of installation. Our review of 20 pieces of equipment indicated that 10 were not registered within 30 days of being installed. The time past the 30 days registration requirement ranged from 5 days to 14 months.

- Radiation equipment was not being re-registered every September. Our review of 20 pieces of equipment indicated that 2 owners had not re-registered their equipment two months after the required 30 September 2009 deadline, and 1 owner did not re-register their equipment until October 2009.

- Owners of radiation equipment where the equipment had been transferred or otherwise disposed of did not always notify the OHSD. Our review indicated that 5 pieces of equipment, while still on the OHSD registration listing, were not in service.

Inspection of Radiation Equipment

The OHSD did not have adequate processes and procedures in place to plan its inspection activities and, contrary to the *Act*, radiation equipment was not being inspected biennially.

- The OHSD did not use a formal risk-based approach in planning its inspection activity. Instead, the OHSD prioritized its inspection activities on the basis of new installations, complaints, transfers and stop work orders. There was no operational plan in place to ensure that all equipment was inspected every two years.

- Our review of 20 inspections selected from the Central Inspection System (CIS) indicated 8 instances where the previous inspection for that location had been completed more than two years prior to the current inspection. The time past the two years ranged from 41 days to 7 years.

- Our review of 20 pieces of equipment from the registration listing indicated that for 5 pieces of equipment the last inspection was greater than two years. The time past the two years ranged from 5 months to 2 years. For 13 pieces of equipment, although the location was visited, as a result of the lack of information in the CIS, OHSD officials could not demonstrate that this equipment was inspected. Furthermore, for 2 pieces of equipment, OHSD officials could not demonstrate whether the equipment had ever been inspected. In these instances, although it was known when the equipment was registered, the date the equipment was taken out of service was unknown.

- OHSD officials indicated that they do not inspect pan x-ray units at dental offices. They indicated that they do not perform these inspections because of fear of damaging their equipment, tests results are not reliable and also there are no specific regulations in the Health Canada codes for guidance. Given that there was no registration system, OHSD officials could not readily provide us with details as to how many pan x-ray units were in use in the Province.

The inspection summaries completed by the Radiation Protection Officers and used to populate the CIS did not always provide sufficient information to determine what pieces of equipment were inspected, the inspection process followed and the results. Therefore, it was not always possible to track what was inspected to what was registered in order to determine whether inspections were completed as required.

CT Scanners

In an article in the August 2009 edition of the Canadian Medical Association Journal, the President of the Canadian Association of Radiologists stated in relation to patients that *"…one abdominal CT scan is equal to 500 chest x-rays (in terms of radiation dose)"*. It was also noted in the article that from a risk standpoint, *"…between 1% and 2% of cancer cases may be caused by CT radiation exposure."* While patients are exposed to radiation during a CT scan, standards are in place to protect employees from possible radiation exposure. The inspections conducted by the OHSD are to ensure that radiation exposure to employees is within accepted standards. Even with this potential health and safety issue for persons, including operators, OHSD officials indicated that, contrary to the *Act*, other than during the initial installation of a CT scanner, they did not inspect CT scanners every two years. The Department of Health and Community Services indicated that during fiscal 2009 there were 71,372 CT scans conducted in the Province and 64,391 CT scans during fiscal 2008.

Radiation Health and Safety Committee

Contrary to the *Act*, the Minister of Government Services had not established the Radiation Health and Safety Advisory Committee. Although there was a Committee up to 2004, albeit they had not met since 2002, since 2004 no members have been appointed. The Committee is to provide advice to the Minster on the *Act* and *Regulations*, promote educational programs to those who may be exposed to radiation and provide advice to Radiation Protection Officers.

Our review of Committee minutes up to 2002 indicated that they were addressing such matters as the quality of radiographic procedures performed in rural areas, the qualifications of persons operating radiation equipment and possible amendments to the *Act* and *Regulations*. As a result of not having a Committee in place since 2002, it was not clear whether similar issues today are being adequately addressed.

Policies and Procedures

There were no documented policies and procedures to guide Radiation Protection Officers in the installation approval, registration, inspection and monitoring of radiation equipment. In the absence of policies and procedures, Officers do not have guidance in the collection and recording of information, which increases the likelihood of inconsistencies. During our review, we identified inconsistencies including interchanging the company name and owner, and details captured in the inspection summary.

Documented policies and procedures are also important for any employee recruitment. This is particularly important given that the current two Officers are long-term employees.

Background

The mandate of the Occupational Health and Safety Division (OHSD) of the Department of Government Services is to maintain and improve health and safety standards in the workplace through the administration of:

- the *Occupational Health and Safety Act* and *Regulations*;
- the *Mines Safety of Workers Regulations*;

- the *Radiation Health and Safety Act* and *Regulations;* and
- other associated Regulations, Codes of Practice and specified standards.

The OHSD employs 51 staff including inspections officers, industrial hygienists, engineers and radiation specialists to perform various multi-disciplinary activities such as:

- investigating workplace accidents and statistics;
- conducting compliance inspections and detailed audits of workplaces;
- hygiene assessments of various physical, chemical, biological and ergonomic agents in the workplace in order to protect worker health;
- evaluating and inspecting radiation control measures in workplaces; and
- enforcing occupational health and safety legislation.

The OHSD has two Radiation Protection Officers who carry out inspections of radiation equipment within the Province of Newfoundland and Labrador. The requirement for these inspections is covered under the *Radiation Health and Safety Act* and *Regulations*, which provide that radiation equipment shall be inspected once every two years. Inspections are carried out at sites such as hospitals, dental offices, medical clinics, chiropractor offices, animal hospitals, chicken plants and fish plants. Radiation equipment includes high technology machines such as computed tomography scanners (CT), fluoroscopy machines, mammography, and general x-ray equipment.

As at 30 September 2009, there were 608 pieces of radiation equipment registered with OHSD - 369 pieces (61%) were located in dentist offices and 181 pieces (30%) were located in hospitals.

Radiation Health and Safety Act

The *Radiation Health and Safety Act* (*Act*) and *Regulations* were proclaimed on 3 April 1981. It is an *Act* respecting the protection of the health of persons exposed to radiation and respecting the safety of persons in connection with the operation and use of the electrical and mechanical components of radiation producing equipment and associated apparatus. The *Act* was last amended in 1997 and the *Regulations* were last amended in 2002.

Figure 1 outlines the relevant provisions of the *Radiation Health and Safety Act*:

Figure 1

Relevant Provisions of the *Radiation Health and Safety Act*

Section of Act	Provision	Detail
5	All radiation equipment must be registered	Within 30 days of installation and re-registration every September thereafter Notification by owner of all disposals within 30 days
6 / 8 / 10	Owner's responsibility	Training, installation within safety regulations, posting of radiation warnings, dosimeters, medical examination as required
7	Radiation equipment must be inspected	Every two years per *Regulations*
9	Minister must approve installation of equipment	Prior to installation
11 / 12	Radiation Health and Safety Advisory Committee	Minimum seven member committee must be established to advise the Minister on matters relating to radiation health and safety
16	Offence and penalty	$5,000 and/or 1 year imprisonment

Definition of Radiation Equipment

Radiation equipment is defined by the *Act* as a device capable of emitting radiation but does not include:

- a radioactive substance that is licensable under the *Atomic Energy Control Act* (Canada);
- equipment operated under 15 kilovolts and not designed principally to produce useful radiation;
- equipment in storage, in transit or not being used, or equipment operated in such a manner that it cannot produce radiation; or

- equipment in some mode of operation producing x-rays or other radiation capable of inducing radioactivity in matter on which the x-rays or the other radiation fall.

Figure 2 shows a photo taken at the College of the North Atlantic which offers training courses in x-ray equipment.

Figure 2

General X-ray unit



Source: Occupational Health and Safety Division

Audit Objectives and Scope

Audit objective

The objective of our review was to determine whether the *Radiation Health and Safety Act (Act)* and *Regulations* were being complied with in relation to the registration, installation, inspection and monitoring of radiation equipment.

Audit scope

Our review included an analysis of radiation equipment site inspection and registration. The review covered the period 1 January 2007 to 30 September 2009 and was completed in December 2009.

Our review included discussions with OHSD officials and an examination of a sample of equipment registration files and inspection reports for compliance with the *Act* and *Regulations*. We also reviewed the listing of radiation equipment and the Central Inspection System (CIS) which is used in carrying out inspections.

Detailed Observations

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

1. Registration System
2. Inspections
3. Approval and Planning for Installation of Radiation Equipment
4. Policies and Procedures
5. Radiation Health and Safety Advisory Committee
6. Other

1. Registration System

Introduction

The *Radiation Health and Safety Act* (the *Act*) requires owners of radiation equipment to:

- register the equipment within 30 days of installation with the assistant deputy minister in the form prescribed by the Minister;
- register the equipment every September with the assistant deputy minister all radiation equipment under control of the owner; and
- notify the assistant deputy minister within 30 days when ceasing to become an owner of radiation equipment.

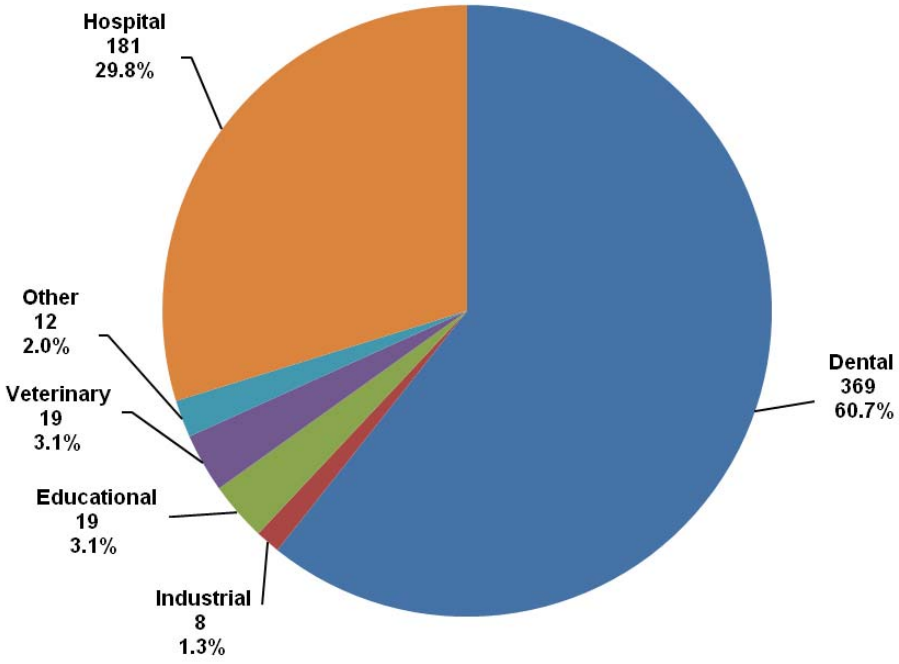
The OHSD has a manual listing to keep track of all equipment registered within the Province. When the OHSD is notified by an owner of a new piece of radiation equipment, the next available number is assigned to the equipment and the location and/or owner is entered into the registry. The

registration numbers assigned use prefixes to identify hospitals, dentists, veterinarian, chiropractor, education and training, industrial and commercial, research and development, food inspections, police and other. Once registered, owners of radiation equipment are provided with a registration certificate. The registration listing is maintained by a Radiation Protection Officer at the OHSD's main office in Mount Pearl.

As of 30 September 2009, the OHSD had 608 pieces of radiation equipment recorded in its registration system. Figure 3 shows the number of pieces of radiation equipment summarized by type of location.

Figure 3

Radiation Equipment by Location Type
As at 30 September 2009



As indicated in Figure 3, approximately 91% of radiation equipment was located at hospitals and dentist offices throughout the Province.

In reviewing the registration listing for radiation equipment we identified the following issues:

A. Adequacy of Registration System
B. Registration of Radiation Equipment

1A. Adequacy of Registration System

Inadequate registration system

The OHSD did not have a registration system to track radiation equipment which was required to be registered. The registration listing used by OHSD to track radiation equipment was not adequate to assist them in ensuring that all equipment was registered and that all useful information was captured.

We would expect that the registration system would include information such as description of equipment, serial numbers, and information on location and owners, age of equipment, installation date, registration dates, and inspection dates.

We reviewed the registration listing and noted that it was deficient in that:

- the registration listing was manual as opposed to electronic and contained limited information;

- the registration listing contained only two fields - the registration number and the location and/or owner field; and

- the location and/or owner fields were inconsistent in that multiple variations were being used to describe the same location and/or owner. Therefore the available records were confusing and difficult to use in identifying equipment by location and/or owner.

As a result, there was no readily available listing of equipment at a particular site. An electronic registration system that included sufficient information on radiation equipment, detailing the number and type of equipment by location would allow the Radiation Protection Officers to obtain relevant information before each site visit for inspection services. This would allow them to identify any equipment that was not in the registration system but was on site, or equipment in the registration system that was no longer at the site. This would assist the OHSD in ensuring that all radiation equipment was registered.

Since the registration listing did not include when each piece of equipment was last inspected, the OHSD did not have a record of when the next inspection was due to assist in planning their inspection schedule. Readily available information on equipment and inspection dates would assist the OHSD in assessing risk such that said risk could be minimized in planning their work.

Also, as there is an annual registration requirement, the OHSD could compare the registration forms to the radiation equipment registered in the system to identify any differences for further follow-up. This would improve the completeness and accuracy of the registration system.

1B. Registration of Radiation Equipment

Equipment not registered

Registrations

We selected a random sample of 25 registered pieces of radiation equipment from the registration list provided by the OHSD officials to determine compliance with the *Act*. The majority of our sample was comprised of radiation equipment found at hospitals and dental offices.

Five pieces of equipment were no longer in service at the indicated location. Through follow up with the Radiation Protection Officer it was determined that this equipment was not in use at the assigned location but had not been removed from the registration system as required. Also, the OHSD was not aware as to whether or not the equipment was in use at a different location. Equipment must be re-inspected and registered upon moving from one location to another. Officials advised that owners did not always inform the OHSD that the new piece of equipment being registered was a replacement and therefore the OHSD did not remove the equipment that was being replaced from the system. The risk is that the old equipment had been sold or transferred and may now be required to meet a different inspection standard than what was required when it was installed at the prior location.

The remaining 20 pieces of radiation equipment were still in use at the registered site. We examined the registration forms and found issues with 13 pieces of equipment as follows:

- 10 pieces of equipment were not registered within the required 30 days of being installed. The time past the 30 days registration requirement ranged from five days to 14 months; and

- for 3 pieces of equipment, officials could not locate the registration form.

During the review we noted that all the registration forms were filed as received and not sorted by location/owner making it difficult to readily locate forms.

Re-Registrations

We also reviewed the requirement that each piece of equipment be re-registered every September. The OHSD provides the registration form prescribed by the Minister to registered owners at the beginning of September and requires that it be returned by 30 September. We reviewed the September 2009 registration for our sample of 20 pieces of radiation equipment currently in use. As of 24 November 2009 we found issues with five samples as follows:

- 2 owners of radiation equipment in our sample had not re-registered their equipment two months after the required 30 September 2009 deadline;

- 1 owner did not re-register their equipment until October 2009; and

- 2 owners submitted a list of radiation equipment but did not use the form prescribed by the Minister.

In addition, officials indicated that the registration was sometimes handled verbally thus there would be no paper trail.

The *Act* was not complied with because all radiation equipment was not being registered within 30 days of installation or every September. Also, the OHSD was not always informed when an owner disposed of, transferred, or sold equipment so that the registration could either be removed or updated. As a result, the registration system at the OHSD for radiation equipment was neither accurate nor complete. Since equipment was not typically inspected until after it was registered with OHSD, unregistered equipment could be in use for some time before it was inspected. The OHSD relied on the various owners to contact them upon a new installation. Therefore there was a possibility of unregistered or uninspected equipment being in operation.

Recommendations

The OHSD should:

- comply with the registration requirements of the *Radiation Health and Safety Act* and *Regulations;*
- ensure the registration system is accurate and complete; and
- ensure the registration system contains sufficient information to enable better management and monitoring of radiation equipment.

2. Inspections

Overview

Radiation equipment is inspected to determine compliance with the *Radiation Health and Safety Act (Act)* and *Regulations*, and the *Occupational Health and Safety Act* and *Regulations*. Reference can also be made to Health Canada Safety Codes and manufacturers' recommendations. The *Act* requires that all radiation equipment be inspected every two years. Radiation equipment inspections for the entire Province are carried out by Radiation Protection Officers located in the Mount Pearl office of the OHSD. The results of the inspections are recorded in the Central Inspection System (CIS).

There are two Radiation Inspection Officers. One conducts inspections of radiation equipment at dental, chiropractic and veterinary offices while the other performs all inspections at hospitals, education and training facilities, industrial and commercial facilities, research and development facilities, and food inspection facilities. The Radiation Protection Officers issue an inspection report to owners after each inspection. Most inspections are completed at dental offices and hospitals.

Figure 4 is a photograph taken by OHSD officials after setup of an abdominal phantom to administer scatter radiation testing on a general x-ray unit at the Health Sciences Centre in St. John's.

Figure 4

General X-ray Unit at the Health Sciences Center in St. John's



Source: OHSD

In reviewing the inspection process at the OHSD we identified the following issues:

A. Adequacy of Information in the Central Inspection System (CIS)
B. Inspection of Radiation Equipment
C. Operational Plan
D. CT Scanners
E. Protection of Workers

2A. Adequacy of Information in the Central Inspection System (CIS)

Information in the CIS inspection reports not adequate

All inspections performed by OHSD including radiation equipment inspections are recorded in the Central Inspection System (CIS). OHSD receives information on new employers each month which they use to populate the CIS database with potential sites to visit. Inspections are recorded in the CIS by location, date and inspection number and include a written summary of the results of the inspection. While a particular site may have been visited, there is no assurance as to what equipment was inspected due to the lack of specific information included in the CIS inspection summaries. This lack of detail, such as equipment registration number, makes it impossible to determine with any certainty when and if a particular

piece of radiation equipment was inspected. It is not enough to indicate mammography units at a particular location were inspected because, without the registration numbers, these units cannot be matched to the registration listing to ensure all units at that location were inspected.

In addition, during our review, we noted inconsistencies in how a location/owner was identified in the CIS. Since the inspections were recorded by location/owner, multiple names for the same location/owner made it difficult to monitor how often inspections were being completed. We also noted that there were instances where the name used for the location/owner in the CIS did not match the name used on the registration listing. Therefore, it was very difficult to reconcile the number of pieces of equipment from the registration system to the CIS.

2B. Inspection of Radiation Equipment

Radiation equipment not inspected

We reviewed the information contained in the CIS and determined that while the inspection summaries identified the location of the inspection, it often did not identify the quantity or specific piece of equipment inspected. One site visit does not equate to the inspection of one piece of radiation equipment, therefore location of the inspection is not sufficient to identify the equipment inspected.

Figure 5 summarizes from the CIS the number of site visits during the period of our review from 1 January 2007 to 30 September 2009. There were a total of 252 visits during that period.

Figure 5

Inspection of Radiation Equipment
Summary of Site Visits

Type of Site	1 January 2007 to 31 December 2007	1 January 2008 to 31 December 2008	1 January 2009 to 30 September 2009
Dental	42	38	27
Veterinarian	7	7	0
Hospital	48	35	26
Clinics	4	5	4
Industry	5	2	2
Total	**106**	**87**	**59**

Source: CIS

We selected a total of 40 inspection samples to determine compliance with the *Act*.

We examined the last 20 inspections recorded in the CIS up to 30 September 2009. We found that:

- It was not possible to trace radiation equipment from the inspection details to the registration listing. The summaries in the CIS identified the site of the inspection but often did not identify the specific piece of equipment inspected. In addition, many summaries identified only rooms, but made no mention of the equipment. Often if equipment was identified it did not include the registration number, making it impossible to trace it to a specific piece of radiation equipment on the registration listing. As a result, we were only able to determine whether there was equipment registered for the site indicated on the inspection summary and not whether it was actually inspected.

- In 1 instance there was an inspection summary for a location for which we could find no equipment included on the registration listing.

- In 8 instances the previous inspection for that location was greater than 2 years ago indicating that all equipment at that location had not been inspected in accordance with the *Act*. The time past the two years ranged from 41 days to 7 years. The longest interval between site visits was in excess of 9 years from 4 February 2000 to 28 September 2009.

Our review also included a random sample of 20 pieces of equipment on the registration listing which we traced to the CIS system to determine if equipment was inspected within 2 years. Since we could not identify specific equipment in the inspection summaries, we were left with examining whether inspections were completed at the location where the equipment was registered. We found:

- For 2 pieces of equipment, OHSD officials could not demonstrate whether the equipment had ever been inspected. In these instances, although it was known when the equipment was registered, the date the equipment was taken out of service was unknown.

- For 5 pieces of equipment the last inspection at that location was in excess of the required two years. The time past the two years ranged from five months to in excess of two years. For one piece of equipment the last inspection conducted at its location was 5 May 2005. However, since the specific equipment in the sample could not be identified in the inspection summaries, there was no way to confirm if that equipment had been inspected at that time.

- For 13 pieces of equipment, although the location was visited within the required two years, as a result of the lack of information in the CIS, OHSD officials could not demonstrate that the equipment was inspected.

- OHSD officials indicated that they do not inspect pan x-ray units at dental offices. They indicated that they do not perform these inspections because of fear of damaging their equipment, test results are not reliable and also there are no specific regulations in the Health Canada codes for guidance. Given that there was no registration system, OHSD officials could not readily provide us with details as to how many pan x-ray units were in use in the Province.

As a result, the OHSD was not complying with the requirements of the *Act* in its inspections of radiation equipment. The inspection should include tests to determine whether the employees' exposure to radiation is at levels in compliance with legislation and Health Canada codes. The risk is that employees and patients may be exposed to harmful radiation. If owners are not in compliance, the Radiation Protection Officer can issue a comply-by date to have things rectified or, in extreme cases of non-compliance, the Radiation Protection Officer can issue a stop-work order.

2C. Operational Plan

No operational plan

We would have expected that the OHSD would have an operational plan for radiation equipment inspections that would include planned inspections for the year. In determining which pieces of equipment to inspect we would have expected that there would be risk assessments completed which would impact the timing of visits.

The OHSD did not have a formal risk assessment process in place for determining when to carry out radiation equipment inspections. OHSD officials advised that they did prioritize inspections of new equipment installations, transfers of equipment, equipment where complaints had been received, and follow-up in instances where comply-by date or stop-work orders had been issued. There was no evidence that the date of the last inspection was monitored to determine if any inspections were outstanding.

There was no operational plan in place to ensure that radiation equipment was inspected every two years. In fact, the Radiation Protection Officers would not always have a schedule for the upcoming month.

2D. CT Scanners

Introduction

In an article in the August 2009 edition of the Canadian Medical Association Journal, the President of the Canadian Association of Radiologists stated in relation to patients that *"…one abdominal CT scan is equal to 500 chest x-rays (in terms of radiation dose)"*. It was also noted in the article that from a risk standpoint, *"…between 1% and 2% of cancer cases may be caused by CT radiation exposure."* While patients are exposed to radiation during a CT scan, standards are in place to protect employees from possible radiation exposure. The inspections conducted by the OHSD are to ensure that radiation exposure to employees is within accepted standards. The Department of Health and Community Services indicated that during fiscal 2009 there were 71,372 CT scans conducted in the Province and 64,391 CT scans during fiscal 2008.

Figure 6 shows the number of each type of CT scanners in the Province as at 31 December 2008.

Figure 6

CT Scanners in Province
As at 31 December 2008

RHA	1 slice	4 slices	16 slices	64 slices	320 slices	Total
Eastern	2	2	1	2	0	7
Central	2	1	0	0	0	3
Western	0	1	0	1	1	3
Labrador-Grenfell	2	0	0	0	0	2
Total Equipment	**6**	**4**	**1**	**3**	**1**	**15**

Source: RHAs

Figure 7 is a photo taken of a CT scanner located in Burin that is currently in use.

Figure 7

CT Scanner located in Burin



Source: OHSD

Unable to identify CT scanners on the registration listing

OHSD officials could not identify the 15 CT scanners on the registration listing. Our review of the registration listing indicated 9 references to a CT scanner; however, with the limited information contained on the registration listing, it was impossible to positively identify the equipment.

In addition, OHSD officials could not identify when the last inspection was completed on the CT scanners in the CIS. The inspection summaries in the CIS did not always indicate either which type of equipment was inspected or the registration number of the equipment which was inspected.

OHSD officials advised that CT scanners are inspected when they are first installed for proper compliance but they do not inspect them again unless an issue arises with the CT scanner. Many of the CT scanners in the Province have been in use for over two years. Officials advised that these scanners would not have been inspected within the two year timeframe required by the *Act*.

2E. Protection of Workers

Owner to protect worker

Section 10 of the *Act* requires owners of radiation equipment to protect workers, patients and anyone who could potentially be exposed to radiation. It is important for the OHSD to maintain regular inspections to ensure that owners are following safe protocol.

Officials at OHSD advised that problems can occur with the operator of the equipment, as opposed to the function of the equipment itself. Officials advised of a number of operational issues identified during inspections regarding radiation equipment. We reviewed the supporting inspection reports and noted the following:

- Cropping films after the exposure had been made. This occurs when x-ray technicians scan a larger area of a patient's body and then alter the photo such that it appeared as if a smaller area had been scanned. This results in unnecessary exposure to radiation for other areas of the body.

- Not providing gonadal protection on male patients receiving hip and pelvis scans. The shielding is used to protect patients who could still reproduce.

- Using computer enhancement to adjust images to correct viewing levels after the image is taken. Dark images are an indication of excessive radiation output.

- Not wearing protective aprons or dosimeters.

It is important for owners of radiation equipment to adhere to the *Act*. Only by conducting inspections every two years can the OHSD monitor whether owners are properly protecting employees and patients.

Recommendations

The OHSD should:

- perform inspections in accordance with the requirements contained in the *Act*;

- ensure the CIS contains sufficient information to better manage and monitor radiation equipment;

- have a formal risk assessment in place for inspecting and monitoring radiation equipment; and

- monitor compliance with the inspection and owner responsibility requirements of the *Radiation Health and Safety Act* and *Regulations*.

3. Approval and Planning for Installation of Radiation Equipment

Approval

Section 9 of the *Radiation Health and Safety Act* (the *Act*) states that *"A person shall not install radiation equipment in a place that is intended as a permanent radiation equipment location and the owner of the premises shall not permit the installation unless the prior approval of the minister has been obtained."*

Officials advised that in over 20 years it had not been the practice for owners to seek the Minister's approval prior to equipment installation. Therefore, owners installed equipment without the prior approval of the Minister and were in violation of the *Act*.

Lack of approval certificates

Section 8 of the *Radiation Health and Safety Regulations* (the *Regulations*) states that *"Upon determining that an owner meets the requirements, that the director considers appropriate for a radiation installation, the minister may issue a certificate of approval for the radiation installation."*

Officials advised that approval certificates had never been issued to owners of radiation equipment. Use of an approval certificate would ensure that OHSD had the opportunity to review building plans to ensure that the plans adequately accommodated the requirements of the equipment being installed.

As a result of not obtaining prior Ministerial approval, OHSD officials indicated that there had been instances where problems existed at radiographic facilities and expensive modifications had to be undertaken to address the issues. We note that at the last Radiation Health and Safety Advisory Committee meeting on 16 December 2002, a number of instances were discussed where radiographic facilities were being constructed without consultation with OHSD, which resulted in radiation emission problems at the facilities.

Section 7 of the *Regulations* states that *"an owner of a radiation installation who applies to the minister for approval under section 9 of the* Act *shall use the form prescribed by the minister."*

The OHSD did not have any prescribed forms as required by the *Act* for owners to apply for approval certificates.

OHSD not notified of planned equipment installation

Our review indicated that owners were not consulting with OHSD when planning equipment installations. As a result, poorly designed room and equipment setups have been noted. For example:

- At Eastern Health, mammography equipment had already been installed and the room set up before OHSD was consulted. The Radiation Protection Officer noted that Eastern Health had installed lead lined gyprock throughout the entire room, which was not required. Officials advised that the cost of lead lined gyprock is considerably higher at $590 per 5/8 inch sheet, compared to regular gyprock.

- During the installation of radiation equipment at the clinic in Whitbourne there were four possible sets of plans in circulation. The contractor set up the room based on plans that they had which differed from the plans provided to OHSD. As a result, the control booth had to be extended at an additional cost.

- During the installation of radiation equipment at the Health Sciences Centre, a representative from the manufacturer indicated that there were no radiation concerns beyond 9 feet. However, the Radiation Protection Officer measured a radiation reading at 15 feet. This was due to the manufacturer's representative using a parameter plot plan which specified an expected dose of radiation from the unit based on that plan.

OHSD indicated that owners did not seek OHSD's input when installing new radiation equipment; therefore, there was a risk leaving the risk that the room was not properly set up or the equipment not properly installed to meet radiation guidelines. OHSD officials advised that, generally, owners indicated that they had carried out these installations before and would follow the same process. However, the OHSD officials indicated that plans for new equipment installations did not always allocate the space required for proper installation. As a result, the owner had to change the plan, such as moving a wall, which increased costs. Pre-installation approval by OHSD would allow for better planning by owners.

Recommendations

The OHSD should:

- ensure all radiation equipment is approved before installation as required by the *Radiation Health and Safety Act*; and
- issue approval certificates to the owners who meet requirements.

4. Policies and Procedures

No documented policies and procedures for inspection reports

There were no documented policies and procedures in place for how to complete the inspection reports. From our review of the inspection reports we found that reports did not always list what type of equipment was inspected, the registration number of the equipment inspected or some other information which would specifically identify the piece of equipment inspected.

In performing inspections, the OHSD has Provincial legislation, Federal Health Canada Safety Codes and manufactures' recommendations to provide guidance regarding standards. These will not, however, provide guidance on how to complete the inspection, including how the inspection should be documented.

In addition, there were no documented policies and procedures to guide Radiation Protection Officers in approving installations, registering and monitoring radiation equipment. In the absence of policies and procedures, Radiation Protection Officers do not have guidance as to what information should be collected and recorded. This increases the likelihood of inconsistencies in the information obtained.

Lack of formal training program

There was no formal training program for the Radiation Protection Officers. Training consisted of job shadowing of senior staff members complemented by some courses/training on radiation offered by private institutions and manufacturers. The Radiation Protection Officers are long-term employees who have a vast amount of on the job experience. Without these long-term employees, providing training to a new hire would be difficult. Documented policies and procedures are important for any employee recruitment.

Lack of back-up controls

Radiation Protection Officers store test results from radiation equipment inspections on their laptop computers. This data was neither backed up on a regular basis nor stored in a secure location. As a result, there is a risk of losing important information on inspections if the computer was lost or damaged.

Recommendations

The OHSD should have policies and procedures in place for:

- completing inspections including the reports included in the CIS;
- approving installations, registering and monitoring radiation equipment;
- training new staff; and
- proper record keeping through the use of regular backups and secure storage of electronic information.

5. Radiation Health and Safety Advisory Committee

Overview

Section 11 of the *Radiation Health and Safety Act* (the *Act*) requires the Minister to appoint a Radiation Health and Safety Advisory Committee (the Committee) and Section 12 of the *Act* outlines the duties that the Committee is to perform.

Under the *Act*, the Committee's role is to *"advise the minister with respect to radiation health generally and safety measures and codes of recommended practice to be issued by the minister to an owner and other persons in the province who may be exposed to radiation concerning radiation health, safety measures and the operation and use of radiation equipment and the use of radioactive substances"*. The Committee is also to provide advice to Radiation Protection Officers, promote educational programs among owners and radiation workers and other persons who may be exposed to radiation, and advise the Minister on other matters such as minimum age of workers, female radiation workers capable of becoming pregnant and other matters relating to radiation health and safety.

The Committee is also responsible for reviewing the *Radiation Health and Safety Regulations* (the *Regulations*) periodically per section 21 of the *Regulations* and to make recommendations to the Minister based on the review.

The Radiation Health and Safety Advisory Committee should consist of the following:

- a diagnostic radiologist;
- a therapeutic radiologist;
- qualified medical practitioner specializing in pathology or internal medicine with training in hematology;
- a physicist experienced in radiation physics;
- a qualified dentist;
- a qualified radiological technologist; and
- 1 or more persons selected by the Minister.

Committee not in place as required

Contrary to the *Act*, we found that the Minister had not established the Radiation Health and Safety Advisory Committee. We were advised that there had been such a Committee but no meetings had been held since 2002 and that the mandate of the Committee members had not been renewed since 2004.

Our review of Committee minutes up to 2002 indicated that they were addressing such matters as the quality of radiographic procedures performed in rural areas, the qualifications of persons operating radiation equipment and possible amendments to the *Act* and *Regulations*. As a result of not having the Committee in place since 2002, it was not clear whether similar issues today are being adequately addressed.

As a result, the Minister, the OHSD and the Radiation Protection Officers have not had the benefit of the advice provided by the experts in the field of radiation that had been on the previous Committee. In addition, the *Act* and *Regulations* had not been reviewed in recent years by the Committee and the Minister had not been receiving recommendations from the Committee.

Recommendation

The OHSD should re-establish the Radiation Health and Safety Advisory Committee as required by the *Radiation Health and Safety Act* and *Regulations.*

6. Other

Dosimeters

A dosimeter is an instrument used for measuring doses of ionizing radiation. Owners are required by the *Act* to provide dosimeters to radiation workers in order to protect workers from and monitor their exposure to radiation. Dosimeters are shipped every three months from the Province to Health Canada to be assessed for the radiation exposure levels of employees.

The OHSD is relying on Health Canada to inform them of any instances where workers have been overexposed to radiation. In the past Health Canada issued a radiation exposure report for them to review. However, this was replaced by an electronic report from Health Canada which contains radiation exposure readings for employees. OHSD officials advised that they had not been able to read this report and therefore had been unable to review the radiation exposure levels recorded by the dosimeters for themselves.

Recommendation

The OHSD should monitor the reports from Health Canada on dosimeters readings for radiation exposure of workers.

Department's Response

The Occupational Health and Safety (OHS) Branch, of the Department of Government Services recognizes the importance of tracking and monitoring radiation equipment in the Province. The mandate of the OHS Branch is to maintain and improve health and safety standards in the workplaces of Newfoundland and Labrador. Though the OHS Branch plays a role in the safety of the general public, the focus of the Branch is on the health and safety of workers within the Province. The OHS Branch recognizes this opportunity of reviewing the radiation monitoring and tracking system and this process will assist the OHS Branch to further improve efficiencies of the program. In point of fact, the Branch's work plan for 2010 included a review of the radiation program.

Outlined below are responses by the OHS Branch to the key areas whereby deficiencies were noted in the overall conclusions of the Report from the Office of the Auditor General.

Registration System

The Auditor General's Report identified only 2 fields as being recorded, however, since 2005 the fields have been expanded from 2 to 6, to include: the registration number, owner, general location, equipment model, and the serial number of all new equipment.

The OHS Branch recognizes the importance of developing an electronic means to track and monitor radiation equipment. An electronic system will facilitate the compilation of pertinent information on all registered radiation equipment in the Province. With a more detailed and modern system, the OHS Branch will more readily be able to maintain electronic records for all registered pieces of equipment. The development of the electronic database will provide the OHS Branch and the Radiation Protection Officers the opportunity to determine the specific information that should be captured for each piece of equipment such as registration numbers, registration dates, inspection dates and details. Resources have been allocated and timelines will be put in place to develop this database. The process should be reasonably straightforward as there are two officers responsible for radiation equipment in the province and

there are a relatively small number of pieces of equipment to track. It is the Branch's goal to have the electronic system operational by the second quarter of 2010.

Installation and Registration of Radiation Equipment

Registration is actually with the Assistant Deputy Minister (Section 5 refers). Since 1988 this responsibility has been delegated to the Radiation Protection Officers. The Department recognizes the importance of prompt registration of equipment however the responsibility to notify the OHS Branch lies with the owner of the equipment. To improve compliance, the OHS Branch will re-communicate the importance of timely registration, re-registration and notification when equipment is no longer in service to its stakeholders and if protocols are not followed by the owner then the OHS Branch will take appropriate action to achieve compliance.

Inspection of Radiation Equipment

While the OHS Branch does not use a formal risk- based approach in planning its inspections of radiation equipment, it does use an informal risk-management approach. The experienced Radiation Protection Officers prioritize their inspections on the basis of new installations, complaints, transfers and past problems or stop work orders. Additionally, Radiation Protection Officers review dosimetery equipment of employees who work in the area of radiation equipment to monitor the effectiveness of precautionary measures implemented by the employer. Owners and operators have the responsibility to ensure that their equipment is working properly on a day-to-day basis; if there is a problem with their equipment it is expected that they will contact the OHS Branch. Additionally more modern radiation equipment that have engineered protective measures do not require close monitoring.

The OHS Branch will be reviewing the requirement in the Radiation Health and Safety Act that radiation equipment be inspected biennially. With the newer technology being utilized for radiation diagnostic equipment, the level of inspection frequency sited in the Act may not be necessary. The OHS Branch presently has a workload measurement tool for all inspection personnel and will review the same to ensure inspection prioritizing and scheduling is optimized for program efficiency and effectiveness.

While we recognize the concern the AG reports regarding the Orthopantomographic (PAN) units from a non-technical perspective, we emphasize that these units are inspected during the initial setup. Once an initial scatter radiation assessment is complete there is no need for future assessments unless there are changes to the layout, dimensions or equipment in the area or adjacent areas to the PAN unit. Because of changing technology, newer equipment does not require close monitoring like similar older models and owners must notify the Division of changes in shielding or room design.

Pan units are operated remotely using either a booth or extended exposure switch. The only area of concern for a worker is scatter radiation which is periodically inspected. The procedures used to inspect PAN units by the OHS Branch are consistent with those of other jurisdictions. Additionally, operators wear dosimeters which measure the potential radiation exposure and there has been no recorded dosimeter reading that has exceeded the accepted threshold limits.

The Branch asserts that, with the existing checks and balances, coupled with the personal dosimeters to alert of any worker exposure, the current inspection protocol is satisfactory.

CT Scanners

Scatter radiation assessments are conducted for CT scanners after the initial installation. If there are no changes to the layout, dimensions or equipment in the area or adjacent areas to the CT scanner then there is no need for further assessments. Because of changing technology, newer equipment does not require close monitoring like similar older models and owners must notify the Division of changes in shielding or room design.

All workers who use radiation equipment are required to wear dosimeters which measure personal exposure to ionizing radiation. There has never been an instance recorded in Newfoundland and Labrador where a worker has received an over exposure related to the use of CT scanners. While a CT scanner is in operation, workers are required to wear lead protective apparel to reduce the chances of exposure to scatter radiation. Patient exposure to radiation is not within the mandate of the OHS Branch.

The Branch asserts that, with the existing checks and balances, coupled with the personal dosimeters to alert of any worker exposure, the current inspection protocol is satisfactory.

Radiation Health and Safety Committee

The Radiation Health and Safety Committee was established under Section 11 of the Radiation Health and Safety Act. It was active until 2002, however, there is a question as to the effectiveness and necessity of this committee. There could be a perceived conflict of interest because such a committee is primarily composed from the same pool of individuals who are directly regulated by the OHS Branch. Currently, if the Branch requires professional or technical advice it consults outside experts in the radiation field.

The Branch has a Radiation Protection Officer on the Federal Provincial Territorial Radiation Protection Committee (FPTRPC) which meets annually. The FPTRPC is an intergovernmental Committee established to support Federal, Provincial and Territorial radiation protection agencies in their respective mandates by:

- *providing a national focus for government radiation protection agencies;*
- *promoting the harmonization of radiation health and safety programs;*
- *identifying emerging issues in radiation protection and recommending actions to the appropriate jurisdictions;*
- *developing and harmonizing radiation protection standards, guidelines and input for legislation;*
- *providing a forum for representatives of the provinces and territories, the Canadian Nuclear Safety Commission, Department of National Defence, Health Canada and other federal departments/agencies;*
- *considering requests from other governmental committees and agencies concerned with health, safety and environmental issues and liaising regularly with such committees and agencies.*

Presently, the Minister has established an Occupational Health and Safety Advisory Council under the authority of the Occupational Health and Safety Act. This Council can address safety issues in all sectors of the Province, including radiation health and safety. Therefore, sufficient mechanisms now exist to address radiation health and safety issues from a worker safety perspective. However given the AG recommendation, the necessity to maintain a separate Radiation Health and Safety Committee will be reconsidered in our proposed review of the radiation program and the respective legislation.

Policies and Procedures

General policies and procedures for inspection and enforcement do exist, however, it is recognized that documented policies and procedures have not been developed specific to the installation approval, registration, inspection and monitoring of radiation equipment. Consistency in enforcement is maintained in the Branch by two long-term Radiation Protection Officers who work closely together and with equipment owners and operators. The OHS Branch is committed to succession planning as resources have been allocated and timelines will be put in place to record the existing policies, practices and procedures for the Radiation Protection Officers. The development of an electronic database of radiation equipment in the Province will support the formalizing of inspection procedures and succession planning initiatives.

Inspection and Monitoring of Radiation Equipment

PART 2.7

DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

MEDICAL EQUIPMENT

Executive Summary

Each year the Department of Health and Community Services (the Department) allocates medical equipment funding to each of the four Regional Health Authorities (RHAs) – Eastern, Central, Western and Labrador-Grenfell. Medical equipment includes such items as magnetic resonance imagers (MRIs), computed tomography (CT) scanners, ultrasound equipment and hospital beds. Over the four fiscal years 2005 to 2008, the RHAs submitted budget requests for medical equipment expenditures totalling $132 million, of which the Department approved a total of $70 million. In 2008, a total of $48 million was requested, of which $39 million was approved.

Our review indicated deficiencies at the Department with regards to the allocation and monitoring of medical equipment funding. As well, there were issues identified at the RHAs relating to the adequacy of controls over medical equipment. For example:

Inadequate Needs Assessment

There was no Province-wide assessment of RHA medical equipment requirements. As a result, there was no strategic multi-year plan to determine the annual budgetary requirements. Instead, medical equipment funding was provided based on an annual priority list submitted by each RHA. Medical equipment requirements were not assessed relative to the overall needs of the Province considering items such as waitlists, age of equipment, equipment condition reports and obsolescence.

In 2009 it was determined that approximately $200 million would be required over the next four years to address priority equipment needs. However, the priority equipment needs were determined by the RHAs and were not based on an overall Provincial need. There was no evidence that the estimated four year requirement was approved by Government.

Inadequate Monitoring of RHA Medical Equipment Purchases

The Department did not adequately monitor how RHAs spend capital funding relative to approved budgets. For example:

- There was no requirement for the RHAs to advise the Department in cases where capital equipment purchases significantly differed from the approved budget or final tendered price.

To illustrate, in 2008, the Western RHA budgeted $2.9 million for the purchase of a 64-slice CT scanner that was quoted under tender at only $1.9 million; however, the RHA purchased a 320-slice CT scanner at a cost of $3.3 million. The RHA did not request approval to spend the additional $1.4 million for the upgraded CT scanner.

- Required quarterly reports were not always being submitted to the Department by the RHAs. In addition, the ones that were submitted were not reviewed by the Department. Furthermore, the Department had not established a format in which the quarterly reports were to be submitted.

As a result, the Department did not know if RHAs spent the money in accordance with the approved budget.

Inadequate Assessments of Medical Equipment Requirements

Although many of the medical equipment items listed on the priority list are of significant value e.g. up to $7 million for one item, the Department did not require the RHA to provide any documentation to support the cost estimate of any items provided in the priority list, nor did the Department determine the reasonability of the cost estimates of the higher value items on the priority list. As a result, the Department did not know if the estimates are reasonable.

To illustrate, in 2007-08, the Western RHA budgeted $4.5 million for the purchase of a 16-slice and 64-slice CT scanner; however, the tender prices totalled $3.2 million. As a result, the budget request was not accurate. In this instance, there was no evidence to suggest that the Department questioned the reasonability of the $4.5 million.

Non-compliance with the Public Tender Act

There were instances of non-compliance with the *Public Tender Act*. For example, in one instance the lowest tendered bid was not accepted by the Central RHA and the Government Purchasing Agency (GPA) was not notified as required under the *Act*. Officials at the Central RHA indicated that since this was not a public tender there was no requirement to notify the GPA that a bid other than the lowest had been accepted. However, our review of documentation supplied by GPA confirms that this was indeed a public tender. In this case, the low tender was approximately $511,000 while the accepted tender was approximately $810,000 – a difference of $299,000. Officials indicated that the more costly equipment was purchased because of physician preference.

Inadequate Monitoring of Medical Equipment Inventories

Controls over medical equipment were inadequate at all four RHAs. For example:

- Only three of the four RHAs (Eastern, Central and Western) had a computer system to track medical equipment. However, none of the RHAs could determine whether all medical equipment was recorded in the system because the systems are not reconciled to financial records.

- Not all relevant information such as cost and age on each piece of medical equipment was captured in the computer systems. As a result, not all information required for management purposes was readily available.

- While all four RHAs indicated that they had a capital equipment management committee, only the committee at the Eastern RHA had regular meetings, kept detailed minutes and addressed equipment management issues such as budgeting and purchasing (*Public Tender Act* and lease versus buy). The other RHAs either did not meet on a regular basis, did not keep minutes or dealt mainly with only the annual budget.

- Only three of the four RHAs (Eastern, Central and Labrador-Grenfell) have contracted a service to notify them of alerts and hazards related to medical equipment. We note that although the Western RHA did have this service and stopped, they are currently looking at reinstituting this service as well. As a result, the Western RHA could inadvertently miss an important alert or hazard relating to medical equipment.

- Only two of the four RHAs (Eastern and Central) had specific policies which required that either new equipment or equipment obtained for evaluation or loaner purposes be tested to determine whether the equipment was safe for patient use.

- Controls over the disposal of medical equipment were inadequate. There was no evidence that all equipment removed from the Eastern RHA laboratories was offered to other facilities in the region or to other facilities throughout the Province and that proper disposal procedures were followed. Also, equipment disposals at the Western RHA were not properly documented using established procedures.

Only One RHA has an Evidenced-Based Equipment Assessment System

Officials at all RHAs indicated that a significant amount of medical equipment had or was reaching the end of its normal useful life and that this was due primarily to a lack of capital funding. However, only the Eastern RHA could substantiate this position using an evidenced-based assessment system. Under this system, priority lists for replacement medical equipment identify the age and remaining life of each piece of equipment.

As of 21 October 2008, the Eastern RHA assessment system indicated that medical equipment with an historical cost of approximately $50 million (52.5% of its total medical equipment) had reached the end of its normal useful life. The Eastern RHA also determined that only 48% of its medical equipment was rated as being in good condition, while 17% was in poor condition and 35% was in fair condition.

Without a similar evidenced-based assessment system, the other three RHAs do not have readily available information to support their plans to replace equipment.

Background

Overview

Health services in the Province are delivered by the four Regional Health Authorities (RHAs) that were established 1 April 2005 as a result of the reorganization of 14 existing health care and community service boards. The base operating and capital budgets for the RHAs are funded by the Department of Health and Community Services (the Department) under the *Regional Health Authorities Act.*

A significant portion of capital budget funding is spent on medical equipment. While most of the funding for the purchase of medical equipment is provided by the Department, some funding is provided by charitable hospital foundations and auxiliaries associated with the RHAs across the Province.

Figure 1 shows the expenditures for capital equipment made by the Department for fiscal years 2005 to 2008. Over the four year period, a total of $70 million was provided to the RHAs for medical equipment expenditures.

Figure 1

Department of Health and Community Services
Capital Equipment Expenditures
Fiscal Years 2005 through to 2008
($000's)

Payee	2005	2006	2007	2008	Total
Eastern RHA	$ 2,222	$ 12,887	$ 3,240	$ 20,619	$ 38,968
Central RHA	1,018	2,561	1,503	5,247	10,329
Western RHA	938	2,877	1,520	10,228	15,563
Labrador-Grenfell RHA	322	916	833	3,069	5,140
Total Medical Equipment Expenditures	4,500	19,241	7,096	39,163	70,000
Other[1]	-	6,760	6,011	3,813	16,584
Total Capital Equipment Expenditures	**$ 4,500**	**$ 26,001**	**$ 13,107**	**$ 42,976**	**$ 86,584**

Source: Department of Health and Community Services and Public Accounts
Note 1: Capital expenditures related to Prescription Drug Network, Health Line and other Department programs not directly related to medical equipment.

As Figure 1 shows, funding varied from one year to the next and increased significantly in 2008. Department officials advised that funding allocations are based on the availability of funds and priorities established by Government. It should also be noted that $14.5 million of the 2006 and $3.4 million of the 2008 expenditures were funded by the Federal Government under the Wait Times Reduction Transfer Trust and the Patient Wait Times Guarantee Trust, respectively.

Medical equipment

Medical equipment can consist of high technology machines such as magnetic resonance imagers (MRI), computed tomography scanners (CT), radiation therapy equipment and ultrasounds.

Medical equipment can also include a large variety of less expensive medical, surgical and other equipment such as electric beds and patient lifts.

Figure 2 shows the categories of equipment approved by Government for the fiscal year 2008.

Figure 2

Budgeted Equipment by RHA
Fiscal Year 2008
($000's)

Equipment Categories	Eastern	Central	Western	Labrador/ Grenfell	Total
Special cardiac and cancer care	$11,500	$ -	$ -	$ -	$11,500
MRI, CT and upgrades	591	-	5,250	-	5,841
Beds and patient care	848	351	721	269	2,189
X Ray	1,249	-	-	200	1,449
Ultrasound	764	330	80	7	1,181
Sterilization	454	-	325	337	1,116
Medication management	856	-	230	20	1,106
Defibrillators / Monitors	691	154	225	-	1,070
Surgical	445	210	60	197	912
Laboratory	653	48	141	-	842
Kitchen and institutional	128	55	360	180	723
Scopes	-	328	140	152	620
ECG & EEG	247	195	65	88	595
Ambulance and related	185	250	-	150	585
	18,611	1,921	7,597	1,600	29,729
Other	2,007	3,326	2,601	1,500	9,434
Total	**$20,618**	**$ 5,247**	**$10,198**	**$ 3,100**	**$39,163**

Source: Department-approved budgets

The CT scanner in Figure 3 is included in the $5.3 million noted for the Western RHA in Figure 2.

Figure 3

320 slice CT scanner
Western Memorial Hospital



Source: Western RHA

Audit Objectives and Scope

Audit objectives

The objectives of our review were to determine whether:

- the Department had a strategic plan that would include multi-year requirements with respect to the acquisition and location of medical equipment resources throughout the Province;
- the Department conducted an annual assessment of medical equipment requirements based on funding requests by Regional Health Authorities (RHAs);
- RHAs had policies and procedures in place to establish the need for new and replacement medical equipment;

- RHAs adhered to the *Public Tender Act* to ensure that a fair and reasonable price was obtained for the purchase of medical equipment;
- the Department was monitoring the medical equipment purchased by the four RHAs; and
- RHAs had systems, policies and procedures in place to administer medical equipment inventories.

Audit scope

We visited the Eastern, Central and Western RHAs and contacted the Labrador-Grenfell RHA in November 2008. We completed our review in February 2009.

The scope of the audit included:

- discussion of historical and current budget, financial, and monitoring information with officials at the RHAs and the Department;
- review of priority equipment lists for each of the RHAs for fiscal years 2005 to 2008;
- review of equipment budgets for each of the RHAs for the fiscal years 2005 to 2008;
- review of a sample of equipment purchases to determine whether a fair and reasonable price was obtained for the purchase of medical equipment; and
- review of medical equipment inventory management systems, policies and procedures with biomedical and other officials at each of the RHAs.

Detailed Observations

Overview

The Department of Health and Community Services (the Department) provides most of the funding for the purchase of medical and other equipment for the four Regional Health Authorities (RHAs) and other entities for which it is responsible.

This funding is authorized through the Government-wide annual capital budget process and is based on priority equipment needs listings prepared annually by each of the RHAs or other entities. These needs listings are prepared considering Government-wide and Department policies, special initiatives and/or directives. Final needs listings are approved by the Department's executive and are submitted to Treasury Board for consideration by Cabinet for final funding decisions.

The Department is responsible to provide leadership and guidance to the RHAs and other entities, to coordinate the budget process and to monitor equipment purchases to ensure compliance with the approved budget. The RHAs are responsible to identify their equipment priorities and to acquire the approved equipment at a fair and reasonable price. In addition, each RHA is responsible to put policies, procedures and inventory management systems in place to safeguard the medical equipment and to provide for cost effective preventive maintenance to facilitate safe patient care.

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

1. Medical Equipment Needs
2. Departmental Monitoring
3. Purchasing
4. Equipment Management

1. Medical Equipment Needs

Introduction

Annual needs assessments for capital equipment primarily originate with the four RHAs. The needs identification process starts when the executive official responsible for the equipment budget asks each of the administrative and clinical department heads to assess their particular equipment needs for the coming year.

In the determination of equipment needs, the RHAs indicate that good patient care and safety is the overriding concern. This being the case, the process is influenced by such things as the age and physical status of existing equipment, technological obsolescence, changes in technology or treatment standards of care and changes in policy direction or specific initiatives by Government.

The significant Government initiative to be addressed by the RHAs in establishing medical equipment needs during the review period related to the formal meetings between provincial, territorial and the Federal First Ministers (FMM) in 2000, 2003 and 2004. These meetings resulted in agreements and accords designed to address issues related to waitlists, improved access to services and to the overall strengthening of the public health care system for all residents of the country. In particular, these agreements and accords focused additional Federal funding to reduce wait-times in such priority areas as cancer, heart, diagnostic imaging, joint replacements and sight restoration surgeries.

Historically, all of the capital equipment needs have not been fully funded and as a result Department officials advise RHA officials that only the higher priority items should be included in their listings of items to be considered for funding. Figure 4 shows the value of the priority lists for each RHA and the amounts actually funded during fiscal years 2005 to 2008.

Figure 4

Comparison of Capital Equipment Needs to Funding
Fiscal Years Ending 31 March
($000's)

RHA	2005	2006	2007	2008	Total
Eastern					
Budget Request	$ 12,177	$ 18,665	$ 26,431	$ 25,071	$ 82,344
Funded	2,222	12,887	3,240	20,619	38,968
Unfunded	9,955	5,778	23,191	4,452	43,376
% Unfunded	**82%**	**31%**	**88%**	**18%**	**53%**
Central					
Budget Request	3,091	4,345	7,224	7,033	21,693
Funded	1,018	2,561	1,503	5,247	10,329
Unfunded	2,073	1,784	5,721	1,786	11,364
% Unfunded	**67%**	**41%**	**79%**	**25%**	**52%**
Western					
Budget Request	1,229	958	1,592	12,973	16,752
Funded	938	2,877	1,520	10,228	15,563
Unfunded	291	-1,919	72	2,745	1,189

RHA	2005	2006	2007	2008	Total
% Unfunded	**24%**	**-200%**	**5%**	**21%**	**7%**
Labrador-Grenfell					
Budget Request	1,847	2,093	3,720	3,215	10,875
Funded	322	916	833	3,069	5,140
Unfunded	1,525	1,177	2,887	146	5,735
% Unfunded	**83%**	**56%**	**78%**	**5%**	**53%**
Total					
Budget Request	18,344	26,061	38,967	48,292	131,664
Funded[1,2]	4,500	19,241	7,096	39,163	70,000
Unfunded	13,844	6,820	31,871	9,129	61,664
% Unfunded	**75.5%**	**26.2%**	**81.8%**	**18.9%**	**46.8%**

Source: Department of Health and Community Services

Note 1: The amount for 2007-08 includes special unplanned funding of approximately $14.0 million approved Feb 2008 that resulted from budget savings in other areas and was not included in the original approved budget.

Note 2: The funding for fiscal 2006 included $14.5 million targeted Federal Funding from the Wait Times Reduction Transfer Trust and the 2008 expenditures included $3.4 million from the Patient Wait Times Guarantee Trust.

As Figure 4 shows, the amount of capital equipment that was not funded varied significantly from year to year. In one case (Western - 2006) the funding provided exceeded the original budgeted amount. The original budget requests were made before Federal funding was announced under the Wait Times Reduction Transfer Trust.

The evaluation of equipment needs is carried out by clinical and biomedical technical professionals and management officials at each of the RHAs. These evaluations result in lists of new and replacement equipment that are reviewed, challenged and eventually approved by senior executive officials. The RHA approved lists, containing the quantities and estimated costs of the highest priority items are forwarded to the Department for budget consideration.

No multi-year Province-wide capital equipment plan

Since medical and other equipment is costly and usually has a life measured in years it makes sense and is best practice that the management of these assets is planned in terms of multiple years. We expected that the Department and the RHAs would have developed an evidence-based multi-year Province-wide strategic plan for the acquisition and location of medical and other equipment. Further, we expected that such a plan would contain specific details as to the expansion of services, the assessment of new and replacement equipment needs and priorities and the identification of stable, long-term funding.

As part of the 2008-09 budget process, Department officials prepared documentation to support the case for a multi-year capital equipment plan to Government. The document proposed that Government approve a four year capital equipment plan with a $200 million cost estimate based upon $50 million per year over a four year period. Department officials could not provide evidence that the estimated four year requirement was approved by Government.

Further, the document indicated that the four RHAs were in the process of developing multi-year capital equipment plans; however, at that time the multi-year plans were not fully developed by the RHAs. Since the development of any evidence-based, multi-year, Province-wide strategic plan would rely upon input from the RHAs and since their multi-year capital equipment plans were not completed at the time the 2008-09 budget document was prepared, it could not be considered as a strategic multi-year plan. The RHAs continue to prepare budget submissions on a year-to-year basis and Government has not made a commitment to provide predictable stable funding for capital equipment.

Examples of results of inadequate planning

During the course of our review we noted the following two issues that likely arose because there was no multi-year strategic plan in place.

- The first instance related to the purchase of CT scanners in the Western RHA. The approved 2007-08 capital equipment budget provided for the purchase of a 16 and a 64 slice CT scanner. When the initial purchase process had been completed, officials became aware that 16 slice CT scanners had been obsolete since 2007 and that the main suppliers had not sold such machines in the past 24 months. In addition to the obsolete machine, the RHA upgraded the budgeted 64 slice machine to a 320 slice machine at a significant additional cost of $1.4 million.

  This situation calls into question the adequacy of the needs assessments carried out by the RHA when they submitted a budget request for a piece of obsolete equipment. Also, the RHA presented a case and received approval for the purchase of a 64 slice CT scanner but eventually purchased a much more costly 320 slice machine. If there had been a multi-year strategic Province-wide plan in place it is likely that the location of services requiring more advanced diagnostic equipment would have been established. It is also likely that RHA officials would have been aware of the obsolete equipment and would have received guidance as to the availability of funding to support a much more expensive piece of equipment in this region.

- The other instance related to the funding of capital equipment. In February 2008 the Department identified an additional amount of approximately $14.0 million in capital equipment funding. This additional funding had not been planned and the Department indicated to the RHAs that the funding had to be spent prior to the 31 March 2008 fiscal year end.

  One senior RHA materials management official indicated that they had to spend the funds with sole suppliers, where a public tender was not required, in order to meet the 31 March deadline. Also, another RHA had two suppliers disqualified because they could not deliver portable x-ray machines before the 31 March 2008 deadline. This resulted in the highest price bidder being selected. In this case the successful tender was $13,000 or 33% higher than the lowest tender of $39,000.

  The stable funding that would be an integral part of a multi-year plan would allow for the timely acquisition of medical equipment.

Replacement equipment needs

All of the RHAs have systems in place to determine the status of medical equipment with respect to patient safety issues, preventive maintenance costs and obsolescence; however, none of them reconcile the equipment included in their fixed asset management systems to the financial records. As a result, there is no assurance that all biomedical or other equipment is included and adequately managed. Furthermore, only the Eastern RHA has established a well documented evidence-based system to rank the reliability status of those pieces of biomedical equipment that are included in the fixed asset management system.

Figure 5 shows the various rankings developed by the Eastern RHA and a description of each of the ratings.

Figure 5

Eastern RHA
Biomedical Equipment Ratings

Ratings	Rating Description
1-Poor	**Equipment should be replaced immediately** – equipment has excessive downtime and/or spare parts are no longer available or difficult to obtain.
2-Fair	**The equipment should be replaced in the next 1-3 years** – equipment is still reliable but is nearing the end of life with downtime increasing. The equipment has been surpassed by newer technology offering improvements to procedures or treatment.
3-Good	**The equipment should not be replaced** – equipment is reliable. Although it may not be the latest technology, it is able to perform procedures and treatments where it is required.
4-Very Good	**The equipment should not be replaced** – equipment is not new but still at the leading edge of technology and offers many of the latest features. It is reliable with minimal downtime.
5-Excellent	**The equipment is in as new condition and should not be replaced –** equipment is brand new, probably the latest technology, under warranty, very reliable and operates to specifications.

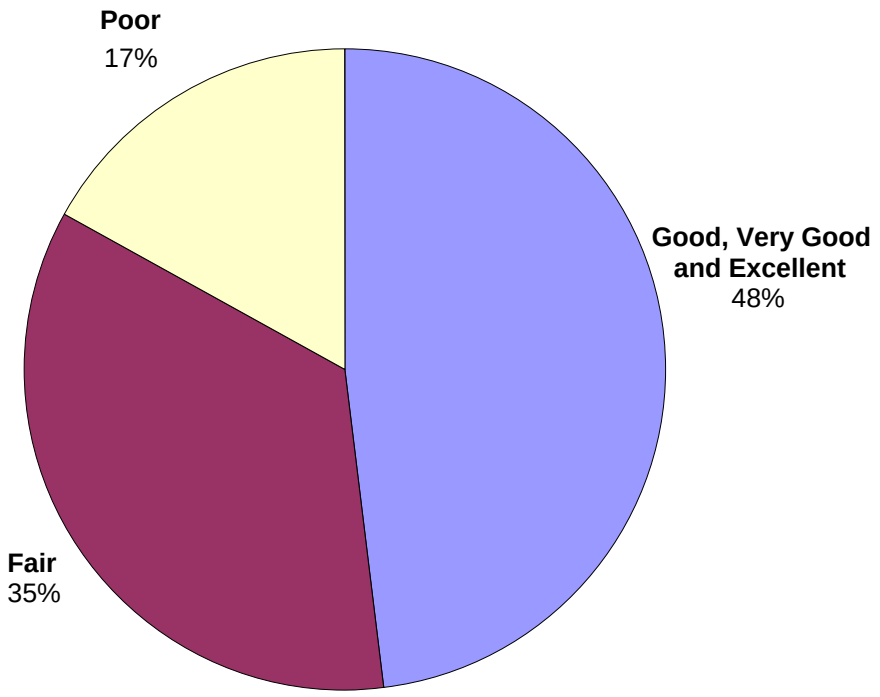
Source: Eastern RHA

Ratings are assigned to each piece of equipment by qualified biomedical technicians as they carry out their preventive maintenance procedures or repairs. While there is no specific reference to likelihood of equipment failure, the implication is that the lower the ranking the higher likelihood of failure and, depending on the nature of the equipment, increased risk to the patient. The RHA in this case prepared a summary of the status of all the items included in their equipment inventory and presented it to the Department executive in November 2007 in support of their medical equipment funding request for 2008-09.

The Eastern RHA started reporting on the status of biomedical equipment in October 2007. Figure 6 shows the ratings of biomedical equipment for the Eastern RHA one year later.

Figure 6

Eastern RHA
Biomedical Equipment Ratings
As at 21 October 2008
(% percentage)



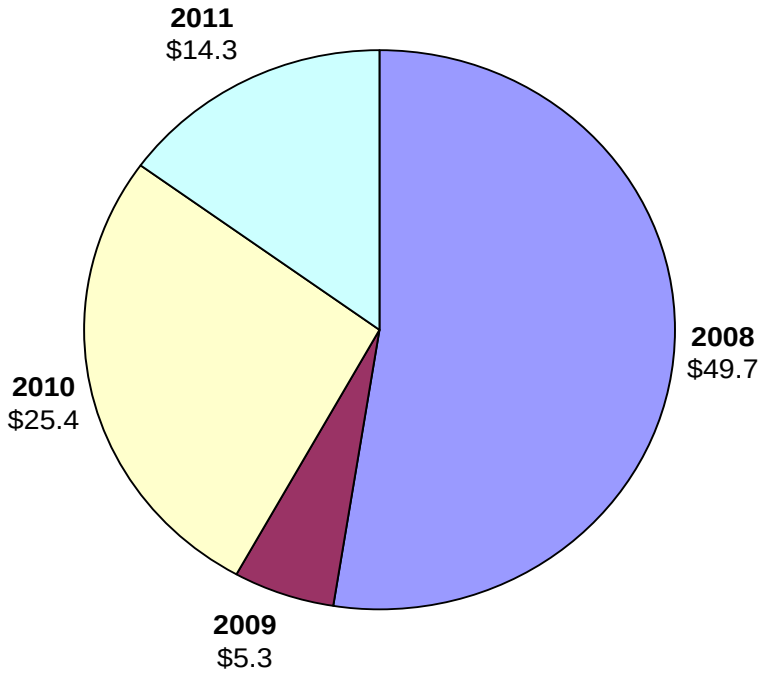
Source: Eastern RHA

As Figure 6 shows, 52% of the biomedical equipment at the Eastern RHA is rated as being in poor (17%) or fair (35%) condition and will either need to be replaced immediately or within the next three years.

Figure 7 shows the status of biomedical equipment at the Eastern RHA.

Figure 7

Eastern RHA
End of Life by Year and Cost
As at 21 October 2008
($ millions)



Source: Eastern RHA

As Figure 7 shows, at the time of the report, $49.7 million or 52.5 % of the total biomedical equipment included in the inventory by the Eastern RHA has or will reach the end of its normal useful life in 2008.

The ranking system in place at the Eastern RHA is an effective evidence-based tool when used to identify equipment needing to be replaced. None of the other RHAs use a ranking system to arrive at their priority listings.

Recommendation

The Department, in collaboration with the RHAs, should develop a formal multi-year plan to address the needs and location of new equipment in the Province. The Department should provide leadership to the RHAs to encourage collaboration among them to address the development of evidence-based systems to assess the status of existing equipment inventories.

2. Departmental Monitoring

Introduction

The Department requires that RHAs provide quarterly updates on capital equipment purchases and repairs/renovations to health care facilities. In addition to these quarterly updates we would have expected Department officials to carry out a thorough review of RHA equipment priority needs listings to assess the reasonableness of cost estimates and the other support information included. Similar to the annual capital equipment budgets, we would have expected that any significant changes to the approved budgets be approved in writing by the Department.

Lack of quarterly monitoring

In a 29 April 2008 budget approval letter to the RHAs the Deputy Minister of Health and Community Services stated that *"the Department has not received the quarterly reports from the four regional health authorities for 2007-08 as requested in a letter dated 26 April 2007."*

Based on discussions with RHAs and Department officials, required quarterly reports were not always being submitted to the Department by the RHAs. In addition, the ones that were submitted were not reviewed by the Department. Furthermore, the Department had not established a format in which the quarterly reports were to be submitted.

At the time of our visit in December 2008, some 19 months after the initial request, no Department official had been assigned the responsibility to develop reporting criteria and/or to review information to be submitted by the RHAs. According to Departmental officials, new staff had not been recruited and the Department did not have the resources to carry out this monitoring.

Estimates are not being reviewed

Equipment listings presented to the Department for capital funding are based on information from the various departments in the hospitals or institutions at the RHAs. Since budget requests are based on cost estimates it is not surprising that there would be variations between the estimates and the final publicly tendered price. Department officials acknowledged that these variances occur; however, they take the view that these variances have a tendency to balance out over time and, therefore, budgets are not adjusted. Although officials indicate that they have never requested that purchase savings be refunded to the Department, we did note a number of situations where additional funding was requested as a result of the RHAs underestimating required funding. According to officials, the additional funding is approved by the Department similar to other emergency funding situations. Since Department officials had not reviewed RHA purchasing documentation, they had no way to know the actual extent of any savings that may have been used for other purposes.

Approved budget was 39.9% higher than tender price

Our medical equipment review included a survey of MRIs and CT scanners in use at the four RHAs. This survey showed that one of the CT scanners was significantly more costly than the others and prompted our review of the circumstances surrounding the acquisition of this particular piece of equipment. The review called into question the accuracy of the estimates used in the capital equipment listings submitted for capital funding by the RHAs and the adequacy of the review of these estimates by Department budget officials.

For example, in their 2007-08 capital equipment budget submission, the Western RHA included a request for a 16 slice and a 64 slice CT scanner. In this instance the term “slice” is used in relation to CT scanners to indicate the quality of image detail of the scans with the higher the number of slices the more advanced the equipment.

Figure 8 shows the detail of this equipment purchase.

Figure 8

Western RHA
2007-08 Capital Equipment Budget
CT Scanner Upgrade Information

	16 Slice Upgrade to 64 slice	64 Slice Upgrade to 320 slice	Total
Budget	$ 1,600,000	$ 2,900,000	$ 4,500,000
Original tender price	1,338,993	1,879,520	3,218,513
Initial budget surplus	261,007	1,020,480	1,282,487
Upgrade cost	184,935	1,423,460	1,608,395
Final budget surplus (deficit)	**$ 76,072**	**$ (402,980)**	**$ (326,908)**

Source: Department and Western RHA budget and financial records

Significant deviations from approved budget not approved by Department

Figure 8 shows an initial budget surplus of $1,282,487 which is 39.9% of the $3,218,513 accepted tender price. Although the cost estimate for this equipment included the cost of installation renovations, which can be difficult to predict, we would have expected that since the difference here is excessive the overall budget of $4.5 million should have been more strenuously questioned by the Department prior to being approved.

The equipment upgrades, having a total cost of $1,608,395, were almost 2.5 times the approved capital budget of $572,000 for all other capital equipment items for this RHA for the year and according to Department officials, the deviations from the approved budget equipment listing were not formally approved by the Department.

Recommendation

The Department should carry out a more strenuous review of capital equipment submissions, should establish the format for information to be reported to the Department by the RHAs and ensure that the requested information is received from the four RHAs on a timely basis. Furthermore, the information supplied by the RHAs should be compared to the approved budget listings and officials should ensure that any significant deviations from the approved budget listings have been approved by the Department.

3. Purchasing

Overview

Like most other purchases by government funded bodies, the purchases of capital equipment by the RHAs must comply with the *Public Tender Act* including the requirement to report to the Chief Operating Officer of the Government Purchasing Agency (GPA) when equipment is not tendered or when the tender is not awarded to the lowest bidder.

Possibly as a result of the scarcity of funding in earlier years, the RHAs developed various operating lease-type arrangements to acquire medical and other equipment. These leases are included in our review. In these arrangements, the RHAs used the equipment over a fixed term in return for monthly payments based upon the number of tests performed or supplies used. Although these arrangements are not typical equipment purchase transactions they are subject to the *Public Tender Act* and *Regulations*.

In addition to the issues related to the *Public Tender Act* and other purchasing arrangements, we would have expected the RHAs to collaborate with each other to take advantage of better pricing opportunities available as a result of bulk buying of equipment.

Equipment purchase testing

Our review included the examination of a sample of 20 equipment purchases from fiscal 2007-08. The samples included 12 purchases $10,000 and greater and 8 purchases less than $10,000. These samples were selected equally from the accounting records of the four RHAs.

Purchases $10,000 and greater

The *Public Tender Act* requires that purchases $10,000 and greater must be publicly tendered. If these purchases are not publicly tendered, the RHA is required to notify the Chief Operating Officer of the GPA.

Of the 12 purchases $10,000 and greater, totalling $1,420,279, 3 were not publicly tendered because there was a sole source of supply, and there was 1 purchase where the lowest tendered price was not used. The purchases not publicly tendered were reported to the GPA as required; however, the purchase where the lowest tendered price was not used was not reported.

The purchase where the lowest tendered price was not selected and where the GPA was not notified involved the supply of endoscopy equipment on a "cost per treatment basis" for the Central Newfoundland Health Centre within the Central RHA. In this case three acceptable tenders were evaluated by the clinical staff who accepted a bid other than the lowest. Officials at Central RHA indicated that since this was not a public tender there was no requirement to notify the GPA that a bid other than the lowest had been accepted. However, our review of documentation supplied by GPA confirms that this was indeed a public tender. Figure 9 shows the details of this five year contract.

Figure 9

Central RHA
Endoscopy Purchase Details

Supplier	Quote per Test	Estimated Number of Tests	Total Cost
#1	$24.34	21,000	$511,140
#2	$33.13	21,000	$695,730
#3	$38.56	21,000	$809,760

Source: Central RHA

The successful bidder's price of $809,760 was $298,620 or 58.4% higher than the lowest bid price of $511,140. Officials indicated that the more costly equipment was purchased because of physician preference.

Purchases less than $10,000

For purchases less than $10,000, the purchaser is required to obtain direct quotations from at least three legitimate dealers or suppliers or establish for the circumstances a fair and reasonable price. Of the 8 samples tested, totalling $47,749, 6 did not have three quotes. Five of the 6 involved purchases from sole source providers and one had only two quotations.

Public tender exemptions and special funding arrangements

Of the 20 purchases selected for testing 8 or 40% were noted as sole source purchases (3 at $10,000 or greater and 5 at less than $10,000). Three of the 8 were $10,000 or greater and were not publicly tendered. The remaining 5 purchases were less than $10,000 and three quotes were not obtained.

In view of the high percentage of sole source purchases in our random sample, we conducted a review of the reports provided by the GPA of non-tender notifications for the four RHAs in fiscal 2007-08. That review indicated that there were approximately 290 notifications by the RHAs having a total value of approximately $24.4 million. Approximately 75 or 27% of these notifications having an approximate value of $4.1 million related to equipment.

It is clear that in the increasingly technical health care environment there are many types of equipment and other services that are provided by only one supplier. In other instances the purchases are made so that new purchases will be compatible with existing equipment.

During our review there were concerns expressed by some officials regarding the control over non-tendered purchases and special funding arrangements. These concerns included: transactions not being approved at a high level in instances where public tenders had not been called or where special funding arrangements were used; and special funding arrangements not being challenged upon renewal to ensure that they continue to make good business sense.

Bulk buying

During the 2008-09 capital budget process approximately $26.0 million was allocated for the purchase of CT scanners, mammography units and other x-ray equipment. As part of the process, the Department directed the RHAs to combine their budget allocations to take advantage of the pricing opportunities from bulk purchasing. At the time of completion of our work, the purchases had not been completed; however, officials advised that they expected savings of approximately 30% or $7.0 million.

It is clear that there are savings available to the RHAs when there is more standardization among them and when they are able to take advantage of larger quantity purchases. The 2008-09 joint purchasing effort related to the purchase of diagnostic imaging equipment is a good start. However, in a province with a small, scattered population and scarce capital funding for equipment, indications are that there is an opportunity for additional savings if there was ongoing collaboration among the four RHAs.

Recommendation

All regional health authorities should:

- comply with all aspects of the *Public Tender Act*; and
- establish policies and procedures to ensure that non-tendered situations and special funding arrangements are approved at a high level and challenged on a periodic basis.

Also, the Department should continue to provide leadership to the RHAs to encourage further collaboration to obtain maximum savings in purchasing equipment.

4. Equipment Management

Overview

The cost of medical and other equipment inventories is significant and we would have expected that each of the RHAs had developed policies, procedures and inventory control systems to manage them.

Issues related to the management of medical equipment at the four RHAs are reported under the following headings:

A. Policies and Procedures
B. Equipment Inventory Management Systems

4A. Policies and Procedures

Introduction

The RHAs were established effective 1 April 2005 and at the time of our visit in November 2008 these entities were still in the process of integrating the legacy boards. For example, the Central RHA was still operating three purchasing departments and had only recently started the integration of the three employee payroll systems into one.

Similarly, the RHAs were also in the process of integrating and developing policies and procedures related to medical equipment. As would be expected, the extent of the development of policies and procedures varied from one RHA to the other depending upon the size, complexity and nature of the equipment inventories.

Despite the obvious differences among the RHAs, we would have expected that basic equipment custody and safety issues would be similar and that there would be collaboration among the four RHAs to ensure that minimum standards were being maintained especially as it related to patient safety.

As a minimum, procedures and systems that we would have expected to see in place would include such things as:

- the establishment of capital equipment and infrastructure committees;
- inspection of all medical equipment entering any facility for proper operation and compliance to standards;
- procedures to identify manufacturer safety/hazard recalls; and
- policies and procedures to dispose of equipment no longer required or taken out of service.

Lack of active Equipment Management Committees

Discussions with officials indicated that all RHAs had processes in place to prepare the annual equipment budget and all made reference to committees that were involved. The committees in place at each of the RHAs at the completion of our review were as follows:

- Eastern - Capital Infrastructure Review Committee (14 meetings during 13 June 06 to 3 Sept 08);
- Central - Capital Equipment Committee (4 meetings during 15 May 06 to 26 June 08);
- Western - Capital Equipment /Repairs and Renovations Committee (no minutes, only set up for the 2009-10 budget year); and
- Labrador-Grenfell - Equipment Committee (no capital equipment committee - will use Purchase Review Committee to address equipment issues. No minutes to date).

The foregoing shows that three RHAs had either no active equipment management committee in place or the documentation of their activities was minimal and related mainly to the annual budget submission to the Department.

The Capital Infrastructure Review Committee in place at the Eastern RHA was the only one that was meeting on a regular basis and addressing many capital equipment issues including the annual budget. Detailed minutes were maintained to document all of the issues discussed and guidance was provided to officials. Following are examples of issues raised at the Eastern RHA meetings.

4 April 2007

- reference to a physician's presentation focusing on "*the importance of improving the current system used to allocate monies for capital equipment and the importance of achieving a sustainable capital equipment allocation for the long term.*"

- *"the options of purchase versus lease of lab equipment will need to be reviewed"*

5 September 2007

- reference to a committee member's comment that the Committee was not being included in the review of: *"All potential capital acquisitions, regardless of means of payment used..."*

-*"Programs and Departments should not be permitted to charge funding expense e.g. reagent leases, cost per treatment expenses etc. to an operating account without being approved by this process…this will be included in the purchasing capital policy."*

9 January 2008

-*"The next step in the process will now be for Eastern Health to develop a business case for presentation to Government on the best placement of digital mammography within the Province to best serve the needs of the public."*

- Concern expressed, *"regarding the approval of awarding contracts without going to public tender citing reasons as: Sole source, manufacturers agent; sole source, renewal of agreement for existing software; Emergency purchase existing units not working and parts unavailable." "a full review of the policy to be conducted." "Send reminder to all staff to obtain VP/COO approval prior to awarding contract without tender invitation."*

The foregoing examples show that the ongoing process of equipment management is not a "once a year" activity, rather it is multi-faceted activity, covering many areas including clinical and financial management issues. A well organized equipment committee can address many issues resulting in the challenge of existing practices and the development of new or changed policies and procedures for improved management of capital equipment. Furthermore, collaboration with other such committees among the RHAs would provide a Province-wide perspective in specific areas of interest.

New/borrowed/ evaluation equipment inspections not included in policies and procedures

All biomedical equipment entering the facility has the capacity to cause the patient to be at risk if it is not working properly. The movement of equipment in and out of a medical facility can occur in a number of ways. The usual way would be through the receiving department as a new purchase; however, equipment could also enter the facility and be carried directly to the area of use as an evaluation unit or as a loaner. Regardless of the source, all biomedical equipment should be thoroughly inspected by a qualified technician to ensure that it is working to specification. Also, the equipment should be entered into the inventory records and controlled while it is in use.

The policy related to the inspection of equipment at the Eastern RHA is addressed in policies MS 31- Lending of equipment and supplies, MS 30 - Borrowed and/or evaluation equipment and IS 60 - Equipment acceptance testing.

Similar policies at the Central RHA are included in the Biomedical Departmental Manual section VIII-50 policies and procedures; #3-Testing Equipment must be tested on entry, #4-Lending/Borrowing equipment and #9-Accepting biomedical equipment into facility (must be tested and recorded in equipment inventory system).

The policy documentation provided by Western is included in its "Equipment Procurement Policy". The policy is general in nature referring to in-service procedures and evaluation of the equipment. The documentation did not specifically refer to detailed inspections of new, borrowed or evaluation equipment before entry into service.

The policy for Labrador-Grenfell is included in policy #4-70 – Capital Assets (Inventory and Disposal) – Policy/Standard for listing of capital assets. The Biomedical Technician will test for service and list as asset. The overall policy covers all equipment (e.g. vehicles, computers) but makes no reference to loaned or borrowed equipment etc.

Manufacturer safety hazard/recalls

Equipment manufacturers periodically issue safety hazard and recall alerts related to their equipment. Because these hazards and recall alerts directly impact on patient safety, officials treat the correction of hazards affecting their medical equipment as their first priority. For example, the Director of Medical Support with the Eastern RHA advised us that they consider this area of patient safety so important that they handle the management of the alerts themselves.

To ensure that all of these hazard and recall alerts are identified and received as quickly as possible, three of the RHAs subscribe to an independent safety hazard and recall service that identifies and notifies them of any such alerts. As a part of the recall service and to ensure that action is taken promptly to correct any hazards or defects, two of the three RHAs use services (RASMAS) where alerts are automatically directed to the persons responsible for correcting the defects through an email notification process. If corrected action is not carried out in the specified period of time, a responsible senior manager is notified so that follow-up action can be taken.

The Western RHA had been subscribing to a notification service in the past but discontinued their subscription because the value of the service in terms of alert notification was questionable. They found that any alerts noted by the service would have already been communicated to them by Health Canada or by the manufacturer. Officials did indicate, however, that they had a subgroup currently working on the best process for dealing with alerts for their organization.

This is another situation where patients could be put at unnecessary risk because there is no process for RHAs to work together to establish best practice throughout the whole Province.

Disposal of surplus equipment not adequately tracked

Similar to the development of other policies and procedures at the four RHAs, the content of policies and procedures related to the disposal of surplus equipment varied; however, there was consistency in that all had official preprinted forms in place documenting and approving the dispositions. Officials advised that it was a generally accepted policy, apparently initiated by the Department, that prior to the disposition of surplus equipment, it is offered to other facilities in the region and then to other RHAs across the Province.

Notwithstanding the fact that each of the RHAs had policies and procedures in place to document the disposal of surplus equipment, there was evidence that these policies and procedures were not always being followed. This was partly because not all of the equipment assets were accounted for in the equipment inventory management systems (EIMS); therefore, officials would not know if a particular item were missing.

During our review we noted two instances where the disposal policies and/or procedures may not have been followed. In particular:

- A typical report from the EIMS in use at the Western RHA showed a column with an out-of-service heading. Officials advised that a notation placed in this column indicated that the particular piece of equipment had been taken out-of-service.

  Officials advised us that they maintained files containing the supporting documents describing the reason for the disposition as well as the appropriate approvals. To verify that the indicated policy was being followed we selected five out-of-service items from the EIMS and looked in the files for the supporting documentation. We also selected five items from the supporting documents file and tried to trace them to the EIMS. None of the five items selected from the supporting documentation file were noted in the EIMS as out-of-service and none of the five items selected from the EIMS had supporting documentation. Subsequently, the RHA produced supporting documentation for two of the items that were noted as out-of-service in the EIMS. As a result, there is no evidence for these samples that surplus equipment policies and procedures had been followed; and

- In the other instance we enquired of a senior Eastern RHA official regarding the laboratory equipment that became an issue in the "Commission of Inquiry on Hormone Receptor Testing". According to the official, the laboratory equipment in question was included in the EIMS that preceded the system currently in place at the Eastern RHA. Records from the preceding EIMS documented the maintenance history on this laboratory equipment; however, there was no evidence that officials had offered this equipment to other laboratories in the Province. Furthermore, although the board at the time had preprinted disposal forms including "bills of sale", none of these were used.

These two examples call into question the adequacy of the policies, procedures and systems at the RHAs to ensure the security of medical equipment and other capital assets.

4B. Equipment Inventory Management Systems

Overview

A key component in the effective management of medical equipment is an accurate, up to date perpetual inventory system. These systems would normally record equipment descriptions, specifications, purchase details and preventive maintenance histories for each item owned.

Our review of the RHAs indicated that the four of them had medical equipment perpetual inventory systems in place. Three of the RHAs had computerized systems and Labrador-Grenfell had a manual cardex-type system.

All of these systems use unique number tags to identify all equipment that is purchased whether it is included in the inventory system or not. Each inventory system contains equipment descriptions, specifications as well as preventive maintenance records for each of the items included in the perpetual inventory.

All equipment is not included in the perpetual inventory system

All of the RHAs advised that it was their intention to eventually record all fixed assets owned in a fixed asset ledger/perpetual inventory system. At the time of our review, only the Western RHA claimed that they had all equipment in their perpetual inventory system. The other three RHAs included only biomedical and other items that require manufacturers' preventive maintenance and monitoring.

A significant weakness in all of the systems in place at the RHAs was that there was no assurance that all of the equipment intended to be included in the inventory system was actually included. This being the case, the RHAs cannot be sure that:

- all of the equipment that they own is secure;
- all equipment that should be included in the system because of safety or preventive maintenance requirements are actually included; and
- equipment no longer in service has been removed from the inventory system and disposed of in accordance with established policy.

The approach used in most fixed asset ledger systems to ensure that all assets are included is to agree the cost amounts included in the inventory system records to the amounts recorded in the financial records. This reconciliation process should be supported by detailed policies and procedures related to preventive maintenance and borrowed or loaned equipment. Unless all of the equipment can be accounted for and verified by regular physical inspections, there is no assurance that all assets are being managed effectively and the risk to patients is minimized.

Recommendation

All regional health authorities should have policies, procedures and systems in place to provide for the security and effective management of all medical and other equipment.

Department's Response

Recommendation No.1

The Department, in collaboration with the RHAs, should develop a formal multi-year plan to address the needs and location of new equipment in the Province. The Department should provide leadership to the RHAs to encourage collaboration among them to address the development of evidence-based systems to assess the status of existing equipment inventories.

The Department agrees with the Auditor General's recommendation and is supportive of a formal multi-year plan for capital equipment budgeting and procurement. Budgets for capital equipment have been determined annually based on Government's fiscal capacity, in the context of other budget priorities for the province, and based on priority listings and recommendations from the executive team of each Regional Health Authority. The Department is supportive of and will explore the feasibility of a province-wide equipment inventory system similar to the system in Eastern Health for implementing an evidence based equipment management system.

Recommendation No. 2

The Department should carry out a more strenuous review of capital equipment submissions, should establish the format for information to be reported to the Department by the RHAs and ensure that the requested information is received from the four RHAs on a timely basis. Furthermore, the information supplied by the RHAs should be compared to the approved budget listings and officials should ensure that any significant deviations from the approved budget listings have been approved by the Department.

The Department agrees with the Auditor General's recommendation. As part of the budget process in 2009/10 and prior years, the Department held discussions with the executive teams of each health authority to review their capital equipment priority listings that were presented to Government as part of the annual budget process. From these discussions, revisions were made as necessary to ensure that the highest priority equipment requirements were presented based on health authority need and provincial direction and all equipment purchases are approved based on these parameters. In budget 2010/11, the Department will move forward with developing standards for capital equipment purchasing and reporting and will put in place a standardized reporting format and submission timelines.

It should be noted that in 2009/10, the Department has put in place a process that requires all health authorities to identify cases where there are significant tender price savings or overruns. This is then followed up with either a request from the authority for approval to redirect the recognized savings for other priority equipment purchases or in the case of shortfalls, a written request seeking additional funding for the purchase.

Recommendation No. 3

The RHAs should comply with all aspects of the Public Tender Act and should establish policies and procedures to ensure that non-tendered situations and special funding arrangements are approved at a high level and challenged on a periodic basis. Also, the Department should continue to provide leadership to the RHAs to encourage further collaboration to obtain maximum savings in purchasing equipment.

The Department agrees with the Auditor General's recommendation and started this process in 2009/10. The Department receives regular listings of equipment purchases from the Government Purchasing Agency and these reports are reviewed and follow-up completed. As part of the budget process in 2008/09 and again with the 2009/10 capital budget approvals to health authorities dated May 5, 2009, health authorities were directed to "continue to

use a joint tender, where feasible, for the purchase of common categories of equipment in order to build on the successes of this joint tendering arrangement and maximize the purchasing potential for equipment in 2009/10".

This joint tendering process was successful in achieving significant savings on medical and diagnostic equipment in both these fiscal years and the Department will continue to work with the health authorities to ensure maximum purchasing capability for capital equipment is achieved.

Recommendation No. 4

The RHAs should have policies, procedures and systems in place to provide for the security and effective management of all medical and other equipment.

The Department recognizes the importance of established policies and procedures for the safeguarding, management and optimal use of all medical, surgical, diagnostic and other health related equipment. The Department will work with all RHAs and health related agencies to move forward with implementing the appropriate systems for effective security and management of health care equipment.

Eastern Health's Response

Eastern Health generally concurs with all of your observations and recommendations which relate to Eastern Health, but wishes to comment on one observation and one recommendation contained in your report.

Auditor General's Observation

"… we enquired of a senior Eastern RHA official regarding the laboratory equipment that became an issue in the "Commission of Inquiry on Hormone Receptor Testing". According to the official, the laboratory equipment in question was included in the EIMS that preceded the system currently in place at the Eastern RHA. Records from the preceding EIMS documented the maintenance history on this laboratory equipment; however, there was no evidence that officials had offered this equipment to other laboratories in the Province. Furthermore, although the board at the time had preprinted disposal forms including "bills of sale", none of these were used."

Comment

Eastern Health agrees with the Auditor General's observation. On becoming aware of this occurrence through the "Inquiry", Eastern Health reviewed and revised policy on Asset Disposal and has taken measures to improve compliance.

Auditor General's Recommendation

"The RHAs should have policies, procedures and systems in place to provide for security and effective management of all medical and other equipment."

Comment

Eastern Health has comprehensive policies, procedures and systems in place to provide for security and effective management of all medical and other equipment. Eastern Health does not have in place a fixed asset ledger system which periodically totals the dollar purchase cost of equipment and agrees that total to the organization's general ledger of financial accounts. While such systems may add some level of increased security and management of equipment, we understand them to be primarily directed to ensuring the accuracy of financial information. Eastern Health already employs a robust system for equipment security and management based on physical asset tagging and computerized maintenance scheduling and documentation. We are concerned that implementation and maintenance of a dollar cost based fixed asset ledger may consume considerable health care resources without producing an appreciable increase in the effectiveness of our equipment management. Eastern Health will do a "best practices" review in the Canadian health system for guidance with respect to this recommendation.

Central Health's Response

1. Medical Equipment Needs

Central Health relies on the knowledge of front line users to identify equipment needs based on age, location, clinical practices, and physician and specialist recommendations.

Since Health Board integration, identifying equipment priorities has become more complex. Central Health supports the development of an evidence-based system that would allow for multi year planning of equipment needs. Central Health has reviewed the process in place with Eastern Health and acknowledges that a similar system should be implemented subject to an allocation of

appropriate resources. This will involve updating the equipment inventory into a Central Health database.

2. Departmental Monitoring

This section of the review was provided to the Department of Health and Community Services by your office for commentary.

3. Purchasing

Central Health's policy is to comply with the Public Tendering Act whereby a preferred vendor is selected based upon evaluation of the proposals received. Processes are in place to ensure that senior level approval is obtained for non tendered items as well as proper notification of the Government Purchasing Agency. In cases where direction is required, under the Public Tendering Act, Central Health will consult with the Government Purchasing Agency or the Newfoundland and Labrador Health Boards Association.

Central Health provides its approved equipment listing to the other three RHA's in the province and group purchasing is pursued wherever possible under the guidance and direction of the Newfoundland and Labrador Health Boards Association.

4. Equipment Maintenance

4A. Policies and Procedures

Equipment Management Committee *- Central Health does have a Capital Equipment Committee and while this committee has not been involved in the issue of equipment management accountability, Central Health recognizes the benefits of a more active committee and agrees with this recommendation.*

Equipment Inspection *- Central Health agrees that equipment either purchased or loaned should be subject to Biomedical testing and covered under that department's policy manual. All equipment, whether purchased, on loan, or under evaluation is subject to the same receiving and documentation process.*

Manufacture Safety Hazard/Recalls *- Central Health has a process in place to deal with manufacture safety hazard/recalls.*

Disposal of Surplus Equipment Not Adequately Tracked *- Central Health's Biomedical Department and Materials Management Department have the responsibility for documenting the removal of equipment from service and the ultimate sale/transfer/disposal of equipment. The documentation for removal or out of service is maintained in the Biomedical Department and the Department is responsible to ensure that the Equipment Inventory Management System (EIMS) is updated. Materials Management is responsible for the proper disposal of equipment within the policies and procedures of the Board.*

Central Health will be reviewing its procedures for the documentation of equipment sale/removal/transfer process to ensure that the linkages between Biomedical, Materials Management, and Financial Services are appropriate and effective.

4B. Equipment Inventory Management Systems

Central Health recognizes the need for a perpetual equipment inventory system linked to a fixed asset sub ledger. The integration of Health Boards has meant the acquisition of thousands of pieces of equipment that have been in place for many years. Central Health has moved to consolidate to one Equipment Inventory Management Systems (EIMS). However, before a fixed asset sub ledger system can be implemented, Central Health will need to complete a physical inventory and valuation of equipment. Central Health will be initiating a physical inventory count over the next fiscal year that will be reconciled to the EIMS.

Western Health's Response

The following outlines Western Health's response to the findings identified in specific sections of the Medical Equipment Review.

A. Overall Conclusions:

1. Inadequate Needs Assessment

"There is no Province-wide assessment of RHA Medical Equipment requirements. As a result there is no strategic multi-year plan to determine the annual budgetary requirements."

Western Health's response:

Western Health is supportive of a Province-wide Assessment of RHA Medical Equipment requests. With respect to Diagnostic Imaging equipment, a list of equipment was provided provincially to the Newfoundland and Labrador Medical Association and Newfoundland and Labrador Association of Radiologist approximately two years ago for review and collaboration with the DOHCS.

2. Inadequate Monitoring of RHA Medical Equipment Purchases

"The Department does not adequately monitor how RHAs spend capital funding relative to approved budgets. For example:

- *There is no requirement for the RHAs to advise the Department in cases where capital equipment purchases significantly differed from the approved budget or final tendered price.*

  To illustrate, in 2007-2008, the Western RHA budgeted $2.9 million for the purchase of a 64-slice CT scanner that was quoted under tender at only $1.9 million; however, the RHA purchased a 320-slice CT scanner at a cost of $3.3 million. The RHA did not request approval to spend the additional $1.4 million for the upgraded CT scanner."

Western Health's response:

Western Health has a multi-year Diagnostic Imaging Plan (2006). This plan was presented to the Department of Health and Community Services in 2006. In 2007-2008, Western Health purchased a 64-slice CT Scanner for Sir Thomas Roddick Hospital and a 320 slice CT Scanner for Western Memorial Regional Hospital. For an additional cost of $326,908, Western Health was able to provide this enhanced radiological equipment. Industry standards and rapid changes occurred in technology between the time of development of the 2006 plan and the time of purchase of the CT scanner. New industry standards leading into the future were determining factors in the selection of the CT scanners. This equipment facilitated improved radiological images, decreased radiation dose to the patient and expanded the scope of CT imaging. Also CT colonoscopy was purchased to aid in less invasive screening for large bowel disease such as cancer. The Department of Health and Community Services was notified verbally of the purchase of the 64 slice and 320 slice CT scanner. However, Western Health is supportive of providing written documentation to the Department of Health and Community Services in cases where the capital equipment purchases significantly differs from the approved budget.

"Required quarterly reports were not always being submitted to the Department by the RHAs. In addition, the ones that were submitted were not reviewed by the Department. Furthermore, the Department had not established a format in which the quarterly reports were to be submitted. As a result, the Department did not know if RHAs spent the money in accordance with the approved budget."

Western Health's response:

Western Health has been a very active partner in working with the Department of Health and Community Services in developing the format and content of required reporting processes. Western Health will provide quarterly reports to the Department of Health and Community Services as required by the Department.

3. Inadequate Assessment of Medical Equipment Requirements

"Although many of the medical equipment items listed on the priority list are of significant value e.g. up to $7 million for one item, the Department did not require the RHA to provide any documentation to support the cost estimate of any items provided in the priority list, nor did the Department determine the reasonability of the cost estimates of the higher value items on the priority list. As a result, the Department did not know if the estimates are reasonable.

To illustrate in 2007-08, the Western RHA budgeted $4.5 million for the purchase of a 16 slice and 64 slice CT scanner; however, the tender prices totalled $3.2 million. As a result, the budget request was not accurate. In this instance, there was no evidence to suggest that the Department questioned the reasonability of the $4.5 million."

Western Health's response:

Western Health developed a multi-year Diagnostic Imaging Plan in 2006. Vendors were consulted and budgetary quotes were received based on past tenders during development of the strategic plan. As new equipment became available Western Health was able to provide improved technology (i.e. 64 and 320 slice CT Scanner) at a lower cost than originally anticipated. Also influencing the total cost projected was the dual purchase of the scanners from the same vendor. Western Health is supportive of providing documentation to support the cost items of medical equipment.

4. Non-Compliance with the Public Tender Act

Western Health's response:

Western Health is supportive of compliance with the Public Tender Act.

5. Inadequate Monitoring of Medical Equipment Inventories

Western Health's response:

Western Health has a computerized system to track medical equipment. Western Health receives regular alerts from vendors related to equipment or medical device hazards. Occasionally, we receive alerts from Health Canada, Bureau of Medical Devices, as well as referencing alerts and/or recalls on equipment and medical devices. While we are confident that any alerts and/or recalls are being received by Western Health from the vendors and manufacturer, we are currently evaluating the need for the re-implementation of a third party contracted service that will provide notification of these alerts and hazards. As well, the Risk Management Branch is currently evaluating the need for internal tracking systems for recalls and alerts to ensure these notifications reach the appropriate person within Western Health, and are acted on in a timely manner with all actions documented and recorded. The Capital Equipment Management Committee will ensure minutes of meetings are documented. Western Health will develop a policy that requires new equipment (or equipment obtained for evaluation or loaner purposes) be tested to determine whether the equipment is safe for patient use. Western Health will ensure that equipment disposals are properly documented.

6. Only one RHA has an Evidenced-Based Equipment Assessment System

Western Health's response:

Western Health uses a Computerized Maintenance Management System to record all equipment that is purchased and put into service in the region. This system records all maintenance performed on equipment as well as its purchase date, warranty and financial information. Further to this, Western Health will be upgrading the data fields to include an assessment rating field that will be used by service staff when performing preventative maintenance on the equipment. This assessment rating will use criteria such as age, condition, end of life information; downtime; current technology, etc to determine a rating from 1 to 5. This information will be used by our Capital Planning Committee as they develop the annual prioritized Capital Equipment submission to the Department of Health and Community Services.

B. Medical Equipment Needs

1. "No multi-year Province-wide capital equipment plan."

Western Health's response:

Western Health is supportive of the development and implementation of a multi-year capital equipment plan. Western Health has a multi-year Diagnostic Imaging Plan. Further to the development of the strategic plan in 2006, new technologies became available which helped enable us to improve patient safety through enhanced radiological imaging techniques and maintain the radiation dose as low as reasonably possible to provide diagnosis. Thus, with an addition of $326,908 over the allocated budget of $4.5 million and following verbal discussion with the Department of Health and Community Services, 64 and 320 slice CT scanners were purchased. Western Health is supportive of stable funding that would be an integral part of multi-year plan allowing for timely acquisition of medical equipment.

2. Replacement Equipment Needs

Western Health's response:

Western Health is supportive of an evidence-based system to rank the reliability status of the equipment. Western Health uses the M2P system to determine reliability of equipment. Western Health is supportive of collaborating with the Department of Health and Community Services to develop a financial, multi-year plan to address the needs and location of new equipment in the province.

C. Departmental Monitoring

1. Lack of Quarterly Monitoring

Western Health's response:

Western Health will provide quarterly reports to the Department of Health and Community Services in the format determined by the Department of Health and Community Services. Based on consideration for patient safety and quality, Western Health purchased a 64 slice and 320 slice CT Scanner. The upgrades were verbally discussed with the Department of Health and Community Services. Western Health is supportive of providing written requests for approval.

D. Purchasing

Western Health's response:

Western Health is supportive of complying with the Public Tender Act.

E. Equipment Management

1. *Policies and Procedures*

Western Health's response:

Western Health is supportive of having policies, procedures and systems in place to provide for the security and effective management of all medical and other equipment.

Western Health will ensure that detailed minutes are available for the Capital Equipment/Repairs and Renovation Committee. Western Health has an "Equipment Procedure Policy." A policy will be developed referring to detailed inspections of new, borrowed or evaluated equipment before putting these items in service. Western Health is currently evaluating the need for the re-implementation of a third party contracted service that will provide notification of these alerts and hazards. Western Health maintains files containing the supportive documents from out of service equipment and surplus equipment.

Western Health supports the recommendations contained in the report. We have and will continue to work with the Department of Health and Community Services to improve and enhance the procurement and maintenance of medical equipment.

Labrador-Grenfell Health's Response

We have reviewed the draft report and agree with the recommendations. Labrador-Grenfell Health is prepared to work with the Department of Health and Community Services to implement the recommendations. We are particularly interested in developing a formal multi-year plan in conjunction with the Department to address the needs and location of new equipment in our region.

PART 2.8

DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

LIVING ARRANGEMENTS FOR CHILDREN AND YOUTH

Executive Summary

Eastern Health, through the Child, Youth and Family Services Program (the CYFS Program) is responsible for administering services to children and youth in need.

Code 79 expenditures represent specific types of costs for children and youth with specific needs. Specific needs can include children and youth with either behavioural and/or anti-social impairments or children and youth who, because there is no placement available, cannot be placed in a caregiver home (foster care). These expenditures are comprised of costs associated with one of four living arrangements: Alternate Living Arrangements (ALAs), Independent Living Arrangements (ILAs), Out-of-Province Placements (OPPs) and Group Homes – Code 79 Block Funding. Total Code 79 expenditures amounted to $6.5 million related to 73 children and youth in fiscal 2008, and $13.5 million related to 128 children and youth in fiscal 2009.

Our review of these Code 79 expenditures and living arrangements during the 2008 and 2009 fiscal years indicated that there were significant issues with regards to escalating costs, documentation, policies and procedures, and how service providers were selected. Our findings are as follows:

Code 79 Costs

Code 79 expenditures have steadily increased from $3.0 million in 2005 to $13.5 million in 2009, an increase of 350%. From 2008 to 2009, expenditures increased from $6.5 million to $13.5 million, an increase of 108%. In 2008 there were 73 individuals in living arrangements while in 2009 this increased to 128, an increase of 75%. In 2010, Code 79 expenditures are expected to total in excess of $17 million, an increase of 26% in one year and an increase of 467% from 2005. Information on the numbers of individuals in living arrangements was not readily available prior to 2008.

The living arrangements funded under Code 79 are expensive. The average cost in 2009 of the 10 highest costing living arrangements per child were as follows:

- ALA - $268,000 (ranging from a high of $615,000 to $157,000);
- ILA - $241,000 (ranging from a high of $379,000 to $167,000);
- OPPs - $147,000 (ranging from a high of $263,000 to $93,000); and
- Group Homes (Code 79 Block Funding) - $157,000.

We also found that the increase in the ALAs significantly exceeded the overall Code 79 expenditure increases in that while Code 79 expenditures increased from $6.5 million to $13.5 million or 108% between 2008 and 2009, the expenditures relating to ALAs increased from $2.0 million to $7.1 million or 255% during that same period. Officials have attributed this significant increase to the fact that placement at caregiver homes (foster care) was not available.

Discussions with Eastern Health officials indicated that the intent of the ALAs is to provide temporary living arrangements for individuals who require and are suitable for placement in caregiver homes (foster care) while waiting for placement. ALAs can also be used for individuals waiting for placement in a group home or an out-of-province treatment facility. Officials indicated that by "temporary" they mean until a suitable placement in a caregiver home, group home or treatment facility (depending on the child's needs) is secured. We found the length of time individuals were in the 16 ALAs that we examined ranged from 4 months to 27 months. Of the 16, 10 individuals were in ALAs in excess of 12 months.

Documentation and Policies and Procedures

Although the Department of Health and Community Services has a Provincial Standards and Policies Manual which is used by Eastern Health for the CYFS Programs, it does not include reference to the Code 79 living arrangements which comprise the largest expenditures in the CYFS Program ($13.5 million or 51% of $26.4 million in 2009).

Without policies and procedures to outline the requirements with regards to documentation, approval, assessment, eligible costs and monitoring it is not possible to ensure that staff are consistent in their application of the Code 79 funding and that appropriate documentation is on file. Through discussion with Eastern Health officials, we were able to determine the process which should be followed. The lack of formal policies and procedures has resulted in individuals being placed in living arrangements without adequate or consistent documentation to support the arrangement.

We found inconsistencies in the documentation on file during our sampling of 31 files as follows:

- In 5 files there was no Individual Support Service Plan (ISSP). An ISSP is required for each child in the care of the Director per the Standards and Policy Manual. This plan is completed in consultation with external parties and guides service provision with a view to selecting the most appropriate service for the individual. As a result, Eastern Health cannot demonstrate that the most appropriate living arrangement was chosen.

- In 2 files there was no Plan of Care. This plan, for the most part, is completed internally and guides service provision with a view to selecting the most effective service for the individual. As a result, Eastern Health cannot demonstrate that the most effective living arrangement was chosen.

- In 12 files (5 - ILAs and 7 - ALAs) there was no approval from the Manager of Community Corrections, Youth and Residential Services for the selection of the living arrangement. As a result, there is no evidence of management approval of the living arrangement.

- In 11 files there was no documentation to evidence that ongoing assessments for individuals in ALAs were completed to determine whether another, more effective arrangement was available. Because the ALA is supposed to be a short-term arrangement, this ongoing assessment is necessary to determine whether the ALA is still necessary.

- In 1 file there was no referral form on file to support the placement of individuals in a group home. As a result, there was no evidence on file to demonstrate that a social worker had made this assessment and referral.

How Service Providers Were Selected

We found that two service providers received a total of $4.6 million in 2008 (Caregivers - $3 million and Waypoints - $1.6 million). In 2009, the total increased to $10.1 million or 120% (Caregivers -$8.1 million and Waypoints - $2.0 million). In 2009, this $10.1 million represented 75% of all expenditures relating to Code 79. We determined the following:

- There was no contract on file with Caregivers outlining the terms and conditions of the arrangement. As a result of not having any measurable criteria or deliverables, Eastern Health was not able to assess the effectiveness of the service provided.

- There was no documentation on file to show how these two service providers were selected. As a result, Eastern Health was not able to demonstrate that the cost of the services being provided was competitive and that the services being offered were the most effective at that time.

- Officials at Eastern Health indicated that they have no plan of calling for proposals for these services because, in their opinion, these service providers are considered sole source given the extent and volume of the service they can provide.

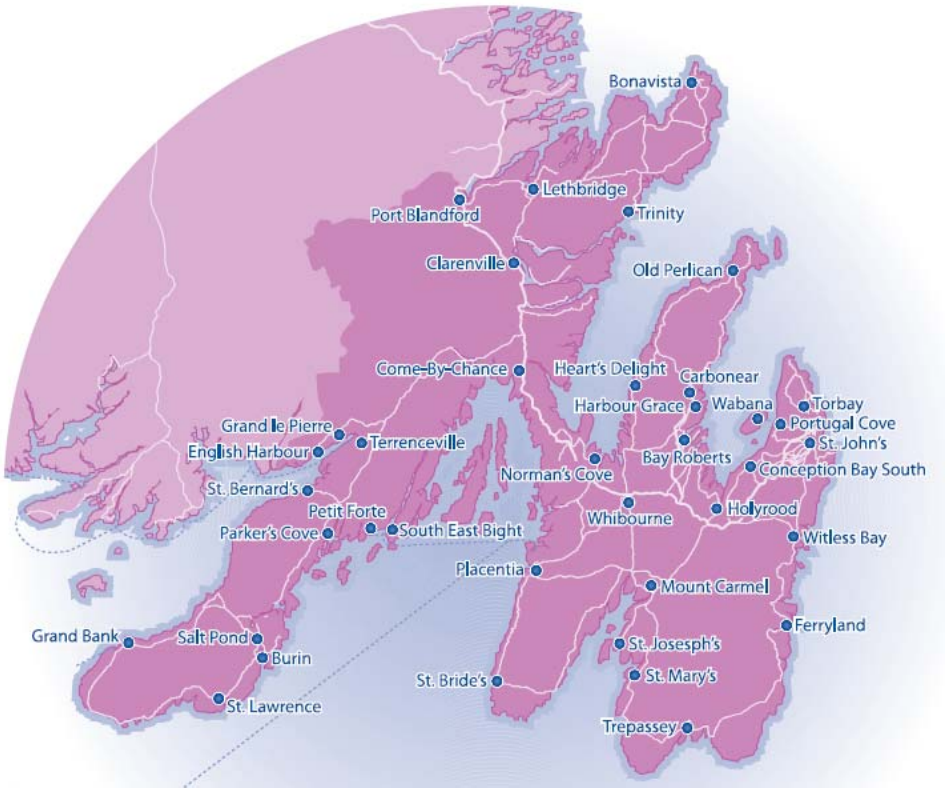
- Although caregivers in caregiver homes (foster care) are required to go through a formal education, assessment and approval process, there was no evidence on file to show that a similar process was followed for the service providers (such as Caregivers and Waypoints) involved with the ILAs, ALAs and Group Homes. As a result, Eastern Health cannot ensure that the standard of care provided is similar to what is provided in caregiver homes (foster homes).

Background

The Eastern Regional Health Authority (Eastern Health) was created on 1 April 2005 through the merger of seven health organizations. It is the largest regional health authority in Newfoundland and Labrador and offers a full continuum of health and community services. Figure 1 outlines the geographic catchment area for Eastern Health which comprises the area east of (and including) Port Blandford and includes the Avalon, Burin and Bonavista Peninsulas as well as Bell Island – a population of over 290,000.

Figure 1

Eastern Health Catchment Area



Source: Eastern Health

Child, Youth and Family Services Program

The Child, Youth and Family Services Program (the CYFS Program), maintained by Eastern Health, focuses on the provision of child-centered programs and services that are aimed at the health, safety and well-being of children. The CYFS Program principles reflect the importance of balancing a child's right to protection with recognition, respect and support for the autonomy of the family. The CYFS Program, through its legislative framework, the *Child, Youth and Family Services Act* (the *Act*), supports an array of responses to meet the needs of children, youth and families.

On 26 March 2009, Government announced that it would create a new Department of Child, Youth and Family Services. Eventually, this Department will deliver the Child, Youth and Family Services Program. Until then, the various Regional Health Authorities, including Eastern Health, will continue to deliver the CYFS Program.

Code 79

Within the CYFS Program there is a Code 79 which is used to fund the following four types of living arrangements which are available for children and youth:

1. Alternate Living Arrangements (ALAs);
2. Individualized Living Arrangements (ILAs);
3. Out-of-Province Placements (OPPs); and
4. Group Homes – Code 79 Block Funding.

Figure 2 outlines the four living arrangements funded under Code 79 along with the criteria, placement options and the expected duration of the arrangement.

Figure 2

Living Arrangements Funded Under Code 79 and the Number of Children in Each Arrangement during Fiscal Year 2009

Child and Youth Care	Criteria	Placement	Short-term or Long-Term	Number of Children
Alternate Living Arrangements (ALAs)	Up to age 16	First option when no appropriate caregiver home available	Short-term	86
Individualized Living Arrangements (ILAs)	Age 12 and up to age 21 if they are in school and were in the care or custody of the Director before age 16	Option of last resort	Long-term	16
Out-of-Province Placements (OPPs)	Up to age 21 if they are in school and were in the care or custody of the Director before age 16	Rehabilitation required (treatment centre)	Short-term	16
Group Homes – Code 79 Block Funding	12-18 year old males	Originated as ILAs for individuals but developed into group home over time due to extent of need or placements for children with complex needs	Long-term	10
			Total	**128**

Figure 3 shows the annual cost summary for the CYFS Program and Code 79 for the five fiscal years 2005 through to 2009. CYFS Program costs have increased from $13.7 million in 2005 to $26.4 million in 2009, an increase of 93%. Code 79 costs have, however, increased substantially from $3.0 million in 2005 to $13.5 million in 2009, an increase of 350%.

Figure 3

Child, Youth and Family Services Program
(Including Code 79)
Annual Cost Summary
Fiscal Years 2005 through to 2009
($Millions)

	Program		Code 79	
Fiscal Year	**Program**	**Annual % Increase**	**Code 79**	**Annual % Increase**
2005	$ 13.7	-	$ 3.0	-
2006	14.1	3%	3.6	20%
2007	15.1	7%	4.6	28%
2008	19.5	29%	6.5	41%
2009	26.4	35%	13.5	108%
Totals	**$ 88.8**		**$ 31.2**	

Source: Eastern Health - Child, Youth and Family Services Division

Audit Objectives and Scope

Audit objective

The objective of our review was to determine whether client files contained sufficient documentation to ensure that all payments were in accordance with policy, were properly approved, adequately supported and accurately recorded in Eastern Health's financial records.

Audit scope

Our review was completed in November of 2009. It included an examination of a sample of files for children or youth for which expenditures for living arrangements under Code 79 were made for the fiscal years 2008 and 2009. It also included an examination of policies and procedures, internally generated financial reports, various meeting minutes and interviews with Eastern Health officials. As part of our review, we visited two district offices: St. John's and Harbour Grace.

Detailed Observations

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

1. Overall Analysis,
2. Individualized Living Arrangements (ILAs),
3. Out-of-Province Placements (OPPs),
4. Alternate Living Arrangements (ALAs), and
5. Group Homes – Code 79 Block Funding.

Sample Selected

Our sample included an examination of 31 client files that had incurred expenditures under direct client cost Code 79 totalling $8.6 million. Of the 31 client files tested, 16 were ALAs, 8 were ILAs, 5 were group home clients and 2 were OPPs. Figure 4 shows the expenditures sampled by type for fiscal years 2008 and 2009 and as a percentage of the total expenditures sampled.

Figure 4

Expenditures Sampled by Type and as a Percentage of Total Expenditures Sampled ($Millions)

Code 79 Type of Arrangement	# of Sample Files	Expenditures Sampled	% of Total Expenditures Sampled
ILA	8	$ 1.9	22%
OPP	2	0.6	7%
ALA	16	3.2	37%
Group Home Block Funding	5	2.9	34%
Total	**31**	**$ 8.6**	**100%**

1. Overall Analysis

Cost analysis

The CYFS Program and Code 79 costs are substantial. Figure 5 contains a summary of budgeted costs and actual costs for fiscal years 2008 and 2009.

Figure 5

Child, Youth and Family Services Program
(Including Code 79)
Budget and Actual Costs
Fiscal Years 2008 and 2009
($Millions)

	CYFS Program		Code 79	
	2008	**2009**	**2008**	**2009**
Budget	$ 16.1	$ 17.2	$ 3.6	$ 4.0
Actual	19.5	26.4	6.5	13.5
Variance	$ (3.4)	$ (9.2)	$ (2.9)	$ (9.5)

Source: Eastern Health – Child, Youth and Family Services

It is interesting to note that the deficit attributed to Code 79 costs for both 2008 and 2009 closely mirrors the overall deficits for the CYFS Program for both years. For fiscal year 2010, Eastern Health has projected Code 79 costs will be in excess of $17M. This is a 26% increase from fiscal 2009 and an increase of 467% from fiscal 2005.

Direct client costs incurred through Code 79 can be categorized as one of four different types:

1. ILAs
2. OPPs
3. ALAs
4. Group Homes - Code 79 Block Funding

Figure 6 shows the breakdown between these different types of costs for fiscal years 2008 and 2009, the number of children receiving payments under each category and the cost per child. From 2008 to 2009, costs increased from $6.5 million to $13.5 million, an increase of 108% while the number of individuals in living arrangements went from 73 to 128, an increase of 75%. Information on the numbers of individuals in living arrangements was not readily available prior to 2008.

We also found that the increase in the ALAs significantly exceeded the overall Code 79 expenditure increases in that, while Code 79 expenditures increased from $6.5 million to $13.5 million, an increase of $7 million or 108% between 2008 and 2009, the expenditures relating to ALAs increased from $2.0 million to $7.1 million, an increase of $5.1 million or 255% during the same period. Officials have attributed this significant increase to the fact that placement at caregiver homes (foster care) was not available.

Figure 6

Eastern Health
Child, Youth and Family Services
Code 79
Annual Cost Breakdown

Type of Cost	2008			2009		
	Cost	# of Children	Costs per Child	Cost	# of Children	Costs per Child
ILA	$2,418,000	19	$ 127,263	$ 2,796,882	16	$ 174,805
OPP	713,301	8	89,163	1,773,891	16	110,868
ALA	1,955,652	36	54,324	7,098,220	86	82,537
Group Homes Block Funding	1,367,916	10	136,792	1,570,108	10	157,011
Miscellaneous	54,464			243,378		
Total	**$ 6,509,333**	**73**		**$ 13,482,479**	**128**	

Source: Eastern Health – Child, Youth and Family Services

Figure 7 shows payments made from Code 79 during 2008 and 2009 by service provider.

Figure 7

Eastern Health
Child, Youth and Family Services – Code 79
Payments by Service Provider

Service Provider	2008	2009
Caregivers	$ 2,967,897	$ 8,122,996
Waypoints	1,579,362	1,994,732
Ranch Ehrlo	391,709	1,215,839
Lori Ryan	288,847	570,522
T.J. MacDonald Home	281,394	276,324
Shalom	232,110	136,246
John Pittman	154,444	167,225
Christine Rowe	140,730	192,425
Connor Homes	126,671	129,843
Bosco Homes	126,210	57,803
Arden's Court Children Residence	120,682	161,964
Various Suppliers	99,277	373,806
YouthDale Treatment Centre	-	82,754
Total	**$ 6,509,333**	**$ 13,482,479**

Source: Eastern Health – Child, Youth and Family Services

From our analysis of expenditures incurred through Code 79, we found that two service providers received a total of $4.6 million in 2008 (Caregivers - $3.0 million and Waypoints - $1.6 million). In 2009, the total increased to $10.1 million or 120% (Caregivers - $8.1 million and Waypoints - $2.0 million). In 2009, this $10.1 million represented 75% of all expenditures relating to Code 79.

Caregivers provide residential services to ALA and some ILA clients, while the main focus under Code 79 funding for Waypoints, a not-for-profit organization, is to maintain the group homes: Sirona, Banyan and Gravity. Eastern Health officials stated that there was no formal contract in place governing the relationship with Caregivers; instead, the relationship had evolved over time. As a result of not having any measurable criteria or deliverables, Eastern Health was not able to assess the effectiveness of the service provided.

Given the emergency nature of placements, Eastern Health requires ready access to services. By calling for proposals, they would have the opportunity to select a service provider that can best provide for the needs of the children as they come into the care or custody of the Director. Officials indicated that Caregivers and Waypoints are two of a very small group that has the ability to meet their needs, resulting in their selection. For this reason, they have no plan of calling for proposals for the services that they provide. However, Eastern Health may have left itself vulnerable to ineffective costing due to the lack of competitiveness in the environment in which they obtain these services.

Although caregivers in caregiver homes (foster care) are required to go through a formal education, assessment and approval process, there is no evidence on file to show that a similar process was followed for the service providers involved with the ILAs, ALAs and Group Homes – Code 79 Block Funding. As a result, Eastern Health cannot ensure that the standard of care provided is similar to what is provided in caregiver homes.

These living arrangements must cover every basic need that the client requires. Thus, there is a wide array of costs that are incurred. Figure 8 outlines the different types of costs incurred over fiscal years 2008 and 2009.

Figure 8

Eastern Health
Child, Youth and Family Services
Summary of Expenditure Types

Expenditure	2008	2009
Salaries	$ 2,897,907	$ 7,127,315
Group Homes (Code 79 Block Funding)	1,367,916	1,570,108
OPP Services	713,301	1,773,891
Program Monitoring	493,340	1,038,985
Rent & Utilities	262,925	566,034
Misc	216,802	292,724
Other Residential Services	211,446	403,659
Transportation	134,842	324,281
Groceries	107,636	207,143
Recreation	46,944	85,813
Clothing and Allowance	27,740	68,577
Start up costs	15,858	13,873
Medical	12,676	10,076
Total	**$ 6,509,333**	**$ 13,482,479**

Source: Eastern Health – Child, Youth and Family Services

Salaries are the largest expenditure type representing 45% of the costs in 2008 and 53% of the costs in 2009. This cost went from $2.9 million in 2008 to $7.1 million in 2009, an increase of 145%.

In reviewing 31 client files we identified the following issues:

A. Required documentation in client files
B. Payment processes

1A. Required Documentation in Client Files

Introduction

An Individual Support Service Plan (ISSP) is a summary of relevant information gathered regarding a child's needs and details the program which will be followed. As per the CYFS Standards and Policy Manual, this is required for every child that is in receipt of one or more services from a government funded agency. It includes the materials, equipment, relevant health information, strengths, needs, goals and other supports and services identified for the child. The ISSP's main function is to coordinate the delivery of specialized services from all departments involved i.e. Education, Health and Community Services, Justice and Human Resources, Labour and Employment.

In addition to an ISSP, a Plan of Care should be developed for each child in the care and custody of a Director of Child, Youth and Family Services. The main difference between the ISSP and Plan of Care being that the Plan of Care is internal to Eastern Health and does not involve input from other government bodies. These Plans of Care are prepared by the assigned social worker and lay out the specific strategies for addressing all of the risks and other issues related to the intervention of the child; all significant changes to the plan would be documented in the client file. These plans, in conjunction with the ISSPs, help facilitate the delivery of the services to the individual.

Absence of ISSPs

Of the 31 client files tested, we found:

- 5 that did not contain ISSPs; and
- 10 that contained ISSPs that were more than 12 months old.

As a result, Eastern Health cannot demonstrate that the most appropriate living arrangement was chosen.

Absence of Plans of Care

Of the 31 client files tested, we found:

- 2 that did not contain any Plan of Care; and
- 12 that contained a Plan of Care that was more than 12 months old.

As a result, the Eastern Health cannot demonstrate that the most effective living arrangement was chosen.

1B. Payment Processes

Introduction

Health officials indicated that policies and procedures surrounding the payment process for Code 79 are not formally documented. As indicated by staff, logic is the driving force behind the few unwritten practices in place. For example, invoices from suppliers are to be reviewed by a social worker who is familiar with the various ILAs, OPPs and ALAs; they are also to be approved by the Program Manager responsible for these types of arrangements. In addition, financial staff indicated that they require supporting documentation before payment is made and that upon a cheque being printed this documentation is to be marked as paid to prevent it from being processed a second time.

Deficiencies with payment process

Of the 31 client files reviewed, 5 pertained to group home funding and as such were not broken down by client. The group homes receive block funding which is based on capacity and is not associated with any specific client. The costs associated with the remaining 26 client files can be attributed to a client. Of those 26, we reviewed 67 individual payments.

Of the 67 payments reviewed, we found:

- 11 payments totalling $443,000 that had not been reviewed by the social worker responsible for Code 79;
- 4 instances where the supporting documentation had not been marked as paid to prevent its reuse; and
- 1 instance where there was no appropriate documentation to support the payment.

Recommendations

Eastern Health should ensure that:

- services are obtained through a competitive process where possible;
- required documentation (ISSPs and Plans of Care) concerning service provision for a client is on file and updated;
- all invoices are reviewed by the social worker responsible for Code 79 expenditures;
- all invoices have been marked as paid, thus, reducing the possibilities of double payments occurring; and
- each payment is supported by appropriate documentation, reducing the possibility of inappropriate, incorrect or fraudulent payments being made.

2. Individualized Living Arrangements

Overview

ILAs are highly structured, intensively supervised living arrangements which were first implemented in the early 1990s. They are only to be set up after all other possibilities have been explored. The goal of these arrangements is to provide accommodations in a home-like setting where the risk for children and youth as well as the community is minimized. The clients housed in these arrangements have been in the extended care or custody of the Director of CYFS and would normally have a number of problems including severe personal and anti-social behaviours.

The number of ILAs in existence can vary depending on the need; arrangements are generally long-term or permanent placements and can involve one or several clients. The actual provision of accommodations and the one-on-one supervision is provided by independent commercial or community based service providers.

Highest costing ILAs

Figure 9 shows the ten ILAs with the highest costs during fiscal years 2008 and 2009. The average cost in 2009 of the 10 highest costing ILAs was $241,000.

Figure 9

Eastern Health
Child, Youth and Family Services
ILAs with Highest Costs

Client	2008	Client	2009
1	$ 256,244	1 – Client 10 in 2008	$ 379,325
2	241,170	2	303,244
3	212,087	3 – Client 6 in 2008	292,694
4	208,426	4	251,535
5	188,717	5 – Client 4 in 2008	221,550
6	155,214	6 – Client 8 in 2008	211,357
7	154,444	7	196,592
8	143,331	8	193,685
9	143,331	9	190,875
10	140,730	10 – Client 7 in 2008	167,225
11-19	574,306	11-16	388,800
Total	**$ 2,418,000**		**$ 2,796,882**

Source: Eastern Health - Child, Youth and Family Services

File review findings

In reviewing 8 client files pertaining to ILAs we identified that there was a lack of required documentation for client files.

Required Documentation in Client Files

Introduction

Although the Department of Health and Community Services has a provincial Standards and Policies Manual which is used by Eastern Health for the CYFS Program, it does not include reference to the Code 79 living arrangements which comprise the largest expenditures under the CYFS Program ($13.5 million or 51% of $26.4 million in 2009). Without policies and procedures to outline the requirements with regards to documentation, approval, assessment, eligible costs and monitoring, it is not possible to ensure that staff are consistent with their application of Code 79 and that appropriate documentation is on file. However, through discussion with Eastern Health officials, we were able to determine a process which should be followed and the type of documentation that should be present in these client files.

Eastern Health officials stated that ILAs are normally considered a last option and that this fact would be documented in the client file. In addition, they require approval letters to be on file and signed-off by the Manager of Community Corrections, Youth and Residential Services.

Lack of approval documentation

Of the 8 client files tested, we found 5 instances where there were no letters on file approving the use of an ILA. Thus, there is no evidence that management approved the arrangement.

Recommendation

Eastern Health should ensure that letters signed by the proper authority are on file approving the ILA as a treatment option.

3. Out-of-Province Placements

Overview

Sometimes, when the complexity of need is believed to require extensive residential treatment, clients may be sent to a facility that is located out of the Province. Eastern Health has indicated that although it is not considered a best practice to send these children away from their support systems and home communities, it is seen as necessary as Newfoundland and Labrador does not have a treatment facility to meet the complex needs of these individuals. The goal is to rehabilitate the child, in hopes that some other less intensive form of care such as a caregiver home (foster care) or even the return to the parents becomes an option in the future. The number of OPPs is increasing and, like ILAs, the number can fluctuate depending on need. As with ILAs, there are no formally documented policies and procedures governing the use of these arrangements.

Highest costing OPPs

Figure 10 shows the OPPs with the highest costs during fiscal years 2008 and 2009. The average cost in 2009 of the 10 highest costing OPPs was $147,000.

Figure 10

Eastern Health
Child, Youth and Family Services
OPPs with Highest Costs

Client	2008	Client	2009
1	$ 140,266	1	$ 262,721
2	126,210	2	164,722
3	124,045	3 – Client 4 in 2008	155,176
4	120,682	4 – Client 1 in 2008	150,214
5	61,627	5	147,431
6	60,707	6 – Client 3 in 2008	144,004
7	40,949	7	129,745
8	38,815	8	122,741
		9	100,860
		10	92,660
		11-16	303,617
Total	**$ 713,301**		**$ 1,773,891**

Source: Eastern Health – Child, Youth and Family Services

As with ILAs, approval letters are required to be on file for children availing of extensive residential treatment facilities. Once the child is in care they are the responsibility of the Director of CYFS and since the child will be required to travel outside the Province these arrangements require the approval of the Director.

4. Alternate Living Arrangements

Overview

An ALA is a staffed living arrangement that is used to satisfy the demand for temporary placements for children in the care of the Director of CYFS while efforts are being made to secure approved caregiver homes (foster care). ALAs can also be used for individuals waiting for placement in a group home or an out-of-province treatment facility. They have been in use since approximately March 2007 and are for the most part the direct result of the lack of approved caregiver homes (foster care) throughout the Province and the overall increase in the number of children being taken into the care or custody of the Director. These types of living arrangements may also be required when:

- a child (or children) has to be moved from a caregiver home due to an allegation that initiates an investigation of that licensed home;

- the behaviours and or complex issues of the child (or children) are such that they cannot be managed by caregivers in a typical caregiver home; or

- a child (or children) has to be moved from a caregiver home due to the caregiver no longer being able or willing to provide for their care needs.

The number of ALAs in existence is increasing and, like ILAs and OPPs, the number at any point in time can fluctuate depending on need. Unlike ILAs and OPPs, the majority of the provision of accommodations and the one-on-one supervision are provided by a sole independent commercial service provider.

Highest costing ALAs

Figure 11 shows the ten ALAs with the highest costs during fiscal years 2008 and 2009. The average cost in 2009 of the 10 highest costing ALAs was $268,000.

Figure 11

Eastern Health
Child, Youth and Family Services
ALAs with Highest Costs

Client	2008	Client	2009
1	$ 213,212	1	$ 614,986
2	200,256	2	443,362
3	180,492	3 – Client 5 in 2008	252,175
4	102,995	4	222,893
5	99,199	5 – Client 7 in 2008	204,448
6	90,936	6 – Client 8 in 2008	204,448
7	78,343	7	196,188
8	78,343	8	196,188
9	78,343	9	191,870
10	67,525	10	156,927
11-36	766,008	11-86	4,414,735
Total	**$ 1,955,652**		**$ 7,098,220**

Source: Eastern Health – Child, Youth and Family Services

In reviewing 16 client files pertaining to ALAs we identified the following issues:

A. Required documentation in client files
B. Duration of arrangement

4A. Required Documentation in Client Files

Introduction

As with ILAs, there were no formally documented policies and procedures in place to deal with clients in ALAs. Through discussion with Eastern Health officials, we were able to determine a process which should be followed and the type of documentation that should be present in the files for these clients.

Eastern Health officials indicated that ALAs require approval letters to be on file, signed-off by the Manager of Community Corrections, Youth and Residential Services. In addition, we were informed that once the ALA was established, that program meetings would need to be carried out. This is to be done to ensure that the arrangement remains a temporary and not a permanent solution.

Lack of Approval Documentation

Of the 16 client files reviewed, we found:

- 7 instances where there were no letters on file showing approval for the use of the ALAs. Thus, there is no evidence from staff that this alternative was required; and

- 11 instances where there was no documentation indicating that the regular client program meetings had been held. Thus, there is no evidence supporting the continued use of the arrangement.

4B. Duration of Arrangement

Introduction

As stated previously, ALAs were developed to be a "temporary" solution to the lack of caregivers (foster care) throughout the Eastern Health region and other placement options. Eastern Health officials indicated that by "temporary" they mean until a suitable placement in a caregiver home, group home or treatment facility (depending on the child's needs) is secured. We would expect that the majority of these arrangements would not surpass 12 months in duration. In fact, it was stated that if the arrangement exceeded 12 months, then there would be a greater chance of that individual being

classified to an ILA and thus becoming a more permanent arrangement. For example, for children with complex needs, after 12 months the likelihood of finding a suitable caregiver home diminishes or, for sibling groups, the right caregiver home has just not been found.

ALAs exceeding 12 months

Of the 16 client files tested, we found:

- the 16 clients were in ALAs for a time period ranging from 4 months to 27 months; and
- 10 clients were in ALAs extending past 12 months; this represents 63% of the ALAs sampled.

Recommendations

Eastern Health should ensure that:

- letters signed by the proper authority are on file, indicating the approval of the ALA as a temporary measure;
- regular client assessments are documented and on file; and
- all possible measures are taken to ensure that the time spent in an ALA is minimal.

5. Group Homes – Code 79 Block Funding

Overview

Waypoints, formerly known as the St. Francis Foundation, provides a variety of residential and support services to children, youth and families. Under their residential program they maintain various initiatives, three of which receive block funding from Eastern Health that is paid through expenditure Code 79 of CYFS. These are as follows:

1. Sirona
2. Gravity
3. Banyan

As per the Waypoints website, *"Sirona and Gravity each provide accommodations for three or four males, ages 12 – 18. The goal of these programs is to provide a therapeutic residential milieu to young people, who are in the care of the Director of Child, Youth and Family Services, to help foster their development into responsible, productive, self sufficient, well rounded members of society. These programs attempt to meet the physical, social, developmental and emotional needs of the young people. Banyan Program provides residential care for four males aged 10-18 in a rural setting, taking advantage of the opportunities the environment provides to interact with nature and learn from and about outdoor activities and experiences."*

Initially, group homes were set up to handle a small number of ILA clients that had been identified through CYFS. However, over the years, they have evolved into group home settings that now handle clients, whose needs are not complex enough to warrant an ILA but may be too complex for an ALA or a regular caregiver (foster home) placement. These group homes receive block funding from Eastern Health and because they were originally set up to deal with ILA clients, the funding is still expensed through Code 79.

Figure 12 illustrates the distribution of funding to these group homes versus amounts approved and calculates the cost per child.

Figure 12

Eastern Health
Child, Youth and Family Services
Distribution of Group Homes - Code 79 Block Funding Approved, Expensed, # of Children and Costs per Child

Group Home	2008				2009			
	Amount Expensed	Amount Approved	# of Children	Costs per Child	Amount Expensed	Amount Approved	# of Children	Costs per Child
Sirona	$ 527,895	$ 527,895	4	$131,974	$ 566,719	$ 566,719	4	$ 141,680
Gravity	462,485	457,102	3	154,162	492,818	492,818	3	164,273
Banyan	377,536	371,254	3	125,846	510,571	510,571	3	170,190
Total	**$ 1,367,916**	**$ 1,356,251**	**10**	**$ 136,792**	**$ 1,570,108**	**$ 1,570,108**	**10**	**$ 157,011**

Source: Eastern Health – Child, Youth and Family Services

Required Documentation for Client Files

Introduction

As with the other categories of expenditures flowing through Code 79 there were no formally documented policies and procedures in place to deal with clients entering the group homes funded through Code 79. Through discussion with Eastern Health officials, we were able to determine a process which should be followed and the type of documentation that should be present in client files for clients residing in group homes.

The group homes that receive block funding through Code 79 are approved for a specific number of residents. Since these homes receive funding regardless of number of clients present, no approval is required by management to be placed there; instead the homes follow a referral process. When there is a vacancy, the liaison social worker responsible for these homes notifies all applicable social workers and they recommend any clients they feel would benefit from this type of setting. This would be documented through a "Group Home Referral". Waypoints evaluates all recommended candidates and chooses the one it feels would be most suitable given the location of the particular vacancy. After the client has been placed, the applicable social worker should perform assessments to monitor progress.

Of the 5 client files reviewed, we found 1 instance where there was no group home referral form in the file. Thus, there was no evidence on file to demonstrate that a social worker had made this assessment.

Recommendation

Eastern Health should ensure that all group home referral forms, documenting the need for this type of treatment, are on file.

Eastern Health's Response

Children should live in family settings. When a child has to be removed from their own family and relative care is not an option, an approved caregiver is the most desired alternative. There are some children and youth who because of their complex issues cannot easily live in a family home. These children/youth require other residential options. A continuum of residential services is required in this province.

Currently, Eastern Health does not have a sufficient number of caregiver homes to place all the children that are in the Director of Child, Youth and Family Services' care. The recruitment and processing of caregiver applicants remains a priority. There is also a need for a more comprehensive range of residential services including therapeutic foster care, additional group care services and a residential treatment facility. In the absence of a fully developed residential services program, Eastern Health has had to develop emergency and long term living arrangements for those children who cannot currently live in a family home and for those children for whom no home is available. Unfortunately, there are also children who have to be sent outside of Newfoundland for residential treatment.

Eastern Health CYFS continues to work with community partners to develop solutions to the shortage of caregiver homes and to research models of practice and residential services to meet the needs of our children and youth. It must be noted that the challenges faced by Eastern Health are not unique to this region but are experienced elsewhere within the province and country.

How Service Providers Were Selected

Eastern Health follows the Public Tender Act and Treasury Board guidelines in all instances where product or service details can be specified so that a competitive bidding process is likely to make available a suitable product or service at the best possible price. Eastern Health's child protection professionals are not of the opinion that reasonable specifications can be developed to address the range of needs of vulnerable children taken into care in very short timeframes and under very different but always stressful circumstances. Eastern Health is aware of the capacity and capabilities of all of the providers of these services in this region and uses the judgment of professionals in deciding which arrangement with which provider will be in the best interest of the child in care. This judgment is based on knowledge of the child, knowledge of the provider and knowledge of best practices for child protection. The welfare and safety of the child is paramount. Cost is always a secondary consideration. This service is only utilized when there are no other care options available.

1A. Required Documentation in Client Files

The Individual Support Service Planning process is an approach which involves all relevant services providers in the coordination of services. Eastern Health understands the importance of ensuring ISSPs are prepared and on file. While the Child, Youth and Family Services Program must comply with provincial standards with regard to ISSPs, an ISSP is not used to determine placement options at the time of removal and ISSPs cannot create options (e.g. caregiver homes) when none are available.

Eastern Health agrees that plans of care are critical for children in care under age 16. In the two files in question, the parents made a plan to place their children in the care of the Director through the use of a Voluntary Care Agreement. In these circumstances, the children reached age 16 shortly after being placed in care and signed a Youth Service Agreement for which a plan of care is not required. Eastern Health agrees that plans of care require regular updates; however, it also must be noted that for youth over age 16, the review requirement is through renewal of the Youth Services Agreement every six months and a plan of care is no longer appropriate.

1B. Payment Processes

Eastern Health does not require the approval of a social worker prior to payment of Code 79 invoices. The current delegation of authority for these expenditures requires the approval of the appropriate social work program manager prior to payment. Eastern Health currently only processes Code 79 invoices approved by program managers. Eastern Health agrees with the recommendation that all invoices should be stamped 'paid' once processed.

With respect to the finding of one instance in which there was no appropriate documentation supporting the payment, Eastern Health felt that the financial request submitted for payment met the criteria for payment as it contained the appropriate approval from the program manager and clearly outlined the nature of the request and was within policy.

2. Individualized Living Arrangements

Eastern Health agrees that there should be appropriate documentation on file to indicate management approval of an ILA. However, Eastern Health would like to clarify that an ILA is never a preferred treatment option. It is established as the last resort when other less intrusive and less costly options cannot provide the level of care required.

Eastern Health requires written manager approval either through a financial approval or a formal letter. The current procedure of letter writing to seek approval for ALAs and ILAs was formally put in place when the position for Manager of Community Corrections, Youth and Residential Services was created in September 2007. However, signature on a financial approval form will also suffice. Two of the instances cited by the Auditor General predate the formalized process being in place.

3. Out-of-Province Placements

The Director of CYFS has either care or custody of children under the age of 16 who are funded for treatment through CYFS in out-of-province facilities. As guardian, the Director must indicate her approval for the child to be placed outside the province. It is the practice to ensure that all out-of-province placements are approved by the Director. This can be in the form of a letter or the Director's signature on an interprovincial agreement.

4. Alternate Living Arrangements

Eastern Health agrees that documentation approving an ALA should be on file. The current procedure of letter writing to seek approval for ALAs and ILAs was formally put in place in September 2007 when the position for Manager of Community Corrections, Youth and Residential Services was created. For 5 of the 7 instances , these family/sibling groups would have been among the first ALAs developed in 2007 prior to consistent processes being developed for approval and, therefore, did not have letters on file. Of the other two, a letter of approval was written and located for one of them but the other letter was an oversight which has sent been rectified. There would have been other appropriate financial approval documentation on file.

Eastern Health believes that the most appropriate place for a child is a family home. When a caregiver home is not available for a child, Eastern Health is forced to create an emergency option (ALA). Eastern Health needs to clarify that children are never assessed for placement in an ALA. The report speaks of ensuring an ALA is the most efficient/effective placement. ALAs are never the most effective or efficient placement. They exist only because the most appropriate/effective placement is not available. Documentation should include evidence of ongoing program meetings not ongoing assessments for each ALA. Program meetings review if all options for individual children are being explored.

Eastern Health agrees that the length of time a child is housed in an ALA should be as short as possible. While some ALAs are in existence for extensive periods of time due to the complexity of the needs of the children, there is rapid movement of a large number of children in and out of other ALAs. The sample is not indicative of the total number of children who have been placed in ALAs. Securing appropriate long term placements for children is a very complex issue that varies greatly from case to case.

5. Group Homes

Eastern Health would like to clarify the Auditor General's description of Group Home Funding. Sirona, Gravity and Banyan are three of a total of nine group homes operated by Waypoints. They provide group residential services for children in the care or custody of the Director of CYFS, Eastern Health. These three homes were originally approved as living arrangements for three individual children with complex needs. In each instance, after the initial placement stabilized, Waypoints agreed to take additional children with complex needs into these units. This enabled CYFS to achieve economy of scale and avoid opening additional units. Over time these three homes continued to accept complex needs clients and became identified as part of the continuum of residential options that Waypoints provide to children in the Director's care or custody. Eastern Health provides block funding to Waypoints for all programs they provide for CYFS including the three group homes through Code 79. A fourth home operated by Waypoints also funded through Code 79 is a pilot project and referred to as the "Live in Model". The proposal for the "Live in Model" and approval from the Director is on file but in a different format from other ALA approval processes. This model accounts for the increase in the Code 79 funding received by Waypoints in 2009.

Eastern Health understands the importance of ensuring that group home referral forms are on file. With respect to the one instance noted by the Office of the Auditor General of there being no group home referral form on file, it was subsequently determined that a group home referral was appropriately completed but erroneously filed on the Protective Intervention file for the family rather than on the In Care file.

PART 2.9

DEPARTMENT OF HEALTH AND COMMUNITY SERVICES

MONITORING OF REGIONAL HEALTH AUTHORITIES

Executive Summary

The Department of Health and Community Services (the Department) is responsible for the supervision, control and direction of all matters relating to the administration of hospitals and long-term care facilities in the Province.

To meet these responsibilities with respect to the regional health authorities (RHAs), the Department has determined that it has to monitor and carry out periodic evaluations of select programs and services, provide a budget allocation, and monitor financial performance.

Our review indicated that the Department was not adequately fulfilling its responsibilities with regard to the oversight of the four RHAs. In particular:

Information to Evaluate Select Programs and Services

Information necessary to evaluate programs and services was either not always obtained by the Department or was not obtained on a timely basis. This would include statistical information such as operational information related to hours of work, service activity, caseloads and workloads to be submitted by the four RHAs via the Teledata system. As a result, the Department could not properly monitor the programs and services administered by the four RHAs. We identified the following issues:

- Although the Department uses statistical information to identify variances, it had not established benchmarks to identify issues that would require follow-up.

- Site visits, conducted by Departmental officials, to review programs and services were not adequate. For example, Departmental policy requires quarterly site visits; however, only semi-annual visits were conducted. As well, as a result of the Department not obtaining timely statistical information from the RHAs, Departmental staff did not always have up-to-date information during site visits, which could lead to issues not being identified and reviewed. Furthermore, site visit files did not contain adequate information to support either the work performed by staff or the conclusions reached. In addition, the site visit files were not well organized.

- Because the Department did not always obtain complete statistical information from the RHAs, reports prepared by the Newfoundland-Labrador Centre for Health Information (NLCHI), which provided information on performance indicators, could not be prepared for all functional areas or sites. As a result, performance for all functional areas and sites was not adequately monitored.

For example, nursing statistics on service activities, caseloads and workloads were not always being collected or completely reported. In 2002, the Provincial Nursing MIS Committee recommended that all RHAs were to have nursing workload management systems implemented by 2006. As of 2008, none of the RHAs had these systems fully implemented.

- Where complete statistical information was obtained and reports prepared, and where significant variances were evident, there was no indication or explanation as to the reason for the variance or what action, if any, was taken to address the variances.

- The Department did not have a policies and procedures manual to assist Board Services Division staff in the monitoring and reporting on RHA programs and services.

Monitoring Financial Performance

Information necessary to monitor financial performance was either not always obtained or was not obtained on a timely basis. This would include monthly financial information, quarterly capital reports, and management letters related to the annual financial statement audit. As a result, the Department could not properly monitor the financial performance of the four RHAs. We identified the following issues:

- The Department did not always obtain the monthly financial information from the RHAs via the Teledata system on a timely basis. For example, during 2008, RHAs submitted monthly information ranging from 5 to 194 days after the required submission date.

- The monthly reporting system was not designed to capture capital expenditures. In addition, although the RHAs are required to manually prepare quarterly capital reports, they were not always obtained by the Department. As a result, capital expenditures were not being adequately monitored. During 2008, funding provided by the Department for capital expenditures totalled $51.2 million.

- Although the Department uses financial information to identify variances, it had not established benchmarks to identify issues that would require follow-up.

- Site visits, conducted by Departmental officials, to review financial information were not adequate. For example, Departmental policy requires quarterly site visits; however, only semi-annual visits were conducted. Furthermore, site visit files did not contain adequate information to support either the work performed by staff or the conclusions reached and the files were not well organized. In addition, Department staff did not always have current financial information available during site visits because either monthly information was not obtained from the RHAs or RHA internal reports were not available. This could lead to significant issues not being identified and reviewed.

- There was no evidence to indicate whether the Department followed-up on issues identified in management letters resulting from the annual external audits of RHAs.

- The Regional Health Authorities' Financial Policies and Procedures manual was in draft form since May 2007. The manual was being developed to assist Department staff and RHAs in their financial monitoring and reporting responsibilities. As of April 2009, the manual had not been finalized and provided to either Department staff or the RHAs.

Budget Allocations

The Department did not provide the RHAs with the funding allocations until well into the fiscal year being funded. Although the RHAs submitted their budget requests 5 to 6 months prior to the commencement of the fiscal year, the RHAs were not provided with their approved budget until 3 months after the applicable fiscal year had commenced. The budget submission, review and approval process, on average, took 7 months to complete for 2008 (November 2006 to June 2007) and 8 months for 2009 (October 2007 to June 2008). This situation makes it difficult for the RHAs to properly manage expenditures given that they sometimes operate for up to one third of a year without knowing the final approved budget.

Audit Services Division

Although the Department has an Audit Services Division (primarily for MCP and prescription drug program audits), the Division did not perform internal audits of RHA operations. It was noted the *Regional Health Authorities Act* states that the Minister may audit the accounts of an RHA and that the Department has identified that one of the functions of the Division is to carry out audits of health and community service organizations such as the RHAs.

Background

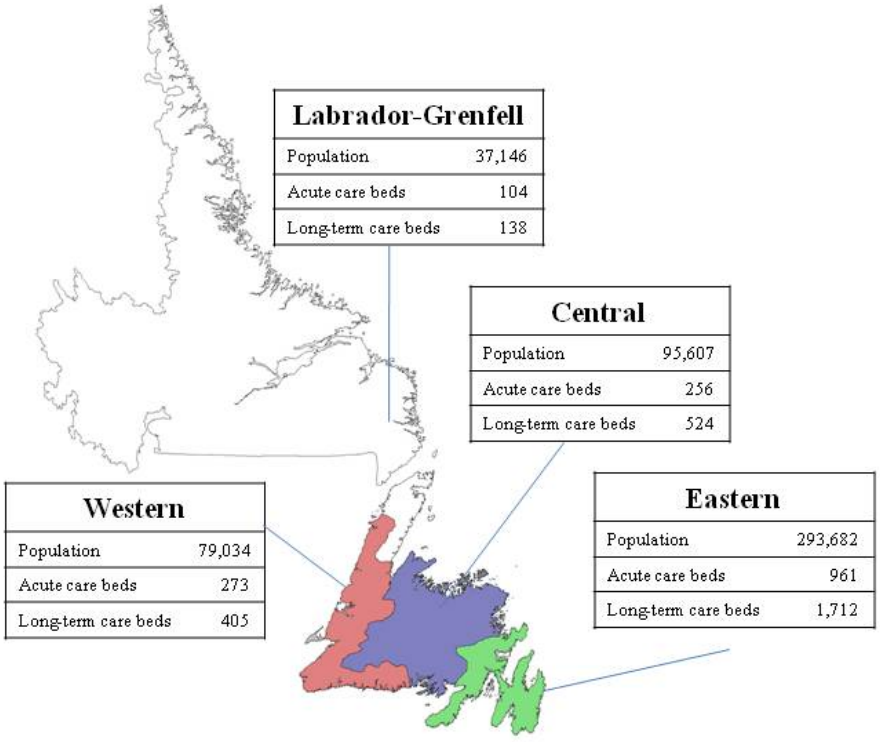
Overview

Since April 2005, health care services in the Province have been provided through four regional health authorities: Eastern, Central, Western and Labrador-Grenfell. The provincial health care system encompasses 37 hospitals, 22 health centres, 19 long-term care homes, 14 community clinics, 94 community-based offices, and 102 personal care homes. The Province maintains 1,594 acute care beds and 2,779 long-term care beds.

Figure 1 provides summary information on the Province's regional health authorities (RHAs).

Figure 1

Regional Health Authorities



Funding of regional health authorities

During 2009, the Department of Health and Community Services (the Department) spent $2.32 billion (2008 - $2.08 billion) on health care, or 40% of the Province's total expenditure. Health care expenditures are primarily made through the RHAs. Figure 2 provides information on the operating results of the RHAs for fiscal years 2007, 2008 and 2009, and highlights revenues received from the Province during 2009.

Figure 2

Regional Health Authorities' Operating Results
Fiscal Years 2007 through to 2009
($ millions)

	2009				Totals		
	Eastern	Central	Western	Labrador-Grenfell	2009	2008	2007
Revenue							
Provincial Plan	**$1,013.3**	**$250.0**	**$248.4**	**$139.1**	**$1,650.8**	**$1,497.6**	$1,385.8
Other	**69.0**	**20.0**	**25.6**	**11.8**	**126.4**	**119.7**	115.4
Cottages	**2.2**	**1.5**	**1.6**	**0.2**	**5.5**	**5.5**	5.5
Foundations	**9.9**	**1.0**	**Note 1**	**0.3**	**11.2**	**9.5**	9.1
Total Revenue	**1,094.4**	**272.5**	**275.6**	**151.4**	**1,793.9**	**1,632.3**	1,515.8
Expenses							
Administration	**229.9**	**78.9**	**72.5**	**45.3**	**426.6**	**383.1**	355.3
Programs	**826.0**	**189.1**	**196.5**	**104.3**	**1,315.9**	**1,203.0**	1,112.1
Interest on LTD	**10.0**	**0.9**	**0.3**	**0.1**	**11.3**	**11.5**	11.4
Other	**12.9**	**-**	**2.0**	**0.7**	**15.6**	**14.6**	10.0
Cottages	**2.2**	**1.5**	**1.6**	**0.3**	**5.6**	**5.6**	5.5
Foundations	**8.1**	**0.5**	**Note 1**	**0.3**	**8.9**	**8.5**	7.1
Total Expenses	**1,089.1**	**270.9**	**272.9**	**151.0**	**1,783.9**	**1,626.3**	1,501.4
Surplus (Deficit) before non-shareable expenses	**5.3**	**1.6**	**2.7**	**0.4**	**10.0**	**6.0**	14.4
Non-shareable expenses	**20.2**	**4.0**	**2.3**	**0.6**	**27.1**	**21.0**	22.7
Deficit after non-shareable expenses	**$ (14.9)**	**$ (2.4)**	**$ 0.4**	**$ (0.2)**	**$ (17.1)**	**$ (15.0)**	**$ (8.3)**

Source: Audited Consolidated Financial Statements
Note 1: The Western RHA does not have control over Foundations and therefore these Foundations are not reported.

As Figure 2 shows, $1.65 billion or 92% of the RHAs' total revenue of $1.79 billion during 2009 was received from the Province. The $1.65 billion represents 71% of the Department's total expenditures of $2.32 billion.

Unfunded liabilities of regional health authorities

Figure 3 provides information on the RHAs' unfunded liabilities. The unfunded liability for each RHA is the amount of future surpluses that will have to be incurred to meet the unfunded liabilities.

Figure 3

Regional Health Authorities' Unfunded Liabilities
Fiscal Years 2007 through to 2009
($ millions)

	2009				Totals		
	Eastern	Central	Western	Labrador-Grenfell	2009	2008	2007
Cash (Bank Indebtedness)	$ 25.1	$ (0.2)	$ (7.9)	$ (4.6)	$ 12.4	$ (33.7)	$ (35.9)
Accounts Payable	(109.0)	(25.1)	(22.4)	(14.4)	(170.9)	(152.1)	(137.6)
Current LTD	(3.1)	(1.4)	(1.2)	(0.1)	(5.8)	(5.9)	(5.6)
Less: A/R	74.4	19.2	19.1	12.1	124.8	81.9	59.3
Net Current Liability	(12.6)	(7.5)	(12.4)	(7.0)	(39.5)	(109.8)	(119.8)
Long-term Debt	(144.0)	(20.3)	(11.8)	(2.5)	(178.6)	(182.8)	(187.9)
Severance Pay	(102.7)	(23.2)	(25.9)	(9.3)	(161.1)	(151.9)	(146.3)
Vacation Pay	(37.5)	(10.8)	(8.0)	(5.7)	(62.0)	(55.9)	(49.6)
Total Unfunded Liabilities	$(296.8)	$(61.8)	$(58.1)	$(24.5)	$(441.2)	$(500.4)	$(503.6)

Source: Audited Financial Statements

As Figure 3 shows, at 31 March 2009 the RHAs had total unfunded liabilities of $441.2 million, a decrease of $62.4 million from 2007. This improvement is mainly attributed to the increase in Provincial funding over the past 2 years.

The $441.2 million in total unfunded liabilities for 2009 will be affected by the results of future operations and the level of funding by Government. If the RHAs have annual operating surpluses in the future, these surpluses could be used to fund the liabilities. On the other hand, if the Authorities have annual operating deficits, then the deficits, along with the unfunded liabilities, will eventually have to be funded by Government.

Given the increased Provincial funding and expenditures over the past 3 years and the level of unfunded liabilities of the RHAs, it is important that the Department monitor the programs and services and financial operations of the RHAs.

Overview of the Department

The Department's mandate is derived from the *Department of Health and Community Services Notice, 2003* under the *Executive Council Act*. As part of its mandate, the Department is responsible for the supervision, control and direction of all matters relating to the administration of hospitals and long-term care facilities. The hospitals and long-term care facilities are operated by the four RHAs.

With respect to the RHAs, according to the Department's Strategic Plan for 2006 - 2008, the Department is to: monitor and carry out periodic evaluations of select programs and services; provide a budget allocation; and monitor financial performance. One of the Department's strategic directions identified in its Strategic Plan was to improve accountability and stability in the delivery of health and community services within available resources.

Divisional responsibilities

The Department's Financial Services Division and Board Services Division are responsible for monitoring the financial operations and service activities of the RHAs.

- The Financial Services Division, in consultation with the Board Services Division, determines the annual budget allocations for the RHAs, and manages the Department's budget monitoring program for the RHAs.

- The Board Services Division monitors the provision of health and community services provided by the four RHAs and develops the Department's capital construction improvement plan and the capital equipment plan for health facilities.

Audit Objectives and Scope

Audit objectives

The objective of our review was to determine whether the Department had adequate monitoring processes in place to enable it to evaluate and report on the operations of the RHAs.

Audit scope

Our review was completed in April 2009 and covered fiscal years 2007, 2008 and 2009. Our review included an examination of the Department's budget approval process, financial and statistical databases, and monitoring processes and reports. In addition, interviews were conducted with Department officials.

Detailed Observations

In order for the Department to monitor programs and services and financial performance, we would expect that there would be periodic reporting of both statistical and financial information, evaluation and follow-up of this information, and policies and procedures to direct staff in this process.

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

1. Reporting
2. Evaluation and Follow-Up
3. Policies and Procedures

1. Reporting

Introduction

The *Regional Health Authorities Regulations*, under the *Regional Health Authorities Act*, state that financial and statistical reporting by the RHAs shall be in accordance with the Standards for Management Information Systems (MIS) in Canadian Health Service Organizations and in accordance with any other reporting guidelines or standards which may be required by the Minister of Health and Community Services.

Budget process

The budget process for any particular fiscal year usually begins in the Fall of the preceding year with the Department requiring the RHAs to provide the Department with a budget submission including any proposals for new initiatives or funding changes. The Department, through its Board Services Division and Financial Services Division, reviews and assesses the budget information and once the Province's budget is tabled in the House of Assembly, provides each RHA with a draft Provincial Plan Revenue (PPR) schedule, outlining its funding, for review and comment. Once the PPR is finalized, the Department requests that the RHAs submit a revised budget. The budget process concludes with the receipt and approval of this budget.

Reporting process

Throughout the fiscal year, RHAs submit financial and statistical data to the Department electronically through a Teledata system. To ensure consistency, RHAs collect and report data through the Meditech management information software using a Provincial chart of accounts based on MIS standards. The Department tracks the receipt of financial and statistical information submitted by the RHAs and follows-up with an RHA if data is not received by the required submission date.

In addition, the Department has established a Data Quality and Review Committee with membership from the Department, RHAs, national MIS committee membership and the Newfoundland and Labrador Centre for Health Information (NLCHI) to monitor the Province's MIS data gathering and reporting.

Also, during the fiscal year, RHAs are required to submit quarterly capital monitoring reports, and upon request, internal financial reports.

Subsequent to the fiscal year, the RHAs are required to submit audited financial statements, management letters and annual reports.

Our review of the required submissions identified the following issues:

Final budget not approved prior to fiscal year

- Although the budget requests were submitted by the RHAs within the established time frames in October or November, the Department did not provide the RHAs with a draft PPR outlining its funding until March or April of the following year. In addition, final allocations were not provided to the RHAs until two or three months after this time.

  Specifically, the budget submission, review and approval process, on average, took 7 months to complete for 2008 (November 2006 to June 2007) and 8 months for 2009 (October 2007 to June 2008). As a result, the RHAs were not provided with their approved budget until 3 months after the fiscal year had commenced.

Information not timely

- The Department did not receive the requested Teledata financial information from the RHAs as required. Figure 4 provides a summary of the Teledata submission requirements and the actual submissions by the RHAs.

Figure 4

Department of Health and Community Services
Teledata Submissions
Fiscal Years 2008 and 2009 (up to 30 June 2008)

Data Information	Date required	Fiscal Year	Number of days late after submission deadline*			
			Eastern	Central	Western	Labrador-Grenfell
Annual budget & salary details	60 days after budget letter	2008	18	41	54	62
		2009	25	9	51	58
Revenue and expenditures	20 days after month end	2008	5 to 119	15 to 194	9 to 101	55 to 163
		2009	94 to 150	56 to 98	58 to 81	80 to 105
Year End	July 31	2008	64	26	14	29
		2009	N/A	N/A	N/A	N/A

* The number of days late for the monthly revenue and expenditures submissions was determined using the submission date of the last reporting facility within a regional health authority.

As Figure 4 shows, all RHAs were late in submitting financial information through Teledata. For example, revenue and expenditure information for 2008 was submitted 5 to 194 days after the required submission date. Without current information, the Department does not have adequate information for timely decision making.

Information on capital expenditures not adequately reported

- During 2008, the Department provided $51.2 million to the RHAs for capital equipment ($39.6 million) and capital repairs and renovations ($11.6 million). Details of capital expenditures were not captured and submitted through monthly Teledata submissions as was the case with operating revenues and expenditures. As such, the Department requested the RHAs provide quarterly updates on purchases made from capital funding. However, it did not establish a format for these quarterly reports and the RHAs were not providing the reports as requested. For example:

  - The Department indicated that none of the RHAs provided quarterly reports as requested for 2008; however, one RHA (Eastern) indicated that it had forwarded the required quarterly reports to officials of the Department on a quarterly basis over the past years.

- As of December 2008, three of the RHAs (Central, Western and Labrador-Grenfell) had not provided quarterly updates for the first two quarters of 2009 as requested.

- In light of the absence of quarterly reporting by the RHAs for 2008, the Department requested an annual report on the 2008 purchases by 31 May 2008. Two RHAs (Central and Western) did not provide the requested report; one RHA (Labrador-Grenfell) did not provide an annual report for 2008 until June 2008; and one RHA (Eastern) provided the report in May 2008.

- A review of the reports submitted by the two RHAs (Labrador-Grenfell and Eastern) identified: capital funding that was recorded by the RHA and not recorded in the Board Services Division's capital budget monitoring report; funding recorded in the Board Services Division's capital budget monitoring report that was not included in the RHAs' report; and, a lack of detail of the capital items purchased from the funding.

Statistical information submitted not always complete

- Statistical information submitted by the RHAs was not always complete. Statistical information includes operational details related to staffing, hours of work, service activity, caseloads and workloads. As a result, the Department could not properly monitor the operations of the RHAs. For example:

  - A review of the annual statistical summary prepared by NLCHI for 2007 (the latest fiscal year reported on) for 15 functional areas (excluding nursing) for each RHA identified that RHAs did not report all required statistical information. Details are outlined in Figure 5.

Figure 5

Statistical Information by RHA
Fiscal Year 2007

Regional Health Authority	Functional areas with complete statistics	Functional areas with incomplete or incorrect statistics
Labrador-Grenfell	No statistical information reported	
Western	4	11
Central	2	13
Eastern	2	13

Source: NLCHI Annual Statistical Summary

- In August 2008, NLCHI and its Provincial Nursing MIS Committee prepared the MIS Standards Implementation Nursing Report Card for 2007 (the latest fiscal year reported on) based upon information provided by the Department. A review of this report card highlighted that nursing statistics on service activities, caseloads and workloads were not always being collected or completely reported. Details are outlined in Figure 6.

Figure 6

Statistical Information for Service Activity and Caseloads
Fiscal Year 2007

Regional Health Authority	# of sites	Service Activity		Caseloads	
		Sites reported 100%	Sites not reported 100%	Sites reported 100%	Sites not reported 100%
Labrador-Grenfell	26	0	26	0	26
Western	9	3	6	7	2
Central	13	3	10	4	9
Eastern	26	9	17	21	5

Source: NLCHI MIS Standards Implementation Nursing Report Card

- The 2006-07 Nursing Report Card reported that in 2001 the Provincial Nursing MIS Committee recommended that all RHAs were to have nursing workload management systems implemented by 2006. As of 2008, none of the RHAs had nursing workload management systems fully implemented. We identified that:

  - only 23% of full time equivalent nurses reported workload statistics. This ranged from less than 1% for Western RHA to 35% for Eastern RHA.

  - only 17% of nursing centres reported workload statistics. This ranged from 2% for Central RHA and Western RHA to 30% for Eastern.

  - Labrador-Grenfell RHA did not provide any workload statistics.

Recommendations

The Department should:

- assess its budget review and approval process to determine if efficiencies exist in the timeliness of the process;

- work with RHAs to obtain complete, accurate and timely financial and statistical monitoring information; and

- monitor RHAs' spending of approved capital funding in accordance with Department policy.

2. Evaluation and Follow-up

Introduction

The Department assesses the financial and statistical information received from the RHAs through the review and analysis of Teledata information, cash flow reports, internal monitoring reports from the RHAs, annual audited financial statements and annual management letters, and through site visits. In addition, various performance indicators have been established that are available to the Department and RHAs for assessing the financial and health service performance.

Our review of the Department's evaluation and follow-up identified the following issues:

No benchmarks for variance analysis of Teledata information

- The Department uses the submitted Teledata information to identify variances; however, it has not established benchmarks to identify which variances would require follow-up. Without the use of benchmarks for a functional area, facility, RHA or the provincial health care system, variances may not be followed up.

Site visits not conducted in accordance with policy

- The Department's policy is to conduct quarterly site visits of RHAs to review the operations of the RHAs. Site visits include a review of the budget, prior fiscal year results, and current year operations to date and to address specific issues as they arise. Discussions with Department officials indicated that quarterly site visits have been replaced with semi-annual site visits due to a lack of resources to conduct quarterly visits, the duration of the budget process and the delay in receiving Teledata information.

Site visits not always supported with up-to-date information

- Site visits to the RHAs by officials from the Financial Services Division and Board Services Division were sometimes carried out without updated Teledata information or internal financial results. Our review of the eight site visit reports and accompanying files for 2009 (2 each for the 4 RHAs) identified 2 instances where up-to-date financial information was not provided to Department staff to assist in their review.

    - A review of one RHA's (Western) site visit report identified that a quarterly financial report was not available at the time of the visit. Subsequent to the July 2007 visit, the RHA advised the Department verbally that the first quarter results were showing a $640,000 operating surplus.

    - In another instance a visit to one RHA (Central) in September 2007 was conducted without year-to-date financial information. A mid-year financial report for the period ending September 2007 was not provided to the Department until December 2007 i.e. after the site visit was completed. The report showed a deficit of $1.4 million.

    Without updated information, issues may not be reviewed with the RHAs during the site visits.

Site visit information not adequately documented

- Files used to document the site visits were neither organized nor complete and did not adequately support either the level of review performed or support the written report. For example, for one RHA, documentation for both semi-annual site visits was kept in the same file with little organization. Although an agenda was prepared for each site visit and filed it was difficult to determine whether all items were addressed. In addition, the file did not indicate the Department or RHA staff involved in the site visit.

RHA audits not conducted by the Audit Services Division

- Although the Department has an Audit Services Division (primarily for MCP and prescription drug program audits), the Division does not perform internal audits of RHA operations. It was noted the *Regional Health Authorities Act* states that the Minister may audit the accounts of an RHA and that the Department has identified that one of the functions of the Division is to carry out audits of health and community service organizations such as the RHAs.

Indicator reports not adequately completed or monitored

- The Department's information system does not automatically produce monthly/year-to-date performance indicators for review. Instead, the Department prepares reports of performance indicators on request, and NLCHI provides the Department with annual performance indicator reports by facility and functional area from information generated by the Financial Services Division from the Teledata information. These indicator reports are available to the Department and RHAs for monitoring financial, staffing, productivity, utilization and workload statistics.

  A review of the 2007 indicator reports (the latest fiscal year reported) identified the following:

  - As the Labrador-Grenfell RHA did not provide any statistical data for 2007, the indicator reports only provided financial data and select financial performance indicators.

  - Indicator reports were not generated for nursing or pharmacy functional areas as statistical information provided for these areas was incomplete.

- Significant variances were identified in performance indicators between facilities and within facilities from year-to-year. However, the indicator reports did not provide any explanation for reported variances. Discussions with a NLCHI official indicated that NLCHI is not responsible for analyzing the data or variances but to provide the Department and RHAs with the information. Our review identified that the reports are used as a resource tool to assist with the monitoring of RHAs; however, the Department does not have a formalized process for analyzing or following up on reported variances.

- The Department has not established benchmarks or targeted indicators for comparative or variance purposes. Without benchmarks or targets by facility, RHA or the Provincial health care system, the Department cannot determine whether health care services are provided as planned, whether funds are being efficiently utilized or whether future funding models should be changed.

Inadequate follow-up of management letters

- Although Department officials stated that management letters are reviewed and issues are followed up with the RHA, there was no documentation to support the review or follow-up. These letters are prepared by private sector auditors as a result of the annual audits of RHAs to identify weaknesses in financial controls. For example, one management letter reported weaknesses in the receipting of monies, old outstanding cheques, and segregation of duty concerns in its accounts receivable department; however, there was no evidence of review.

  Furthermore, for 2008, 3 of the RHAs (Eastern, Western and Labrador-Grenfell) did not submit the management letters until after the required deadline of 30 September 2008, with one (Labrador-Grenfell) management letter not received until March 2009 and only after our enquiry.

Recommendations

The Department should:

- conduct and document site visits in accordance with its policy;
- conduct audits of RHAs through the Audit Services Division;
- analyze information to ensure that variances for key performance indicators are identified, adequately explained and reported annually;
- establish benchmarks for each performance indicator by Province, region and/or site in order to better evaluate financial and health service activities and support future funding decisions; and
- document its follow-up of internal control weaknesses identified in the RHAs' management letters.

3. Policies and Procedures

Introduction

In order for the Department to fulfill its responsibility for the administration of hospitals and long-term care facilities, it is essential that monitoring and reporting policies exist to direct Department staff and to provide RHAs with their reporting requirements.

Our review of the Department's policies and procedures for the monitoring and reporting of financial and statistical information identified the following issues:

User Guide not up-to-date

- Each year, the Department provides a Regional Health Service Organization: Reporting Requirements (User Guide) to the RHAs. The User Guide provides information on the MIS financial and statistical accounts structure, performance indicators, MIS reporting requirements, financial statement presentation requirements, budget monitoring and reporting requirements, and budget preparation guidelines. Our review of the User Guide for 2009 identified the following:

- The Budget Monitoring Reporting Requirements section of the User Guide is comprised of a budget monitoring report prepared by a budget monitoring review committee in September 2000. This section has not been updated for future fiscal years and was referenced in the index to the User Guide as "needs to be updated".

- The Budget Preparation Guidelines and Template section of the User Guide provides information on the preparation of the budget and provides a template for the budget submission for the 2001-2002 budget. This section has not been updated for future fiscal years and was referenced in the index to the User Guide as "needs to be updated".

Board Financial Services policy manual not complete

- The Board Financial Services section under the Financial Services Division drafted a Regional Health Authorities Financial Policies and Procedures Manual to assist RHAs and Division staff in their financial monitoring and reporting responsibilities. However, as of December 2008, the draft, dated 28 May 2007, had not been completed and provided to RHAs or Division staff.

  In addition, although the Department receives financial and statistical information from all RHAs through Teledata, there are no documented procedures on what the Financial Services Division is to do with the information it receives. There is no formal process for analyzing and reporting of results of monthly Teledata information.

Board Services Division policies not documented

- The Board Services Division does not have a policies and procedures manual to assist Division staff in the monitoring and reporting of RHAs.

Recommendation

The Department should have complete and up-to-date policies and procedures related to monitoring programs and services of RHAs as well as their financial performance.

Department's Response

Recommendation:

The Department should:

- *assess its budget review and approved process to determine if efficiencies exist in the timeliness of the process;*
- *work with RHAs to obtain complete, accurate and timely financial and statistical monitoring information; and*
- *monitor RHAs' spending of approved capital funding in accordance with Department policy.*

Department's Response

The Department agrees with this recommendation and will look at ways to improve the monitoring of the RHAs and the information that is received from the RHAs.

Recommendation:

The Department should:

- *conduct and document site visits in accordance with the policy;*
- *conduct audits of RHAs through the Audit Services Division;*
- *analyze information to ensure the variances for key performance indicators are identified, adequately explained and reported annually;*
- *establish benchmarks for each performance indicator by Province, region and/or site in order to better evaluate financial and health service activities and support future funding decisions; and*
- *document its follow-up of internal control weaknesses identified in the RHAs' management letters.*

Department's Response

The Department agrees with this recommendation and will take steps to improve the evaluation and follow-up of RHA performance and operations.

Recommendation:

The Department should have complete and up-to-date policies and procedures related to monitoring programs and services of RHAs as well as their financial performance.

Department's Response

The Department agrees with this recommendation and will ensure that policies and procedures related to monitoring of RHAs are documented.

PART 2.10

DEPARTMENT OF HUMAN RESOURCES, LABOUR AND EMPLOYMENT

NEWFOUNDLAND AND LABRADOR LABOUR RELATIONS AGENCY

Executive Summary

The Labour Standards Division (the Division) of the Newfoundland and Labrador Labour Relations Agency (the Agency) receives, records and investigates complaints by employers and employees alleging a violation of one of the acts administered by the Division. The majority of complaints involve the *Labour Standards Act*, which mandates minimum terms and conditions of employment in the Province. Most complaints relate to the non-payment of wages to employees.

Although the Division has an established process for accepting and investigating complaints, our review identified a number of weaknesses. Specifically:

- The electronic database used by the Division to record each complaint and track the final disposition of the complaint was neither complete nor accurate. Information such as the incident date needed to investigate and monitor complaints was not always recorded, and details on the final disposition of Determination Notices, including who, if anyone, was at fault, was not recorded. Furthermore, we identified errors in the database. As a result of not always having complete and accurate information, the Division:
  - could not adequately monitor the status and final disposition of complaints and assess its performance with regard to its success in collecting wages owed; and
  - was not able to identify employers with multiple instances of fault for proactive follow-up.
- Although the Division has established guidelines for the time expected to address a complaint (as measured from the time the Agency received the complaint to conclusion), our review for 2009 identified that the average exceeded the guidelines. For an Early Resolution case, the guidelines are 2 to 4 weeks and for a Formal Complaint case, the guideline is 6 months depending on the complexities of the case. For 2009, the average was 46 days to complete an Early Resolution case and 220 days to complete a Formal Complaint case. In each instance, the average exceeded the guidelines.

  Furthermore, in one instance the database indicated an Early Resolution case took 746 days to complete.

- The Division did not develop and implement a strategy for inspecting employer records in instances where there have been either multiple complaints in the past about a particular organization or there had been a determination of a valid complaint by an employee or former employee where other employees at that organization may also be affected. The *Labour Standards Act* provides the Agency with the authority to inspect, examine and copy employer records.

- The Agency's Strategic Plan for 2006-07 through 2007-08 had performance measures that could not be "readily comparable" to either the Agency's historical or intended performance. As a result, we could not assess the performance of the Agency as it relates to prior and intended results as contemplated by the *Transparency and Accountability Act*.

Law firms may obtain a clearance certificate from the Agency related to the sale of real property. The fee for this clearance certificate is $25 plus tax. The Agency was not proactive in collecting clearance certificate fees on a timely basis. For example, officials did not send statements to law firms and did not telephone law firms. As at 31 March 2009, there was a total of $38,269 in uncollected fees of which $20,412 was for the period prior to 1 July 2006. If amounts owing are not collected on a timely basis, the probability of collection is greatly reduced. As at 31 March 2009, the Agency determined that approximately $15,500 was considered to be uncollectable.

Background

Overview

The Newfoundland and Labrador Labour Relations Agency (the Agency) was created in 2004. The Agency provides services to employees and employers throughout the Province. These services include:

- protection of the basic labour rights of all employees and employers;

- assistance in resolving workplace issues and collective agreements;

- creation of partnerships to promote the currency and relevance of the employment relations regulatory framework (i.e., legislation, regulations, policies); and

- provision of policy advice and information services to support positive employment relations and the effective administration of Provincial labour regulations.

The Agency is headed by a Chief Executive Officer appointed by the Lieutenant Governor-in-Council. The Chief Executive Officer reports directly to the Minister of Human Resources, Labour and Employment. As of March 2009, the Agency had 27 staff with 24 in the St. John's office and 3 in the Corner Brook office.

Figure 1 provides a summary of expenditures for the last five fiscal years. These expenditures are funded through the Department of Human Resources, Labour and Employment.

Figure 1

Newfoundland and Labrador Labour Relations Agency
Expenditures
Fiscal Years 2005 through to 2009

Activity	2005	2006	2007	2008	2009
Executive Support	$ 254,473	$ 305,782	$ 319,563	$ 322,140	$ 350,525
Administration and Planning	358,489	421,873	466,662	509,210	511,171
Labour Relations and Labour Standards	1,043,095	972,659	1,114,663	1,172,183	1,009,395
Fish Price Setting Panel	-	-	-	-	197,854
Labour Relations Board	648,972	579,869	658,434	643,856	835,551
Total:	**$2,305,029**	**$2,280,183**	**$2,559,322**	**$2,647,389**	**$2,904,496**

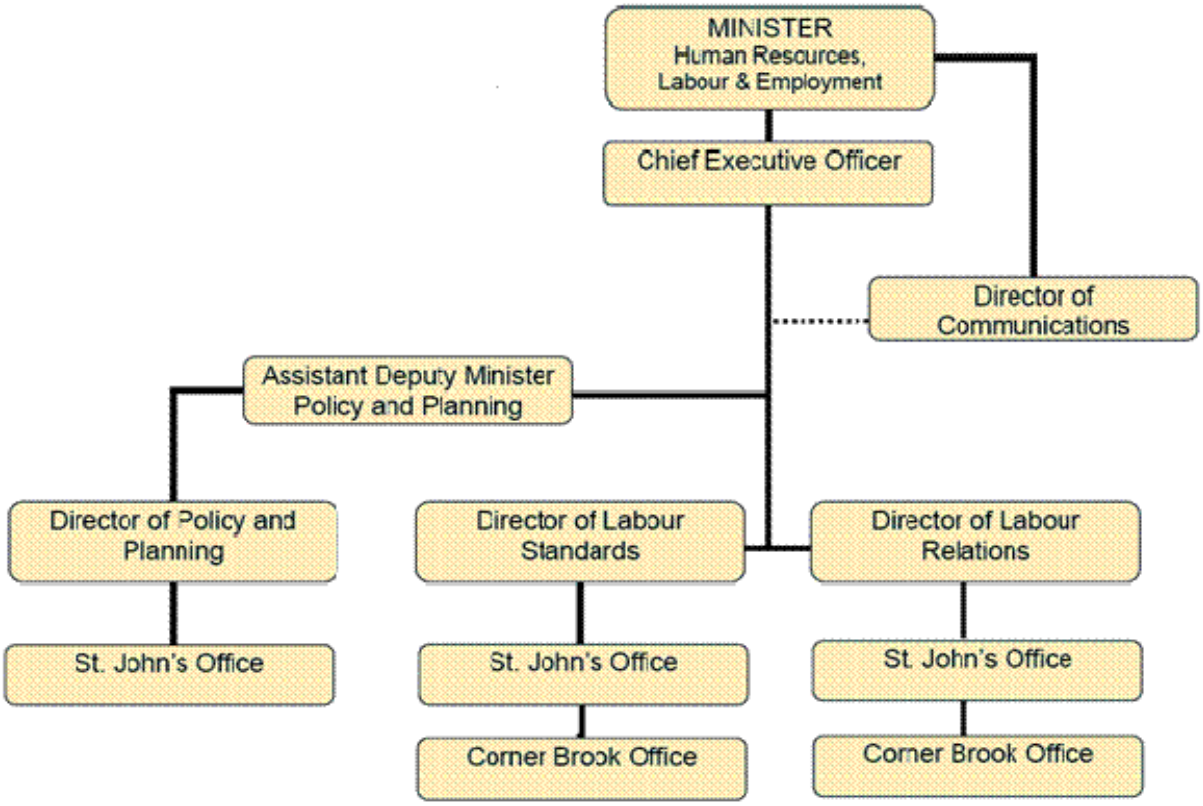
Source: Government of Newfoundland and Labrador Financial Statements
Note: Prior to 2009, expenses for the Fish Price Setting Panel were not separately disclosed, but included with other expenses of the Agency.

Organization

Although the expenditures of the Fish Price Setting Panel and the Labour Relations Board, as depicted in Figure 1, are paid by the Department through the Agency, the Panel and the Board report directly to the Minister of Human Resources, Labour and Employment and not the Chief Executive Officer of the Agency. Figure 2 shows the organizational structure of the Agency.

Figure 2

Newfoundland and Labrador Labour Relations Agency
Organizational Structure



Source: Newfoundland and Labrador Labour Relations Agency Annual Report 2008-09

Legislation

The legislation administered by the Labour Relations Agency includes the following:

- *Labour Standards Act* and *Regulations*;
- *Labour Relations Act* and *Regulations*;
- *Shops Closing Act* and *Regulations*;
- *Public Service Collective Bargaining Act* and *Regulations* (Consolidated Orders);
- *Fishing Industry Collective Bargaining Act* and *Regulations*;
- *Interns and Residents Collective Bargaining Act*; and
- *Teachers' Collective Bargaining Act*.

Labour Standards Division activities

The main activities of the Labour Standards Division (the Division) are to receive, record and investigate complaints by employers and employees alleging a violation of one of the acts administered by the Agency. The majority of complaints involve the *Labour Standards Act*, which mandates minimum terms and conditions of employment in the Province. Most complaints relate to the non-payment of wages to employees.

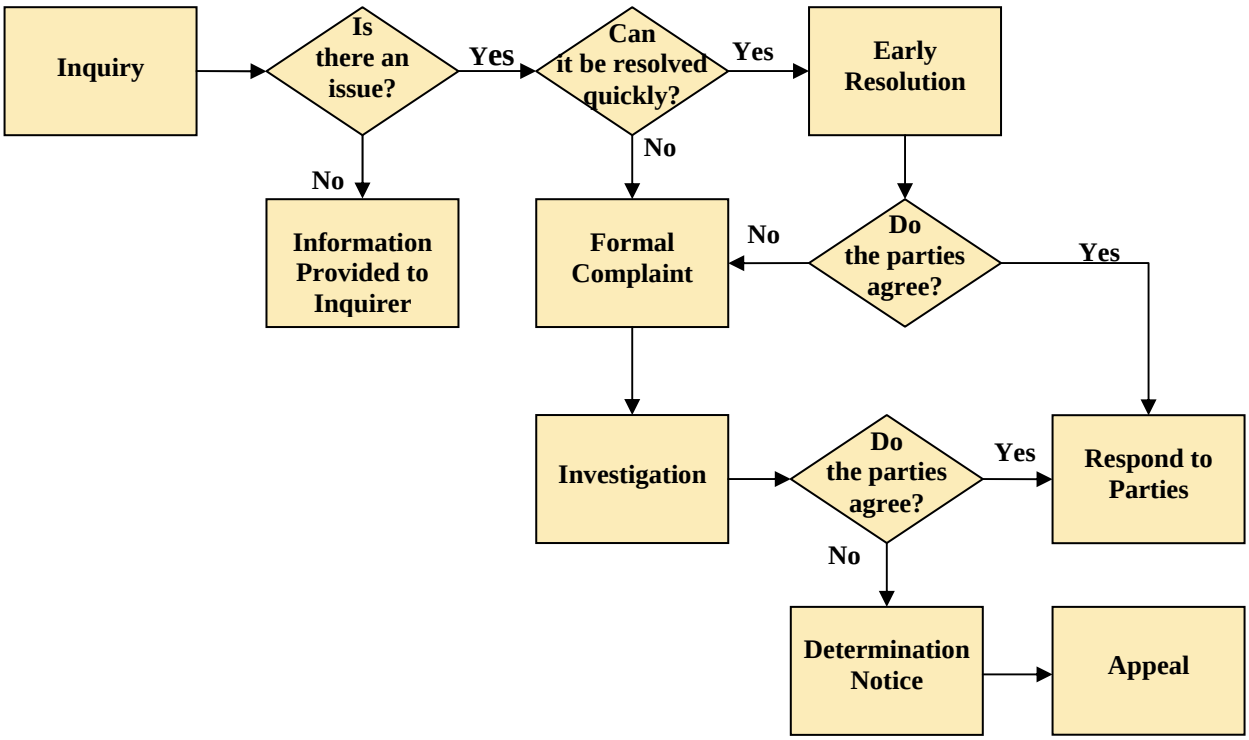
The Division is responsible for the investigation of these complaints and the Director of Labour Standards is empowered to issue Determination Notices. Determination Notices document the decisions of the Director and outline required actions. When a required action includes the collection of monies owing to employees, a copy of the Determination Notice is also filed with the Office of the High Sheriff for follow-up action. Employers and employees can appeal the decisions of the Director to the Labour Relations Board.

Complaint process

Figure 3 outlines the complaint process of the Labour Standards Division.

Figure 3

Newfoundland and Labrador Labour Relations Agency
Labour Standards Complaints Process



The Labour Standards Division processes labour standard complaints as follows:

Inquiry – The Division receives daily inquiries from the public on possible violations of the *Labour Standards Act*.

Is there an issue? – In most cases, the inquiries relate to employees wanting to know their rights and employers wanting to know their obligations under the *Labour Standards Act*. When an employee or employer indicates that they want to file a complaint, a Labour Standards Officer will take the necessary details to determine if there is an issue.

Can it be resolved quickly? – If the respondent to the complaint is agreeable to settling the matter quickly, the Labour Standards Officer will work at developing an Early Resolution.

Early Resolution – An Early Resolution is documented by the Labour Standards Officer and followed up by the Director to ensure that the agreed upon terms and conditions are met.

Do the parties agree with the Early Resolution? – When the parties cannot agree upon a settlement during the Early Resolution, the Officer transfers it to a Formal Complaint.

Formal Complaint – The Formal Complaint documents the positions of both parties.

Investigation – The Labour Standards Officer will conduct an independent review of the facts involving the alleged labour standards violation and report to the Director of Labour Standards.

Do the parties agree with the investigation report? – If the parties agree with the investigation report, the Labour Standards Division informs the parties involved. Where there is no agreement, the Director of Labour Standards will issue a Determination Notice.

Determination Notice – The Determination Notice documents the decision of the Director of Labour Standards. When a Determination Notice includes the collection of monies and there is no appeal, a copy of the Determination Notice is also filed with the Office of the High Sheriff for follow-up action.

Appeal – The decision of the Director of Labour Standards can be appealed to the Labour Relations Board.

Figure 4 shows the number of labour standards complaints each year from 2005 to 2009.

Figure 4

Newfoundland and Labrador Labour Relations Agency
Labour Standards Complaints
Fiscal Years 2005 through to 2009

Description	2005	2006	2007	2008	2009
Early Resolution cases	293	427	323	330	426
Formal Complaint cases	75	110	112	141	102
Total cases per year	**368**	**537**	**435**	**471**	**528**

Source: Labour Relations Agency's Annual Reports

Audit Objectives and Scope

Audit objective

The objective of our review was to assess whether the Agency had adequate systems and procedures in place to protect the employment rights of employees and employers through the receipt and investigation of complaints.

Audit scope

Our review included an examination of various reports and documents for fiscal years 2008 and 2009, and included interviews with officials of the Newfoundland and Labrador Labour Relations Agency. Our review was completed in April 2009.

Detailed Observations

Findings

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

1. Information Systems
2. Enforcement Actions
3. Financial Controls
4. Performance Monitoring and Reporting

1. Information Systems

Overview

We would expect the Division to have a computerized database to track complaints received and the subsequent follow-up action taken. The information system would be expected to provide timely, accurate and relevant information for decision-making purposes on staffing, monitoring compliance and enforcement activities. In addition, the system would be used to assist in identifying potentially high-risk workplaces and to prioritize enforcement activities.

The Division has a computerized database system to keep track of the labour standards complaints received and their status. However, our review identified the following weaknesses:

Key information not recorded

- The database was incomplete in that it did not contain information on:
  - the amount to be recovered as a result of a complaint. This information would make verifying money owed for the purposes of issuing clearance certificates in relation to sales of real property easier and for generating performance indicators such as the Agency's success in collecting wages owed;
  - the incident date related to a particular complaint. This information would enable the system to verify that the complaint was received within the statutory limit of six months; and
  - the final disposition of Determination Notices, including who, if anyone, was at fault. The information would enable the Division to identify employers with multiple instances of fault for proactive follow-up.

Database errors

- The database contained errors. For example, our review of 304 of the 3,608 Early Resolution cases and 109 of the 1,144 Formal Complaint cases in the database as at 25 March 2009 identified the following:
  - 47 Early Resolution cases had completion dates earlier than the date of complaint, indicating that the case was concluded before the complaint was received;

- 22 Formal Complaint cases had Assign Date fields earlier than the Complaint Date, indicating that the Director had assigned the case to a Labour Standards Officer before the Division received the complaint;

- 21 Early Resolution cases had completion dates indicating that it took more than 2 years to resolve the complaint. Furthermore, one case had a completion date of 28 December 2061 which clearly shows an error in the dates; and

- 5 Formal Complaint cases that were completed had the date of completion omitted. This missing information makes it difficult for accurate statistics to be generated for performance reporting purposes.

Missing information

- The complaint forms were not pre-numbered and, as a result, it cannot be determined if all complaints are recorded. For example, our review of the files in April 2009 identified one complaint that the Division had not recorded in the database although it was received 29 October 2008, some 5 months before. Furthermore, we found that the database contained both duplicate and missing case numbers.

Unable to reconcile cases

- The number of cases reported in the Agency's annual report for fiscal years 2007 and 2008 for either the Early Resolution cases or the Formal Complaint cases did not agree with the database. This brings into question the accuracy of the annual report and the reliability of the database.

Recommendation

The Agency should take steps to ensure its Labour Standards database is complete and accurate.

2. Enforcement Actions

Overview

The *Labour Standards Act* provides for enforcement through inspection of employers for compliance and the laying of charges under the *Act*. We would expect the Division:

- to have an inspection program in place to identify issues prior to a complaint and to determine whether work places comply with the orders issued to meet employment standards and requirements;

- to have policies and procedures for promptly responding to complaints; and

- to impose fines and penalties, in instances where violations are identified, to prevent and deter future violations.

Our review identified the following:

Lack of enforcement of the *Labour Standards Act*

- Although the *Labour Standards Act* provides the Agency with the authority to inspect, examine and copy employer records, the Division did not develop and implement a strategy for inspecting these records. An inspection would be appropriate where there have been either multiple complaints in the past about a particular organization or there has been a determination of a valid complaint by an employee or former employee where other employees at that organization may also be affected.

Guidelines for time to address complaints exceeded

- The Division has established guidelines for the time expected to address a complaint, as measured from the time the Division received the complaint to conclusion. For an Early Resolution case, the guidelines are 2 to 4 weeks and for a Formal Complaint case, the guideline is 6 months depending on the complexities of the case. Our review identified that for 2009, the average was 46 days to complete an Early Resolution case and 220 days to complete a Formal Complaint case. In each instance, the average exceeded the guidelines.

  Furthermore, in one instance the database indicated an Early Resolution case took 746 days to complete.

No charges laid

- Although the Division has the authority to impose charges and penalties for violations of the *Labour Standards Act*, no such charges or penalties have been imposed. As a result, employers that do not comply with current labour standards are not penalized other than having to comply with the Determination Notice.

Recommendations

The Agency should:

- develop policies for the enforcement of the *Labour Standards Act* through the inspection of employer records and the laying of charges for violations of the *Act*; and

- monitor the time taken to resolve complaints and follow-up on variances.

3. Financial Controls

Overview

Financial controls are the processes that an organization uses to direct, monitor and measure its financial resources. Financial controls help prevent and detect errors, protect the organization's assets from loss, and ensure compliance with laws and regulations.

Our review of the Agency's financial controls identified the following issues:

Uncollected clearance certificate fees

- The Agency was not proactive in collecting clearance certificate fees. For example, officials did not send statements to law firms and did not telephone law firms. Law firms may obtain a clearance certificate from the Agency related to the sale of real property. The fee for this clearance certificate is $25 plus tax. Lawyers then charge the cost of the Agency's clearance certificate to their clients as one of many disbursements required to complete the sale of property. As at 31 March 2009, there was a total of $38,269 in uncollected fees of which $20,412 was for the period prior to 1 July 2006, with an additional $7,695 dating back to between 1 July 2006 and 31 December 2007. If amounts owing are not collected on a timely basis, the probability of collection is greatly reduced. As at 31 March 2009, the Agency determined that approximately $15,500 was considered to be uncollectable.

  Figure 5 shows the amount of outstanding fees owed the Agency.

Figure 5

Newfoundland and Labrador Labour Relations Agency
Clearance Certificates Receivable
Fiscal Years 2005 through to 2009

Description	2005	2006	2007	2008	2009
Receivable	$19,291	$27,198	$32,950	$36,652	$38,269
Allowance for doubtful accounts	-	-	10,252	14,461	15,508
Net Receivable	**$19,291**	**$27,198**	**$22,698**	**$22,191**	**$22,761**

Source: Department of Human Resources, Labour and Employment Public Accounts Submissions

Money received for unpaid wages is not being paid out

- The *Labour Standards Act* requires that the Director of Labour Standards maintain an account known as the Unpaid Wages Account for depositing unpaid wages and gratuities received by the Director from employers. Furthermore, the *Act* requires the Director to remit to the employees, all money received on their behalf as soon as possible. If the Director is unable to locate the employee within a period of 2 years from the date the money was credited to the Unpaid Wages Account, the money becomes the property of the Crown. Our review found that, as at 28 February 2009, the Unpaid Wages Account included three amounts totalling $392 that should have been remitted to the Crown.

Recommendations

The Agency should:

- increase efforts to collect clearance certificate fees; and
- comply with the *Labour Standards Act* and remit all undisbursed monies in the Unpaid Wages Account to the Province after a two year period.

4. Performance Monitoring and Reporting

Overview

Performance monitoring and reporting helps an entity in evaluating the effectiveness of its programs and taking corrective action when necessary. We would expect the Agency to measure and report on the effectiveness of its monitoring and enforcement of employment standards. We would expect to see performance measures and indicators expressed in measurable units and actual results presented and compared to prior years information, target results and, if available, results from similar organizations.

In accordance with the *Transparency and Accountability Act*, the Agency has been categorized as a category 1 government entity, which requires the Agency to prepare a strategic plan that identifies objective performance measures specific to its goals and objectives. The *Act* also requires the Agency to prepare an annual report that compares actual results to the strategic plan's projected results in a form and language that is precise and as readily understandable as practicable. Furthermore, the *Act* requires that information in the strategic plan and the report be readily comparable.

No objective measures or indicators

Our review identified that the Agency's Strategic Plan for 2006-07 through 2007-08 had performance measures that could not be "readily comparable" to either the Agency's historical or intended performance. As a result, we could not assess the performance of the Agency as it relates to prior and intended results as contemplated by the *Transparency and Accountability Act* and presented in its Annual Report.

Recommendations

The Agency should:

- establish and report performance targets in measurable units; and
- provide an interpretation for performance information contained in its annual report.

Agency's Response

1. Information Systems

Recommendation:

"The Agency should take steps to ensure its Labour Standards database is complete and accurate."

Agency's Response:

The Labour Relations Agency had identified concerns with its database prior to the review of the Auditor General (AG) and had made application to the Office of the Chief Information Officer (OCIO) for a new system. The Agency has been in contact with the OCIO in response to the concerns identified by the AG with the current 'in-house' database and efforts are being made by the Agency to address the issues raised and to improve the management of the existing system.

2. Enforcement Actions

Recommendations:

"The Agency should:

- *develop policies for the enforcement of the Labour Standards Act through the inspection of employer records and the laying of charges for violations of the Act; and*
- *monitor the time taken to resolve complaints and follow-up on variances."*

Agency's Response:

The Labour Relations Agency works with employees and employers to support effective employment relations throughout Newfoundland and Labrador. By working with our partners, the Agency helps to create an optimum employment relations climate that is conducive to economic growth, competitiveness and prosperity.

The Agency is committed to building collaborative and constructive relationships with all stakeholders by engaging partners in decisions that affect them, including the administration of the Labour Standards Act. It is felt that this approach is an effective and proactive way to help foster positive employment relations, while at the same time enhancing compliance with the legislation.

The Labour Standards Division of the Agency proactively seeks to enhance legislative compliance through its Preventive Intervention Program. The program enables an officer to visit workplaces randomly or in response to anonymous complaints to discuss rights and responsibilities in relation to the Act with both employers and employees and ensure legislative compliance. Over the years, the program has been targeted at employers and sectors that have generated increased calls and complaints.

However, in response to concerns raised by the AG with respect to enforcement, the Agency will examine current policies and resources in relation to carrying out more inspections.

With respect to the prosecutions and the laying of charges for violations of the Act, the Agency will consult officials with the Department of Justice to assess this recommendation. At present, if there is non-compliance with a Determination issued by the Labour Standards Division, the order can be registered with the Trial Division of the Supreme Court and acted upon like any other court order, by filing enforcement/recovery instructions with the Office of the High Sherriff. This provision of the legislation was introduced in 2000 and enabled the Division to expedite proceedings and focus on the fundamental goal of recovery of wages for workers.

The issue of repeat offenders of the legislation is limited in this province; however, once identified, the Agency devotes immediate resources to effect legislative compliance with the knowledge that prosecution would be an option if compliance was not obtained and maintained.

With respect to concerns raised regarding the timeframes to resolve complaints, much of the problems identified originate with the Agency's existing database and administrative errors linked to the process for data entry. The Agency will continue to work with the OCIO in an effort to improve and eventually replace the current system. In addition, the Agency will take steps to ensure that data is accurately entered into the database and that appropriate management reports are generated to monitor performance and ensure the prescribed timeframes are adhered to where possible.

3. Financial Controls

Recommendations:

"The Agency should:

- *increase efforts to collect clearance certificate fees; and*
- *comply with the Labour Standards Act and remit all undisbursed monies in the Unpaid Wages Account to the Province after a two year period."*

Agency's Response:

In 2000, the Labour Standards Division implemented a fee for service of $25 dollars, plus Harmonized Sales Tax, for issuance of clearance certificates pertaining to requests from lawyers for confirmation that parties to a pending real estate transaction are not currently engaged in activity or have any liability in relation to the Division. Since its inception, the Labour Standards Division has generated in excess of $500,000 in revenue to the Crown from these fees. In 2009, the responsibility for the financial administration of the clearance certificate process was transferred to the Finance and General Operations Division of the Department of Human Resources, Labour and Employment in order to benefit from the enhanced financial management support and experience at the Department.

The Agency will ensure that any undisbursed monies in the Unpaid Wages Trust Account will be remitted to the Province after a two year period.

4. Performance Monitoring and Reporting

Recommendations

The Agency should:

- *establish and report performance targets in measurable units; and*
- *provide an interpretation for performance information contained in its annual report.*

Agency's Response:

The Labour Relations Agency 2006-2008 Strategic Plan outlines goals and objectives that pertain to two key areas: (i) the preparation and identification of changes to collective bargaining legislation that support optimum employer and employee relations; and (ii) improvements to the quality and availability of information regarding the province's employment relations climate. In 2006-07 and 2007-08, the Agency published Annual Reports that assessed its performance in relation to these goals and objectives and compared actual results to the Strategic Plan's projected results.

The Agency notes that the performance measures and indicators relating to the goals and objectives identified were transparently assessed in the 2006-07 and 2007-08 Annual Reports. Indeed, the presentation and format used to communicate the Agency's performance in these areas was enhanced in 2007-08 to more clearly articulate how these goals and objectives were addressed. The indicators and accomplishments identified in the Annual Reports are the measurable units used to assess the Labour Relations Agency's performance. In some cases, these measurable units have qualitative, rather than quantitative, indicators given the nature of the specific goal or objective. The accomplishments associated with these indicators are interpreted and assessed in each of the Labour Relations Agency's Annual Reports.

The Labour Relations Agency acknowledges the comments of the AG in relation to the value of performance measures and indicators relating to the monitoring and enforcement of employment standards. The Agency currently publishes statistical data in its Annual Reports that provides an overview of the number of labour standards cases assigned, cases concluded, cases resolved early, as well as other data pertaining to education and outreach activity and clearance certificates issues. This information includes a presentation of data for these categories over multiple years and allows for comparison to occur and trends to be identified. In light of the AG's comments, the Agency will assess the presentation of this data and examine the possibility of including more detailed information relating to the monitoring and enforcement of employment standards.

Newfoundland and Labrador Labour Relations Agency

PART 2.11

DEPARTMENT OF INNOVATION, TRADE AND RURAL DEVELOPMENT

NEWFOUNDLAND AND LABRADOR IMMIGRANT INVESTOR FUND LIMITED

Executive Summary

The Newfoundland and Labrador Immigrant Investor Fund Limited (the Corporation) was incorporated in April 2005 with the purpose of investing in the Provincial economy to improve business and employment. The funds for the Corporation are provided through participation in the Citizenship and Immigration Canada (CIC) Immigrant Investor Program (the Program). Five years after the receipt of funds, the Corporation must repay these amounts to CIC, along with the commission fee calculated at 7% of the amount provided to CIC by immigrant investors.

Since April 2005, the cash balance of the Fund steadily increased and totalled $147.1 million as at 31 March 2009. At 30 November 2009 the cash balance had increased to $185.1 million ($176.8 million plus interest net of expenses of $8.3 million). Repayment to CIC is to begin in May 2010.

Our review identified that the Corporation had not made any investments and therefore has not been successful in using any of the $176.8 million provided by CIC to improve the Provincial economy. Other than earning interest at a chartered bank, the funds have not been utilized.

All amounts owed to CIC by the Corporation have been guaranteed by the Province. As a result of the current low interest rates paid by chartered banks, there is a risk that the Corporation may not have sufficient funds to repay the commission fee to CIC. As at 30 November 2009, if the Fund were terminated, there would be a shortfall of $5.0 million that the Province would have to fund. This represents the difference between the net interest earned of $8.3 million and the commission fee of approximately $13.3 million based on the amount of funds received from CIC to that date. If this situation does not improve, the Province will ultimately have to pay the difference.

Although the CIC guidelines allow the funds to be used to finance capital projects in such areas as health and education sectors that would have a positive economic impact on the Province (e.g. Memorial University of Newfoundland, College of the North Atlantic, or the four Regional Health Authorities), no such projects had been undertaken. We note that the Corporation was aware of this opportunity and there had been discussions regarding the University and the Regional Health Authorities. The minutes of the Board meeting in November 2008 indicated that a Cabinet Paper would be prepared on this matter. This paper has been drafted by the Corporation, but has not yet been submitted to Cabinet.

Background

The Newfoundland and Labrador Immigrant Investor Fund Limited (the Corporation) was incorporated on 28 April 2005 under the *Corporations Act* of the Province of Newfoundland and Labrador. All the shares of the Corporation are held by the Minister of Innovation, Trade and Rural Development on behalf of the Province. Its affairs are directed by a Board of Directors appointed by the Lieutenant-Governor in Council.

Immigrant Investor Program

The purpose of the Corporation is to receive, administer and invest funds received from Citizenship and Immigration Canada (CIC) under its Immigrant Investor Program (the Program). The Program is part of the CIC initiative to attract experienced business immigrants to Canada. It offers potential immigrants the opportunity to receive a visa in exchange for an investment in the Canadian economy.

Under this Program, immigrants are to provide CIC with a $400,000 investment for a period of 5 years after which it is returned to the immigrant. The immigrant does not earn interest on their investment. CIC distributes these investments to the participating provinces on a monthly basis using a formula based on the number of provinces / territories participating and their gross domestic product, less a 7% commission fee which is withheld and paid to facilitators engaged by CIC to attract potential foreign investors.

The Province decided to participate in this Program and on 29 April 2005, a Fund Agreement (the Agreement) was signed with CIC. Under the Agreement, Provinces must use the funds to improve and strengthen the local economy and support business and employment opportunities. Five years after the receipt of funds, the Corporation must repay these amounts to CIC, along with the commission fee calculated at 7% of the amount provided to CIC by immigrant investors. To ensure that the funds are returned, CIC required that the Province sign a guarantee that the funds would be repaid, regardless of whether the Corporation had sufficient cash balances.

Newfoundland and Labrador Immigrant Investor Fund Limited

Program criteria

Investment opportunities identified by departments are forwarded to the Corporation from the Department of Finance (Budget Division). The departments are responsible for performing all due diligence on the investment request before and after submission to the Corporation based on their own criteria for assessing such investments. The Board of the Corporation is responsible for making a recommendation on whether to fund the investment. To be considered eligible for funding, the investment must meet the following criteria:

- the investment must meet CIC guidelines;
- the investment must be repaid in full by the end of the investment term; and
- the investment must improve the economy of the Province.

Fund objective

The Corporation has the duty to fulfill the requirements of the Agreement signed with CIC and is responsible for the receipt and stewardship of the immigrant investor funds provided. The objective of the Corporation is to invest these funds into the Newfoundland and Labrador economy.

The Fund

At 31 March 2009, the Corporation had substantial cash balances. A summary of the information contained in the Corporation's audited financial statements is shown in Figure 1.

Figure 1

Newfoundland and Labrador Immigrant Investor Fund Limited
Balance Sheet
Fiscal Years 2006 through to 2009
($000's)

Category	2006	2007	2008	2009
Assets				
Cash	$ 24,573	$ 162	$ 4,149	$ 147,108
Short-term investments, at cost	-	43,241	91,730	-
Interest receivable	69	5	13	75
	24,642	43,408	95,892	147,183
Deferred financing costs	1,624	2,402	5,178	7,050
Total assets	26,266	45,810	101,070	154,233
Liabilities				
Accounts payable and accrued liabilities	3	6	4	4
Obligations to investors	26,089	44,664	97,932	149,599
	26,092	44,670	97,936	149,603
Shareholders' Equity				
Share Capital	-	-	-	-
Surplus	174	1,140	3,134	4,630
Total liabilities and equity	$ 26,266	$ 45,810	$ 101,070	$ 154,233

Source: Corporation Audited Financial Statements

As shown in Figure 1, the Corporation had cash of $147.1 million as at 31 March 2009. As of 30 November 2009, cash had increased to $185.1 million (unaudited). No investments have been made to date.

Audit Objectives and Scope

Audit objectives

The objectives of our review of the Newfoundland and Labrador Immigrant Investor Fund Limited (the Corporation) were to determine:

- whether the Corporation has delivered on its mandate to improve the Provincial economy through investment from the capital in the Fund; and
- whether the Fund will generate sufficient revenues to cover the 7% commission payable to the Federal Government.

Audit scope

Our review included an examination of the financial records of the Corporation as well as the minutes of the Board of Directors. Interviews were held with officials of the Board and the Corporation. Our review covered the period 1 April 2005 to 30 November 2009.

Detailed Findings

Overview

The Newfoundland and Labrador Immigrant Investor Fund Limited (the Corporation) was created by the Provincial Government to accept investment funds received under the Immigrant Investor Program (the Program) of Citizenship and Immigration Canada (CIC). This Program is designed to attract qualified business individuals to immigrate to Canada in exchange for a $400,000 short-term investment in the Canadian economy. The purpose of the Fund is to use the money received from CIC to improve and strengthen the Provincial economy by investing in local business, eligible capital projects and employment opportunities. The mandate of the Board of Directors of the Corporation is to determine project eligibility, manage investments approved by the Province and ensure the repayment of all funds received by the Corporation.

The Board of the Corporation is responsible for assessing the investment opportunities for eligibility when received by the Corporation. These are forwarded for assessment by the Department of Finance. The Board reviews the request for funding based on the merits of the investment and makes a recommendation to the Lieutenant-Governor in Council through the Department of Finance. When an investment is made, the Corporation is responsible for coordinating all agreements related to the investment and for ensuring that repayment occurs according to schedule. Repayment of the original investment to CIC is also the responsibility of the Board of the Corporation.

Management of the Fund

Since its inception in April 2005, the Fund has grown to over $147.1 million in cash assets (to 31 March 2009). This is comprised of the amounts received from CIC under the program and the interest earned on the funds in the bank. As at 30 November 2009, the Corporation had not met its objective to improve the Provincial economy as no investments were made from the Fund to support local business, facilitate capital projects or create employment.

The lack of investment is due to a number of factors:

- lack of eligible projects;
- the short five year period for repayment to CIC; and
- other available funding sources.

Lack of opportunities

The Corporation relies on other departments of Government to forward requests for investment. The Corporation is not mandated to seek investment opportunities from the private sector or to promote the Fund as a potential source of venture capital to the public. Its function is to manage the CIC funds, and any investments that it deems eligible and subsequently approved by the Province.

One of the difficulties in this process for the Board is that funding requests are often provided to other funding sources within Government for approval. If these funds are utilized by Government, the opportunity is lost to the Corporation. As of 31 March 2009, there have been five requests to the Corporation for eligibility rulings. Two had been recommended as eligible for funding while three did not meet funding criteria and were rejected. In the case of the requests found to be eligible for funding, one received investment from the Department of Business and the other project has not proceeded to date.

Five year period for repayment to CIC

The funds provided by the CIC have a five year window for funding projects, after which they must be repaid. This has to be considered when deciding on the length of time that the funds can be invested. When the Province signed the agreement with CIC to participate in the Program, the CIC required that it also sign a guarantee that the funds would be repaid no matter what condition they were in the fund (invested, committed). Originally, Government placed a restriction on the Corporation that all investments were to be for no more than five years to match the repayment requirements of the CIC. This restriction was rescinded by Cabinet in November 2007 to ease the difficulties the Fund had in making investments.

Such investments are still difficult, as Corporation officials indicated that the Corporation is still required to repay the funds plus commission to CIC after the five year period. Officials noted that repayment could be made from future CIC allocations; however, there is no guarantee that the Program will continue indefinitely. There is no time limit given for the Program, but CIC has the authority to discontinue the Agreement at their discretion. This makes long-term commitments to private businesses difficult for the Corporation.

CIC has also limited the types of investments that can be made from the Fund, eliminating the ability to use funds in general Government operations or for the purchase of long-term debt. The intention of the Program was to support the local economy, not to provide general funds to government departments.

Repayment

As of 30 November 2009, the Province has not received any economic benefits from participation in the Program, apart from a $4.6 million surplus in the Corporation which is to be used to repay the commission fee to CIC.

Beginning in May 2010, the Corporation will be required to begin repayment of funds to CIC. By the end of fiscal 2011, the Corporation will repay over $26 million to CIC under the agreement. These funds did not provide any benefits to the Provincial economy over the five years they were available for investment.

Fund utilization

CIC provided the Province with guidelines for participating in the Program as well as what the funds can and cannot be used to support. Funds cannot be used as general funding for Government Departments or for the purchase of long-term debt. The CIC did note that specific Government programs could be funded as well as financing for capital projects for non-core Government operations. These non-core agencies would include Memorial University, College of the North Atlantic, and the Regional Health Authorities.

Commission fee

In order to attract business individuals to Canada, the Immigrant Investor Fund needs promotional services performed within the foreign countries. To support this operation, CIC engaged financial institutions as facilitators to advertise the Program to potential candidates and administer the payment of funds to CIC. Funding for these activities comes from the $400,000 investment made by the immigrant. CIC retains 7% of the investment to be paid to the facilitators. The remaining balance of the immigrant investment is allocated among the participating Provinces.

Each Province has use of the funds for a period of five years after which the money must be repaid to CIC. Repayment is the combination of the original investment amount plus the 7% commission fee that was deducted. This fee can be repaid in one of three ways:

- through the interest earned on investments from the Fund;
- through the use of new funds received from CIC; and / or
- through the use of financing from the Government.

Interest earned

Under this method, the interest that the Fund earns on its investments, whether from the bank or from an investment in the economy, would be used to finance the commission fee. The fee is payable to CIC on the fifth anniversary of the original investment. In order for the Corporation to operate without a loss to the Province, it must earn the amount of the commission fee on any investment of the funds.

As at 31 November 2009, the Fund had earned $8.3 million and owed commission fees of approximately $13.3 million, representing a shortfall of $5.0 million.

Interest rate

Since the inception of the Fund to December 2008, the interest earned on short-term investments has been adequate to cover the commission fee. Figure 2 provides details on the interest earned and the portion of the commission fee amortized into income.

Figure 2

Newfoundland and Labrador Immigrant Investor Fund Limited
Income Statement
Fiscal Years 2006 through to 2009
($000's)

Category	2006	2007	2008	2009
REVENUES				
Interest	$ 344	$ 1,471	$ 2,938	$ 3,225
EXPENSES				
Audit fees	3	3	4	3
Amortization of deferred financing costs	167	498	935	1,718
Bank charges	-	-	-	-
Miscellaneous	-	-	1	-
Safekeeping fees	-	4	4	8
	170	505	944	1,729
Excess of revenue over expense	174	966	1,994	1,496
Surplus, beginning of period	0	174	1,140	3,134
Surplus, end of period	$ 174	$ 1,140	$ 3,134	$ 4,630

Source: Corporation Audited Financial Statements

As shown in Figure 2, the surplus in the Corporation has risen to $4.6 million as of 31 March 2009 (this includes the amortization of the commission fee which does not affect cash). Total interest earned (net of expenses) as at 31 March 2009 was $7.9 million, which increased to $8.3 million by 30 November 2009.

During 2008-09, the rate available to the Corporation was much lower than the rate needed to repay the commission fee to CIC. The actual interest rate available as at 30 November 2009 was 0.45% which is due to the prevailing economic conditions that weakened short-term rates in the market. The commission fee as of 30 November 2009 was approximately $13.3 million while the net earnings by the Corporation have only been $8.3 million. This has resulted in a shortfall of $5.0 million on the commission fees owed to date. Until these rates improve, the Corporation will not earn enough on the funds to pay for the commission fee, requiring the Corporation to use other means of repaying CIC or seeking alternatives to mitigate interest rate risk.

CIC funding

The Program is run at the discretion of the CIC. To date, CIC has provided no indication that it is contemplating terminating the Program. This means that the Fund can expect to continue to receive new funds into the future that can be used to pay the commission fee for funds that are returnable to CIC. This has the disadvantage of reducing the funding available for subsequent projects. It also relies on a program that can be discontinued without recourse by the Fund.

Government financing

The Provincial Government, in agreeing to participate in the Program, guaranteed the original investments and any related fees that arise from participation. If the Fund cannot repay CIC directly, the Government of Newfoundland and Labrador is obligated to pay the fee. This would have the effect of reducing the funds available to other government programs to cover the costs of a Program that was intended to improve the economy.

Recommendations

Government should:

- consider alternative arrangements for use of the funds to maximize the benefit to the Provincial economy;
- consider investing Corporation funds into non-core Government agencies to support capital projects or specific Government programs; and
- consider partnerships with private business to promote specific industry growth in the Province.

Until viable investment options are identified, the Board should consider placing the funds into investments with higher yields to ensure that the Fund does not generate a loss on its operations.

Department's Response

The Corporation acknowledges that no funds have been invested in projects to date. However, it is important to note that these are borrowed funds and must be repaid to Citizenship and Immigration Canada (CIC), along with the 7% commission charged by CIC, on a rolling monthly basis commencing May 31, 2010. Consequently, any investments must be such that the Corporation can meet its obligations as they become due.

To the extent that they meet CIC guidelines, the Corporation concurs with the recommendations contained in your report and notes that it is in the process of seeking further direction with respect to investment strategies and the mitigation of short-term interest rate risk. While short-term investment rates are currently insufficient to cover the 7% fee charged by CIC, there are a number of factors that must be considered. Firstly; the Corporation has accumulated a surplus which, with ongoing interest earned, will be sufficient to cover losses currently being incurred and secondly; it is anticipated by the Bank of Canada and various lending agencies that interest rates are likely poised to begin increasing in the second half of 2010, which will bolster short-term interest earnings thereby reducing and possibly eliminating any losses to the Corporation going forward.

The Corporation also notes that should the Fund have been terminated as of November 30, 2009 as noted in your draft report, the Corporation would still have had a repayment period of up to five years, during which time the interest earned on funds is expected to be more than sufficient to cover the notional shortfall of $5.0 million. In essence, payments will be made to CIC in accordance with the existing repayment schedule as outlined in the Corporation's audited financial statements.

Newfoundland and Labrador Immigrant Investor Fund Limited

PART 2.12

DEPARTMENT OF MUNICIPAL AFFAIRS

CANADA-NEWFOUNDLAND AND LABRADOR GAS TAX FUND

Executive Summary

In Budget 2005, the Federal Government announced its intention to share a portion of the revenues from Federal gasoline excise tax to support environmentally sustainable infrastructure. Funding of $5 billion over an initial 5 year period would flow to the provinces and territories (on a per capita basis) once individual agreements were negotiated and signed.

The Province's share of the $5 billion was estimated at approximately $82 million. A Canada-Newfoundland and Labrador Agreement on the Transfer of Federal Gas Tax Revenues (the Agreement) commenced on 1 August 2006. It covers a 10 year period from 1 April 2006 to 31 March 2015 and will total approximately $207 million, including the initial $82 million.

The Agreement provides funding through the Province to all of the 282 municipalities (277 municipalities, 5 Inuit Community Governments and other eligible recipients). One of the primary purposes of the Agreement is to provide a joint framework for the transfer of funds to Newfoundland and Labrador for investment in environmentally sustainable infrastructure. The Agreement is administered by the Department of Municipal Affairs (the Department).

Late Signing of Agreement

Although funding was available from the Federal Government for the 2006 fiscal year, the Agreement between the Federal and Provincial Government was not finalized until August 2006 i.e. the 2007 fiscal year. Funding received for the 2007 fiscal year totalling $19.7 million included an amount of $9.75 million related to the 2006 fiscal year. As a result of not entering into the Agreement in the 2006 fiscal year, funding to the municipalities was delayed.

Non-compliance with the Agreement

Province

The Province is required to submit an audited Annual Expenditure Report (AER) to the Federal Government by 30 September for the most recent fiscal year. We found that, although the Province was required to have submitted 3 such AERs since the Agreement commenced (i.e. fiscal years 2007, 2008 and 2009), none were submitted by the required 30 September deadline. When AERs are not submitted by the required deadline, there may be delays in the receipt of funding from the Federal Government. For example, in 2009, the Province had to wait approximately 4 months (March 2009 versus November 2008) before it received $8.2 million.

Contrary to the Agreement, the Province advanced funds to certain municipalities in excess of the amount approved in the municipality's Capital Investment Plan (CIP). The audited financial statements relating to the Provincial AER indicated that, for fiscal year 2008, 16 municipalities received excess funds totalling $222,909 while for fiscal year 2009, 4 municipalities received excess funds totalling $11,596.

Contrary to the Agreement, the Province provided funding of approximately $1 million related to 6 waste management projects before the formal adoption of eligibility criteria by the Oversight Committee. Although the Provincial AER for the 2008 fiscal year outlines the $1 million in funding, the criteria were not approved until January 2009. Without appropriate assessment of projects relative to approved criteria, some projects approved for funding may not ultimately qualify. For example, one of projects included in the $1 million related to funding of $114,837 which was subsequently determined to not qualify for funding. In this case, the Province had to fund the project.

The Province provided $11.8 million in funds to the City of St. John's in March 2009 in excess of the allocation limit set by the Agreement for waste management initiatives and before the funds were received from the Federal Government. Pursuant to the Agreement, the City was not entitled to these funds until the next fiscal year. As a result, general funds of the Province were used to make the payment to the City. Without the funding from the Province, this would have resulted in a deficit in the Gas Tax Fund of approximately $9.4 million as at 31 March 2009.

Municipalities

Municipalities are required to submit an audited Annual Expenditure Report (AER) to the Province by 30 June for the most recent calendar year. The AER forms the basis of the Province's audited AER to the Federal Government which is required to be submitted by 30 September for the most recent fiscal year. We found 67 instances where the AER for 2008 (due 30 June 2009) from the municipalities were not submitted as required. The delay ranged up to 114 days past the 30 June deadline. Such delays can result in funds not being made available for municipalities and provides difficulty for the Province in the preparation of its AER for the Federal Government.

AERs were not always properly completed as required. Without a properly completed AER, the Province's policy is that monies will not be advanced to the municipalities. Common deficiencies in the AERs included such things as no audited report attached, not all required appendices included and funds not invested to earn interest as required. During our review of AERs submitted by the municipalities for 2008, we noted deficiencies such as:

- 44 instances where the Appendix A (Summary of Eligible Recipients Fund) was either not received or not certified by an official of the municipality;

- 14 instances where the Appendix B (Project Expenditure Report) was not submitted;

- 50 instances where the Appendix C (Progress of Commitments-ICSP, Communications, Public Sector Accounting Board [PSAB] standards) was not submitted;

- 2 instances where the auditor's report was not submitted with the AER; and

- 6 instances where funds received by the municipality had not been invested pending use on projects, as required.

To access funding from the Province under the program, the Province requires municipalities to enter into Local Government Gas Tax Funding Agreements. The Local Agreement requires a municipality to develop an Integrated Community Sustainability Plan (ICSP) by 31 March 2009. The ICSP outlines how the municipality will achieve the sustainability objectives it has for the environmental, cultural, social, and economic dimensions of its identity. However, the majority of municipalities did not develop the required ICSP by 31 March 2009. As a result, the Province extended the deadline for municipalities to submit their completed ICSPs to 31 March 2010 and put a process in place to address issues such as a lack of resources at municipalities.

Non-Compliance With Departmental Policy

Contrary to Departmental policy, we identified one municipality which received the first and second semi-annual installments when only the first installment was due. In this instance, the municipality received $136,012 in June 2009 which included both semi-annual allocations ($68,006 - first allocation due July 2009 and $68,006 - second allocation due February 2010). As a result, this municipality received preferential treatment and potentially saved costs that many municipalities have to incur related to interim financing.

Contrary to Departmental policy, we identified two municipalities which received payments prior to the Department receiving an AER. In one instance, a payment of $24,434 was made on 22 July 2009 while the AER was not received until 18 August 2009. In the other instance, a payment of $11,351 was made on 23 July 2009 while the AER was not received until 27 July 2009.

Committees

Federal-Provincial Oversight Committee

The Federal-Provincial Oversight Committee was not adequately monitoring the progress of the program under the Agreement. The Agreement provides that the Committee shall monitor overall strategic implementation, adjust/redirect allocations and approve funding for municipalities, and resolve any contentious issues. Since the Agreement was signed in August 2006, the Committee has only met twice: once in October 2007 and again in February 2008.

Departmental Gas Tax Committee

The Gas Tax Committee was established by the Department to monitor the progress of the program, provide advice and support to the Gas Tax Secretariat, and review and approve all Capital Investment Plans for projects. The Committee did not always complete minutes to document decisions of meetings. Furthermore, minutes that were available were not signed and Records of Decisions required by the Committee's terms of reference were not prepared or signed. Minutes of the Gas Tax Committee and the Records of Decisions serve to document key decisions of the Committee.

Lack of a Comprehensive Information System

There was no central database in place to facilitate the operation of the program. Such a database could include information on receipt and evaluation of applications, decisions made, payment information, and related monitoring and reporting.

The Department was using a variety of spreadsheets and other electronic files which are stored on a number of network drives. Department officials indicated that the spreadsheets were time consuming to maintain and were shared jointly on the Department's network with no controls to prevent risks of unauthorized changes. As a result of not having an integrated information system, there is duplication of effort in populating the spreadsheets with the same information.

Background

In Budget 2005, the Federal Government announced its intention to share a portion of the revenues from Federal gasoline excise tax to support environmentally sustainable infrastructure. Funding of $5 billion over an initial 5 year period would flow to the provinces and territories (on a per capita basis) once individual agreements were negotiated and signed. The Province's share of the $5 billion was estimated at approximately $82 million.

A Canada-Newfoundland and Labrador Agreement on the Transfer of Federal Gas Tax Revenues (the Agreement) commenced on 1 August 2006. It covers a 10 year period from 1 April 2006 to 31 March 2015 and will total approximately $207 million, including the initial $82 million. Figure 1 shows the planned amount and type of allocation by fiscal year through to 2010 relating to the $82 million.

Figure 1

Planned Transfers of Federal Gas Tax Funds to the Province
Fiscal Years 2007 through to 2010
($000's)

Funding Category	2007	2008	2009	2010	Total
Waste management					
Local service districts and unincorporated communities	$ 2,242	$ 1,495	$ 1,869	$ 3,737	$ 9,343
Municipalities	2,242	1,579	2,303	6,416	12,540
Sub-total	4,484	3,074	4,172	10,153	21,883
Remaining funds for eligible projects					
10% base allocation to municipalities	1,526	1,009	1,228	2,275	6,038
Population-based allocation of remaining balance to municipalities	13,730	9,077	11,050	20,472	54,329
Sub-total	15,256	10,086	12,278	22,747	60,367
Total	**$19,740**	**$13,160**	**$16,450**	**$32,900**	**$82,250**

Source: Schedule G - Agreement on the Transfer of Federal Gas Tax Revenues

As Figure 1 shows, the $82.3 million is comprised of $21.9 million for waste management projects and $60.4 million to be allocated amongst the municipalities using the combination of a 10% base allocation of $6.0 million (i.e. $21,331 per municipality) and a population based allocation of $54.4 million.

The Agreement provides for the transfer of gas tax funds received by the Federal Government to the Province for investment in environmentally sustainable municipal infrastructure. Eligible project categories include: water; waste water; solid waste; public transit; community energy systems; capacity building; and transportation infrastructure (roads and bridges).

Administration

The Agreement is administered by the Department of Municipal Affairs (the Department). During the 2009 fiscal year, the Department established the Gas Tax Secretariat to enhance administration of the program and support services to municipalities, Inuit Community Governments and other eligible recipients. The Secretariat is responsible for administering funding, providing ongoing implementation support for municipalities, and ensuring that funded projects meet all Federal and Provincial reporting requirements. At November 2009, the Secretariat consisted of 4 staff: 3 managers and a program delivery specialist.

The Agreement required the establishment of an Oversight Committee consisting of six members as follows:

- a Co-Chairperson appointed by the Federal Minister of Transport, Infrastructure and Communities;
- a Co-Chairperson appointed by the Provincial Minister of Municipal Affairs;
- 2 representatives from Municipalities Newfoundland and Labrador (MNL);
- an additional representative appointed by the Federal Minister; and
- an additional representative appointed by the Provincial Minister.

The Oversight Committee's duties include:

- monitoring the overall strategic implementation of the Agreement;
- coordinating the development of a plan for continued collaboration;
- making adjustments/redirecting allocations for Local Governments as required;
- approving funds to the MNL for capacity building efforts; and
- reviewing disagreements or contentious issues that cannot be resolved.

Audit Objectives and Scope

Audit objectives

The objectives of our review of the Canada-Newfoundland and Labrador Gas Tax Fund were to determine whether the Department:

- adequately and consistently evaluated the eligibility of project proposals under the program;
- made payments in accordance with requirements of the Agreement;
- had an adequate management information system in place to administer the program;
- monitored the effectiveness of the program; and
- ensured the program and related projects were administered in compliance with the Agreement on the Transfer of Federal Gas Tax Revenues and other authorities.

Audit scope

We reviewed transactions under the Canada-Newfoundland and Labrador Gas Tax Fund from its inception in August 2006 to the end of the 2009 fiscal year. Our review included discussions with officials of the Gas Tax Secretariat and other officials of the Department of Municipal Affairs, along with an examination of documentation at the Department.

We completed our review in December 2009.

Detailed Observations

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

1. Project Evaluation
2. Payments to Municipalities
3. Management Information System
4. Monitoring of Projects
5. Other Matters

1. Project Evaluation

Overview

Proposals for projects under the Agreement are forwarded to the Department of Municipal Affairs. A set of 3 tests are applied to a prospective project to determine eligibility. They include:

- the scope of the project must be within the categories specified in the Agreement;
- planned expenses to be incurred must be within the eligible costs specified in the Agreement; and
- the project must contribute to outcomes meeting the overall objectives of the program.

Eligible costs under the Agreement may include:

- capital costs and related debt charges;
- professional fees for surveys, design, engineering, manufacturing or construction of project infrastructure;

- costs of environmental assessments, monitoring and follow-up programs; and

- costs related to strengthening the ability of local governments to develop Integrated Community Sustainability Plans (ICSP).

In order for a project to meet the objectives of the program it must have outcomes that contribute to:

- cleaner air;

- cleaner water; and

- lower greenhouse gas emissions.

During our review we identified the following issues with initial project applications and evaluation:

A. No Allocations Released
B. Municipal Project Criteria
C. Waste Management Project Criteria

1A. No Allocations Released

Figure 2 contains a listing of 24 municipalities that had not received any allocations at 31 March 2009 (year 3 of 4 for allocations) and had no projects approved as at that date.

Figure 2

Municipalities with No Allocations Released
As at 31 March 2009

Municipality	Allocation Available to 31 March 2009
Avondale	$ 65,552
Bauline	40,451
Brent's Cove	32,556
Burlington	43,803
Chance Cove	38,589
Change Islands	40,153
Duntara	18,777
Flatrock	98,096
Gallants	18,256
Glenwood	76,276
Goose Cove East	34,716
Kippens	147,553
Lewin's Cove	56,166
Little Bay East	24,065
Little Catalina	52,665
Logy Bay-Middle Cove-Outer Cove	152,766
Long Harbour-Mount Arlington Heights	40,302
Lourdes	61,752
Milltown-Head of Bay D'Espoir	79,180
Pinware	23,767
Point au Gaul	20,341
Point of Bay	25,927
Sunnyside	48,867
Whiteway	37,472
Total	**$ 1,278,048**

Source: Departmental monitoring worksheets

The primary reason why no allocations were released was that matters had not progressed to a point where a potential project was submitted and approved by the Department. In other words, a Local Government Gas Tax Funding Agreement had not been completed and/or a capital investment plan had not been approved by the Department.

As Figure 2 shows, these 24 municipalities had an Agreement allocation totalling about $1.3 million. Information provided by staff indicated that smaller communities in particular were having difficulties identifying an eligible project under the program.

Most of the eligible projects approved under the Gas Tax Program came under the active transportation infrastructure category which included the upgrading and resurfacing or paving of roads. Smaller communities, in many cases, did not own the majority of roads within their jurisdiction and could not avail of this common project category.

1B. Municipal Project Criteria

The Agreement required that by 31 March 2009, the Federal Government and the Province were to have completed a joint formative evaluation of the Provincial Gas Tax Program with the results to be made public.

Program evaluation

A joint Federal-Provincial program evaluation performed by a consultant found that overall the Gas Tax Program was working well; however, there were some issues raised by municipalities with the Program including:

- 24% of 102 survey respondents suggested improvements were required to the design and delivery of the Gas Tax Fund during the next allocation period for the Program.

- It was felt that there was a lack of clarity about what types of projects were covered by the Gas Tax Fund criteria. In some cases, what appeared to municipal officials to be similar projects would be approved or not approved in different instances. Eligible recipients did not understand why in their neighbouring jurisdictions a project was funded but in their case what they felt was a comparable project was not.

- The evaluation report indicated that there was a trial and error process in initial application attempts for some municipalities in learning what would be an eligible project.

1C. Waste Management Project Criteria

Introduction

Under the Agreement, projects meeting the conditions of the Provincial Waste Management Strategy may receive funding. Figure 3 shows that waste management allocations under the Agreement from 1 August 2006 to 31 March 2009 amounted to a total of $23.5 million. The Agreement requires that formal criteria for waste management projects be developed and approved.

Figure 3

Waste Management
Payments to Municipalities
1 August 2006 to 31 March 2009

Municipality	Project Area	Description	Payments
Gander	Engineering and planning	Engineering and planning for the waste management system in the Central Region	$ 55,153 96,744 51,504 203,401
NorPen	Equipment purchase	Purchase of 1975 bulldozer for landfill	13,000
St. John's	Curbside recycling	Pilot project for curbside recycling on City of St. John's in order to gather data required for the design of the waste management system	130,610 40,310 40,310 40,310 40,310 291,850
St. John's	Early planning needs	Early planning needs for waste management	375,000
St. Lunaire-Griquet	Early planning needs	Early planning needs for waste management	6,590
Trinity Bay South	Project initially funded from the Gas Tax Fund but was subsequently rejected	Project re: New Harbour dumpsite	21,704 80,000 13,133 114,837
		Payments 2007-08	**1,004,678**
St. John's	Re-engineering Robin Hood Bay landfill (Avalon Regional Waste Management site)	Progress billing # 1 Progress billing # 2	15,452,812 7,041,204 22,494,016
		Payments 2008-09	**22,494,016**
		Cumulative Total	**$23,498,694**

Sources: Provincial Annual Expenditure Reports and Financial Management System

Based on our review, we determined that in excess of $1 million was advanced to municipalities for 6 project areas for the Waste Management component of the Gas Tax Fund prior to the approval of the criteria for waste management projects. This is particularly important considering the fact that funds advanced by the Department for a project in Trinity Bay South were subsequently rejected because the group was judged to be an ineligible recipient under the Gas Tax Program. This meant that the Province would have to fund this project.

A schedule to the Provincial AER for 31 March 2008 (summarized in Figure 3) shows that there were 14 payments made for waste management projects totalling approximately $1.0 million, prior to the formal adoption of the criteria for waste management projects. Of those projects, 3 payments totalling $114,837 to a Trinity Bay South group for a project in that area ($21,704, $80,000 and $13,133) were approved by Provincial Departmental officials but subsequently rejected.

Criteria for waste management projects were not formally approved by the Oversight Committee until January 2009.

Under the criteria, funds can be allocated to support Provincial waste management priorities including waste diversion and regional waste management. Under the Provincial Waste Management Strategy there are 14 waste management regions (10 on the island, 4 in Labrador). Of the 10 on the island, there are 3 regional waste disposal facilities planned (Avalon, Central, Western) and the remaining 7 regions will have systems developed to transport waste to the 3 full services facilities.

The criteria document indicates that eligible recipients for 2007-08 included in Figure 3, except those for the Trinity Bay South group, were formally approved by the Oversight Committee after the fact. The Oversight Committee did not approve the 3 payments totalling $114,837 to the Trinity Bay South group.

Recommendations

The Department should:

- work with municipalities to ensure that they are able to utilize their funding allocations on a timely basis. Alternately, there are provisions in the Agreement for the reallocation of funding where this is not possible; and

- ensure funding is only advanced for projects which fall within acceptable criteria under the Agreement.

2. Payments to Municipalities

Overview

Payment of funds to municipalities occur where a municipality has been assessed as eligible for funding by meeting requirements under the Agreement such as:

- they have entered into a Local Government Gas Tax Agreement with the Province; and

- they have submitted a Capital Investment Plan (supported by a resolution of Council) which has been approved by the Department.

Figure 4 shows a summary of annual expenditures and related funding under the Program from 1 August 2006 to 31 March 2009 and indicates that transfers to municipalities under the Agreement amounted to a total of $58.7 million.

Figure 4

Canada-Newfoundland and Labrador Gas Tax Program
Summary of Annual Expenditures
and Related Funding
Fiscal Years 2007 through to 2009
($000's)

Reporting Period	2007	2008	Cumulative 2008	2009	Cumulative 2009
Gas Tax Fund:					
Opening balance of unspent funding	$ -	$16,382	$ -	$10,940	$ -
Received from Canada	19,740	13,160	32,900	16,450	49,350
Advanced from Province	-	-	-	11,768	11,768
	19,740	29,542	32,900	39,158	61,118
Transferred to eligible recipients:					
Municipal Allocations	(3,358)	(17,597)	(20,955)	(14,255)	(35,210)
Waste Management	-	(1,005)	(1,005)	(22,494)	(23,499)
	(3,358)	(18,602)	(21,960)	(36,749)	(58,709)
Closing balance of unspent funding	**16,382**	**10,940**	**10,940**	**2,409**	**2,409**
Interest earned (net of allowable expenses)	451	864	864	923	923
Available funds	**16,833**	**11,804**	**11,804**	**3,332**	**3,332**
Eligible recipients (municipalities and Inuit communities) in aggregate:					
Opening balance of unspent funding	-	3,358	-	11,030	-
Received from Province	3,358	18,602	21,960	36,749	58,709
	3,358	21,960	21,960	47,779	58,709
Spent on eligible projects:					
Municipal allocations	**Note 1**	(9,925)	(9,925)	(9,043)	(18,968)
Waste management	-	(1,005)	(1,005)	-	(1,005)
	-	(10,930)	(10,930)	(9,043)	(19,973)
Closing balance of unspent funding	**$3,358**	**$11,030**	**$11,030**	**$38,736**	**$38,736**

Source: Audited Provincial AERs
Note 1: not reported for initial 8 month period (Municipal AERs not available)

During our review of payments to municipalities, we identified the following issues:

A. Allocations Paid to Municipalities
B. Allocations Not Released
C. Exceptions to Normal Payment Procedures

2A. Allocations Paid to Municipalities

Introduction

Figure 4 shows that during the period 1 August 2006 to 31 March 2009 a total of $58.7 million was transferred to municipalities for approved projects. Of this total, $23.5 million related to waste management projects and $35.2 million related to other municipal allocations.

Timing of Report Details

Based upon our review of AER reports, we made the following observation:

The AER for 31 March 2009 shows a total of $58.7 million transferred to eligible recipients but only a total of $20.0 million spent by eligible recipients. This results in a reported unspent portion of $38.7 million. The reported amounts spent by municipalities are based upon the 2008 calendar reporting year of the municipalities.

This identifies a significant weakness in the reporting process. For example, based upon our review, $22.5 million was expended for the re-engineering of the Robin Hood Bay landfill and paid from the Gas Tax Fund through progress billings by the City of St. John's during March 2009. However, the amount spent is not reflected in the waste management category in these AERs.

Payments in excess of capital plan

Under the Agreement, payment to the municipalities is contingent on receipt and approval of capital investment plans by the Department. The compliance audit reports for the Provincial AERs for 31 March 2008 and 31 March 2009 both referenced qualifications by the auditor due to payments being made to municipalities in excess of their approved capital plans. They included:

- For 31 March 2008, a note to the financial statements indicated that 16 municipalities had been overpaid a total of $222,909; and

- For 31 March 2009, a note to the financial statements indicated that 4 municipalities had been overpaid a total of $11,596.

During our review, we noted that the Department does not use budgetary controls available within Government's Oracle Financial Management System to prevent payments to municipalities in excess of approved capital investment plans.

Recommendations

The Department should:

- consider use of budgetary controls available within Government's Oracle Financial Management System which could be used to prevent the payment of amounts to municipalities in excess of approved capital investment plans; and

- review the process used to report funds spent on eligible projects.

2B. Allocations Not Released

Introduction

In order to ensure compliance with the Agreement, significant compliance matters are required to be mirrored in Local Government Gas Tax Agreements signed by the municipalities. In instances where municipalities are not compliant, further advances are held pending resolution of any outstanding matters. This has resulted in a significant amount of funding for municipalities being withheld at any time.

Figure 5 contains a listing of 41 municipalities with allocations available but not released totalling $1.1 million at 31 March 2009 because of non-compliance matters.

Figure 5

Municipalities with Allocations Not Released Because of Non-Compliance Matters As at 31 March 2009

Municipality	Allocation Not Released
Aquaforte	$ 13,819
Arnold's Cove	29,246
Bay de Verde	8,668
Bide Arm	4,681
Branch	12,084

Municipality	Allocation Not Released
Burin	70,280
Channel-Port Aux Basques	117,075
Clarenville	128,427
Colinet	15,369
Colliers	22,075
Crow Head	9,653
English Harbour East	17,538
Gaultois	12,157
Gillams	14,224
Glenburnie	20,151
Grand Le Pierre	20,948
Hant's Harbour	7,756
Harbour Main	15,620
Hearts Delight-Islington	22,245
King's Cove	4,110
Lawn	23,291
Little Bay Islands	8,632
New Perlican	9,775
North River	16,897
Parker's Cove	18,694
Parson's Pond	14,734
Petty Harbour-Maddox Cove	49,950
Placentia	157,924
Port Blandford	18,453
Port Kirwan	3,417
River of Ponds	20,063
Roddickton	14,368
Salmon Cove	40,961
Seal Cove, Fortune Bay	18,831
Southern Harbour	9,360
St. Bernard's-Jacques Fontaine	20,325
St. Joseph's, St. Mary's Bay	8,049
St. Lunaire-Griquet	24,336
Terra Nova	5,083
Victoria	48,062
York Harbour	25,110
Total	**$ 1,122,441**

Source: Department monitoring worksheets

Non-compliance reasons

Reasons noted on staff documentation for not releasing part of the total allocation due for these municipalities included matters such as:

- the AER was outstanding and/or non-compliant;
- the Capital Investment Plan (CIP) was outstanding; and
- the audit letter for the AER was outstanding.

Non-compliance issues with the Agreement can result in significant delays in the receipt of funding by the municipalities.

Recommendation

The Department should work with municipalities to reduce instances of non-compliance with the Agreement.

2C. Exceptions to Normal Payment Procedures

Introduction

Municipalities have to incur administrative costs in preparing and submitting their AER on a timely basis. As well, a lack of resources at the municipal level has meant that communities in certain instances have had to defer a project until sufficient gas tax funding allocation was accumulated. In some instances, municipalities borrowed the money, and applied funding received against the loans.

Under the Local Government Agreement, municipal AERs are required to be provided by 30 June following the calendar year end.

Departmental policy is to hold further advances under the Agreement until a municipality has forwarded the required report and is in compliance with the Agreement.

Funds paid in excess of allocation limit

Based upon our review of AERs, we made the following observation:

The Province provided $11.8 million in funds to the City of St. John's in March 2009 in excess of the allocation limit set by the Agreement for waste management initiatives and before the funds were received from the Federal Government. Pursuant to the Agreement, the City was not entitled to these funds until the next fiscal year. As a result, general funds of the Province were used to make the payment to the City. Without the funding from the Province, this would have resulted in a deficit in the Gas Tax Fund of approximately $9.4 million as at 31 March 2009.

Municipal financial statements/ AERs not received

We were informed by a staff member that, in certain instances, the requirement for receipt of municipal financial statements was not enforced and advances were made to municipalities for a brief period without requiring the receipt of municipal financial statements.

As well, based upon our review, we identified 2 instances where payments were made to municipalities prior to the receipt of AERs:

- a payment in the amount of $24,434 was made to the Town of Badger on 22 July 2009 even though the 2008 AER was not received until 18 August 2009; and

- a payment in the amount of $11,351 was made to the Town of Flowers Cove on 23 July 2009 even though the 2008 AER was not received until 27 July 2009.

Second allocation paid in advance

Advances due municipalities are made through 2 equal payments for municipal projects each year. For the year ended 31 March 2010 advances were planned for July 2009 (first allocation) and for February 2010 (second allocation).

During our review we noted an instance where a payment of $136,012 was made to the Town of Grand Bank on 29 June 2009 for both allocations ($68,006 - first allocation due July 2009, $68,006 - second allocation due February 2010).

This payment was not in accordance with normal practice. Documentation on file indicates it was necessary due to "exceptional circumstances" related to a project.

While exceptions to normal policy assist certain municipalities, it means that not all municipalities are being treated equally under the Program. As previously mentioned, in certain instances municipalities have had to incur costs related to such things as borrowing without the further assistance of the Department.

Recommendation

Payments to municipalities under the Agreement should be made in compliance with Departmental policy and the Agreement.

3. Management Information System

Overview

In order to administer the Gas Tax Fund, the Department must manage a significant amount of information received from a current total of 282 municipalities. This information includes:

- Application letters and other correspondence;
- Local Government Gas Tax Agreements;
- Capital investment plans;
- Documentation on decisions of the Department;
- AER and related audit reports;
- Funds received from the Federal Government; and
- Amounts paid to municipalities.

Based upon our review of processes in place, we identified the following issues:

A. Lack of a Central Management System
B. Documentation of Decisions of the Gas Tax Committee

3A. Lack of a Central Management System

Introduction

There is no central database in place to facilitate the operation of the Gas Tax Program from the initial receiving and evaluation of applications, recording decisions, preparing payment requests, payments and related monitoring and required reports. The Gas Tax Secretariat is currently using a variety of reports and other electronic files which are stored on a number of network drives on the Departmental network.

Payments are made by way of cheque requisition letters which are approved and forwarded to the Accounts section for processing in Government's Oracle Financial Management System.

Staff of the Gas Tax Secretariat access the Municipal Information Management System (MIMS) maintained by the Department to obtain information on municipalities such as:

- Receipt of Budgets;
- Receipt of Financial statements;
- Contact information; and
- Other Capital Programs information such as projects under the Municipal Rural Infrastructure Fund (MRIF).

Based upon discussion with staff and information provided we determined that there is no comprehensive database in use which contains all information needed by staff. Instead, a series of spreadsheets, some of which are quite large, are being maintained. Issues with the use of the spreadsheets include: they are time consuming to maintain, often have different effective dates, and they are shared jointly on the Department's network with no controls to prevent risks of such things as unwanted changes and erasures.

As the Program continues it is likely that the administrative requirement will increase. A comprehensive Management Information System is necessary in order to capture and manage information necessary for the operation and monitoring of the Gas Tax Program.

We also note that the spreadsheets used for monitoring do not record the receipt date of key documents such as Local Government Gas Tax Agreements, Capital Investment Plans and AERs. They only capture at a current point in time whether the required information has been received. Information on the date of receipt of documents is useful in the analysis of the compliance of municipalities with the Agreement. The Department's MIMS does account for the date of receipt of key documents such as budgets and financial statements.

Recommendations

The Department should:

- implement a comprehensive information management system for the Gas Tax Fund; and
- review access rights in order to protect the various worksheets currently in use.

3B. Documentation of Decisions of the Gas Tax Committee

Introduction

The Department has established a Gas Tax Committee to assist in the administration of the Gas Tax Fund. The Gas Tax Committee consists of the Assistant Deputy Minister-Municipal Support, directors of the Department working in related program areas and certain staff of the Gas Tax Secretariat.

The Gas Tax Committee is responsible for meeting on a bi-weekly basis to receive a progress report from the Gas Tax Secretariat on its activities which include:

- Federal Reports and associated audits including Annual Expenditure Reports, outcomes reports, and evaluations;
- Extensions or amendments to the Agreement;
- Business cases relating to administrative expenses;
- Status of municipal allocations;

- Status of the Waste Management Strategy component of the Gas Tax Agreement;
- Update on progress of ICSPs;
- Update on progress towards Public Sector Accounting Board (PSAB) compliance;
- Update on activities of the Oversight Committee and the Communications Committee; and
- Other issues identified.

The Gas Tax Committee is also responsible for:

- providing advice and support to the Gas Tax Secretariat on ongoing issues; and
- reviewing all Capital Investment Plans and approving eligibility.

Minutes

During our review we noted the following issues with documentation of decisions of the Gas Tax Committee:

- the minutes provided to us did not cover all of the meetings of the Committee; and
- minutes of meetings of the Committee provided were not signed as approved by Committee members making it difficult to ensure that the copy provided represented the final minutes.

Record of Decision

A terms of reference document for the Gas Tax Committee, effective 18 March 2009, notes that the secretary of the Committee should prepare the Record of Decision. The form developed to record decisions of the Committee contains areas where information can be recorded including: Date, Municipality, Project, Status and Decision.

We asked to review any available Records of Decision but were informed by staff that although notes had been taken in the various meetings, no Records of Decision had been completed to date. It was indicated that as time permitted staff would go back and complete the Records of Decision.

Recommendation

The Department should ensure that Minutes of the Gas Tax Committee and the Records of Decision are maintained on a timely basis, readily accessible and formally approved.

4. Monitoring of Projects

During our review, we identified issues in the following areas:

A. Provincial Reporting
B. Municipal Reporting
C. Oversight Committee

4A. Provincial Reporting

Introduction

Under terms of the Agreement the Province is required to prepare and deliver to the Federal Government, an audited Annual Expenditure Report by 30 September each year on the most recently ended fiscal year. As well, the Province is required to make best efforts to forward an unaudited version by 30 June each year on the most recently ended fiscal year.

The Province is also required to prepare, publish and disseminate an Outcomes Report to the public by no later than 30 September 2009.

Audited Expenditure Report

Based upon our review, we determined that the Department has not met these deadlines for annual reporting. Figure 6 contains a list of audited annual expenditure reports submitted to the Federal Government and the date submitted.

Figure 6

Gas Tax Program
Annual Expenditure Report Submissions
From the Province to the Federal Government
For the period 1 August 2006 to 31 March 2009

Report Period	Due Date	Audit Report Date	Annual Expenditure Report Date
1 August 2006 to 31 March 2007	30 September 2007	1 November 2007	1 November 2007
31 March 2008	30 September 2008	20 January 2009	20 February 2009
31 March 2009	30 September 2009	14 October 2009	30 October 2009

Not ready for audit

In the management letter related to the audit for 31 March 2009, the auditor indicated that a significant amount of their time during the audit was spent not on auditing but on assisting Department staff by working on:

- The compilation of the financial statements; and
- A database to provide closing balances for the unspent funds.

It was noted that delays in the submission of the Annual Expenditure Report creates delays in the receipt of subsequent funds due from the Federal Government.

Unaudited report

The Agreement requires that the Department make best efforts to forward an unaudited annual expenditure report to the Federal Government by 30 June each year.

Based upon our review, we determined that the Department did not meet this date and has required the assistance of the auditor in completion of the annual expenditure report.

Outcomes Report

We also reviewed the status of an Outcomes Report. Based upon our review, we determined that the Department has completed an Outcomes Report dated 30 September 2009. However the report was not made available to the public by the 30 September 2009 deadline in the Agreement.

Recommendations

The Department should:

- comply with reporting deadlines as outlined in the Agreement; and
- ensure that records of the Gas Tax Fund are ready for audit.

4B. Municipal Reporting

Introduction

The Local Government Agreements signed by the municipalities and the Department require that, in 2007 and each year thereafter they submit, not later than 30 June, the required Audit Report and AER for the previous year. This is required in order to facilitate the compilation of information from the municipal AERs into the Provincial AER which must be submitted to the Federal Government on 30 September each year.

Reporting deadline

We performed a review of the latest available municipal AERs on file (for the 2008 calendar year). Based upon our review, we identified 67 reports that were not received by the 30 June deadline as required. The 67 instances indentified ranged from 1 day to 114 days past the deadline with 20 instances where the reports were overdue by more than 50 days.

As well, we were informed that follow-up on deficiencies identified in the municipal AERs most often does not occur until staff are in the process of preparing cheque requisitions for the next municipal installment. This means that delays can occur in advancing funds to municipalities during the later follow-up process.

Other compliance matters

We also determined that AERs were not always properly completed as required. Without a properly completed AER, the Province's policy is that funds will not be advanced to the municipalities. Common deficiencies in the AERs included such things as no auditor's report attached, not all required appendices included and funds not invested to earn interest as required. During our review of AERs submitted by the municipalities for 2008, we noted deficiencies such as:

- 44 instances where the Appendix A (Summary of Eligible Recipients Fund) was either not submitted or not certified by an official of the municipality;

- 14 instances where the Appendix B (Project Expenditure Report) was not submitted;
- 50 instances where the Appendix C (Progress of Commitments-ICSP, Communications, Public Sector Accounting Board [PSAB] standards) was not submitted;
- 2 instances where the auditor's report was not submitted with the AER; and
- 6 instances where funds received by the municipality had not been invested pending use on projects, as required.

Recommendations

The Department should:

- work with the municipalities to ensure that Municipal Annual Expenditure Reports are received in compliance with the Local Government Agreements; and
- ensure that deficiencies identified during the review of Municipal Annual Expenditure Reports are followed-up on a timely basis.

4C. Oversight Committee

Introduction

Under the Agreement the duties of the Oversight Committee include:

- monitoring the overall strategic implementation of the Agreement;
- coordinating the development of a plan for continued collaboration;
- making adjustments/redirecting allocations for Local Governments as required;
- approving funding to the MNL annually for capacity building efforts; and
- reviewing disagreements or contentious issues that cannot be solved at the bureaucratic level.

Limited activity

The Oversight Committee appears to have limited activity, especially recently. Based upon our request for information we determined that there were:

- 2 meetings of the Committee;
  - 1 October 2007
  - 11 February 2008
- 2 Committee approvals that were handled through e-mails
  - The approval of an increase to the funding level for MNL
  - Approval of waste management project criteria in January 2009

Recommendation

The Department should encourage increased activity of the Oversight Committee.

5. Other Matters

Overview

The Agreement and related Local Government Gas Tax Funding Agreements entered into between the Department and municipalities contain requirements on a number of matters including bank accounts, funding, municipal development of Integrated Community Sustainability Plans (ICSP) and Public Sector Accounting Board (PSAB) compliance.

During our review, we identified the following issues:

A. Bank Account Requirement
B. Funding by the Federal Government
C. Integrated Community Sustainability Plans (ICSP)
D. Public Sector Accounting Board (PSAB) Compliance

5A. Bank Account Requirement

Introduction

Under terms of the Agreement, funds accumulated are to be held in a separate account that is to be set up by the Province for the purpose of holding funds pending payment to Local Governments.

Government's main bank account

Department officials indicated that a separate bank account has not been set up for the Gas Tax Fund. Funds received are deposited in Government's main bank account and held there until paid to municipalities. The Department has been reporting in its Provincial AER to the Federal Government that this is not in compliance with the requirements of the Agreement.

Recommendations

The Department should:

- review the requirement of a separate bank account with officials of the Federal Government; and
- perform a review of future agreements to ensure their terms are in compliance with Provincial legislation and authorities prior to signing.

5B. Funding by the Federal Government

Introduction

In the initial year of the Agreement, the Federal Government was required to make payments of $14,805,000 following the signing of the Agreement in August 2006 and $4,935,000 by 1 November 2006. For subsequent fiscal years, the Agreement provided for funding from the Federal Government to be paid in semi-annual payments on 1 July and 1 November each fiscal year. These payments were required unless the Province was in default of a significant term of the Agreement.

Under the Agreement, an event of default may be declared by the Federal Government if the Province has:

- not complied with any condition, undertaking or material term in the Agreement;

- failed to deliver an AER, Audit Report or Outcomes Report; or
- delivered an AER or Audit Report that disclosed non-compliance with the Agreement by the Province or a Local Government.

Impact of delays in signing Agreement

Funding was available from the Federal Government for the 2005-06 year; however, as the Agreement between the Federal and Provincial Governments was not finalized until August 2006:

- Funding was not received by the Province until 30 August 2006; and
- The first payment to municipalities was not announced until December 2006 ($87,000 to St. Anthony).

Federal funding significantly delayed

As noted in Figure 6 previously, there were a number of instances where the Province did not forward an AER in compliance with the Agreement.

- In particular, the AER forwarded by the Province for the 2008 fiscal year was initially rejected by the Federal Government. We were informed that the primary reason for the rejection related to a lack of reporting on municipal expenditures on projects. Based upon our review, the advance of $8,225,000 due on 1 November 2008 was not forwarded by the Federal Government until March 2009 due to delays with finalizing the Provincial Annual Expenditure Report for 31 March 2008.
- We also noted another instance where an installment in the amount of $6,580,000 due 1 November 2007, was not received from the Federal Government until February 2008.
- Delays in receiving funding from the Federal Government impact on the interest earned by the Province and could affect the timing of the subsequent payment of funds to the municipalities.

Recommendation

The Department should ensure steps are taken so it is not in default of the Agreement.

5C. Integrated Community Sustainability Plans (ICSP)

Introduction

An Integrated Community Sustainability Plan (ICSP) is a long-term (strategic) plan, developed in consultation with community members, that provides direction for cities, towns, and regions to realize sustainability objectives for the environmental, cultural, social, economic and governance dimensions of its identity. The Agreement requires that municipalities develop an ICSP over the life of the Agreement.

The Local Government Gas Tax Funding Agreements signed by municipalities require them to have developed an ICSP by 31 March 2009. During an ICSP update at an Oversight Committee meeting on 1 October 2007, the Deputy Minister of Municipal Affairs expressed concern on the ability of small municipalities to report. The minutes note that some municipalities were struggling to complete the required annual expenditure reports and as a result their capacity to prepare the ICSPs was limited.

This commitment to have ICSPs in place by 31 March 2009 was not realized for most municipalities. The Department's plan to address this matter includes:

- MNL undertaking self-sustainability assessments with municipalities;
- hiring a consultant in November 2008 to develop a framework and an implementation plan that identified necessary support, resources and processes for the plan;
- developing templates for a number of approaches to the plan;
- a municipal submission deadline to the Department of 31 March 2010 for a completed ICSP; and
- final reporting on this item by 2011.

Recommendation

The Department should ensure that municipalities are supported and on track to meet their deadlines under the Agreement.

5D. Public Sector Accounting Board (PSAB) Compliance

Introduction

The Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants sets financial accounting and reporting standards for the public sector including municipalities. Under the Agreement, municipalities must be PSAB compliant by 31 March 2010 (calendar year ended 31 December 2009). Based upon a discussion with an official of the Department, areas where municipalities often needed to do work for PSAB compliance were with respect to tangible capital assets and consolidation.

Our review of update documentation for a Gas Tax Secretariat meeting in 2009 indicated that while many municipalities indicated they were working towards being PSAB compliant for the year ended 31 December 2009, about 11% of those responding to a recent survey indicated that they had not done any work.

Based on discussions with an official of the Department it is hoped that all municipalities will be PSAB compliant for the year ended 31 December 2009.

Recommendation

The Department should continue to monitor municipal compliance with PSAB and assist those municipalities having difficulties, where appropriate.

Department's Response

1. Project Evaluation

AG Recommendations:
The Department should:

- *work with municipalities to ensure that they are able to utilize their funding allocations on a timely basis. Alternately, there are provisions in the Agreement for the reallocation of funding where this is not possible; and*
- *ensure funding is only advanced for projects which fall within acceptable criteria under the Agreement.*

Departmental Response:
The Department of Municipal Affairs continues to work with municipalities to ensure they are able to utilize their funding on a timely basis through continued support, advice, training and monitoring. The Department continues to work with those municipalities that have not yet utilized their funds and will bring forward a recommendation for re-allocation to the Oversight Committee, if required.

The Department of Municipal Affairs notes that with respect to the Auditor General's comments regarding the expenditure of funds for waste management projects ahead of the formal adoption of eligibility criteria, funding was necessary for early planning needs and was within the scope of the Waste Management Strategy, which formed the basis for the waste management allocation in the Agreement. Current and future expenditures will be made in accordance with the approved criteria, with amendments drafted and approved as necessary.

2. Payments to Municipalities

2A. Allocations paid to municipalities

AG Recommendations:
The Department should:

- *consider use of budgetary controls available within Government's Oracle Financial Management System which could be used to prevent the payment of amounts to municipalities in excess of approved investment capital plans; and*
- *review the process used to report funds spent on eligible projects.*

Departmental Response:
In 2009, the Department implemented an enhanced process to ensure that total payments do not exceed the total approved projects in the Capital Investment plan. This requirement will be included in the system for the Gas Tax Program. The Department will investigate the use of budgetary controls within Government's Oracle Financial Management System to prevent payments from exceeding approved capital investment plans.

2B. Allocations not released

AG Recommendation:
The Department should work with municipalities to reduce instances of non-compliance with the Agreement.

Departmental Response:
Compliance with the Local Government Agreement is a municipal responsibility. The Department is obligated to withhold gas tax funds when non-compliance is detected. The Department of Municipal Affairs will support and continue to work with municipalities to ensure compliance with all terms and conditions of the Local Government Gas Tax Funding Agreement including that Annual Expenditure Reports are properly completed and submitted by the prescribed deadlines.

2C. Exceptions to Normal Payment Procedures

AG Recommendation:
Payments to municipalities under the Agreement should be made in compliance with Departmental policy and the Agreement.

Departmental Response:

The Department is diligent on ensuring compliance with all areas of the Agreement and will continue to monitor and review processes to ensure compliance with the terms and conditions of the Gas Tax Agreement.

The implementation plan for the Waste Management Strategy recognized that the cash flow requirements for this provincial initiative exceed annual revenue available through the first 4-6 years of the Gas Tax Program. Recognizing that the Gas Tax program has been announced by the Federal Government as a permanent and continuing funding program, the Government of Newfoundland and Labrador has given approval to advance funds from future Gas Tax revenue in order to accelerate waste management funding in the early years. Payments to the City of St. John's for the redevelopment of the Robin Hood Bay Regional Waste Management Facilities were therefore supplemented by provincial funds approved in Budget 2008-09 to advance the implementation of the Waste Management Strategy. While the scope of this audit was limited to the Gas Tax program and federal revenue received therein, the broader context of the Provincial budget appropriations should be considered when evaluating Gas Tax spending for Waste Management Strategy implementation. Within that broader context, payments made to the City of St. John's were not in excess of appropriations in Budget 2008-09. The Department is reviewing reporting for waste management expenditures in the AER to better reflect provincial funds that are advanced against future revenues.

3. Management Information System

3A. Lack of a Central Management System

AG Recommendations:
The Department should:

- *implement a comprehensive information management system for the Gas Tax Fund; and*
- *review access rights in order to protect the various worksheets currently in use.*

Departmental Response:
The Department of Municipal Affairs will continue to develop a system to address the information and reporting needs of the Gas Tax Program. The Department will implement the appropriate access rights to the current spreadsheets.

3B. Documentation of decisions of the Gas Tax Committee

AG Recommendation:
The Department should ensure that Minutes of the Gas Tax Committee and the Records of Decision are maintained on a timely basis, readily accessible and formally approved.

Departmental Response:
The Gas Tax Committee was established in 2009 to oversee and coordinate Gas Tax activities. The Committee has acted on the Auditor General's recommendations regarding the Minutes and Records of Decision of the Committee.

4. Monitoring of Projects

4A. Provincial Reporting

AG Recommendations:
The Department should:

- *comply with reporting deadlines as outlined in the Agreement; and*
- *ensure that records of the Gas Tax Fund are ready for audit.*

Departmental Response:
The Department of Municipal Affairs endeavors to comply with the September 30 deadline for the Annual Expenditure Report and the deadline for the development of an Outcomes Report. The preparation of the Annual Expenditure Report is contingent upon receipt of all applicable information from municipalities. Due to delays in receiving information, the preparation of the Annual Expenditure Report has been delayed. The Department will ensure its records are ready for audit in a timely manner.

4B. Municipal Reporting

AG Recommendations:
The Department should

- *work with the municipalities to ensure that Municipal Annual Expenditure Reports are received in compliance with the Local Government Agreements; and*
- *ensure that deficiencies identified during the review of Municipal Annual Expenditure Reports are followed-up on a timely basis.*

Departmental Response:
The Department of Municipal Affairs continues to support, train and work with municipalities to ensure compliance with all terms and conditions of the Local Government Gas Tax Funding Agreement, including ensuring that Annual Expenditure Reports are properly completed and submitted by the prescribed deadlines.

4C. Oversight Committee

AG Recommendations:
The Department should encourage increased activity of the Oversight Committee.

Departmental Response:
At the next Oversight Committee meeting scheduled in February 2010, the Department and the Federal Government will establish a timeline for future meetings. In the day-to-day operation of the program, Department and Federal officials are in frequent contact.

5. Other Matters

5A. Bank Account Requirement

AG Recommendations:
The Department should:

- *review the requirement of a separate bank account with officials of the Federal Government; and*
- *perform a review of future agreements to ensure their terms are in compliance with Provincial legislation and authorities prior to signing.*

Departmental Response:
The Department will confirm its use of a separate account with the Federal Government.

5B. Funding by the Federal Government

AG Recommendations:
The Department should ensure steps are taken so it is not in default of the Agreement.

Departmental Response:
The Department of Municipal Affairs will endeavor to comply with the September 30 deadline for the Annual Expenditure Report and uphold all of the terms and conditions of the Gas Tax Agreement.

5C. Integrated Community Sustainability Plans (ICSP)

AG Recommendation:
The Department should ensure that municipalities are supported and on track to meet their deadlines under the Agreement.

Departmental Response:
The Department has resource people dedicated to supporting municipalities meet their commitment and deadlines in the Agreement. This support includes developing manuals, conducting formal training, providing advice to municipalities, and conducting one-on-one visits with municipalities. The Department is monitoring the progress and the ability of the municipalities to meet all prescribed deadlines.

5D. Public Sector Accounting Board (PSAB) compliance

AG Recommendation:
The Department should continue to monitor municipal compliance with PSAB and assist those municipalities having difficulties where appropriate.

Departmental Response:
The Department has resource people dedicated to supporting municipalities meet their commitment and deadlines in the Agreement. This support includes developing manuals, conducting formal training, providing advice to municipalities, and conducting one-on-one visits with municipalities. The Department is monitoring the progress and the ability of the municipalities to meet all prescribed deadlines.

Canada-Newfoundland and Labrador Gas Tax Fund

PART 2.13

DEPARTMENT OF MUNICIPAL AFFAIRS

DISASTER FINANCIAL ASSISTANCE ARRANGEMENTS

Executive Summary

Fire and Emergency Services-Newfoundland and Labrador (FES-NL) under the Department of Municipal Affairs is responsible for the administration of the Disaster Financial Assistance Arrangements (DFAA) program. It coordinates financial assistance to help individuals, businesses, organizations and municipalities recover from the effects of a natural disaster. The DFAA program is a Federal-Provincial cost shared arrangement.

Since January 2000, there have been 11 natural disasters that qualified for assistance under the DFAA program. As of June 2009, the FES-NL had made a total of $95 million in claim payments. Of this amount it is estimated that $65 million will be recovered from the Federal Government. To date the Province has recovered $18 million from the Federal Government with a receivable for a further $47 million as at 30 June 2009.

Provincial Claim Process

Our review identified a number of issues with how FES-NL is administering the DFAA program. These issues included such things as: database not being adequate for monitoring and reporting; policies and procedures which were incomplete and out of date; payments for ineligible costs; lack of documentation to support amounts claimed and paid; delays resulting in additional costs; errors in amounts paid to claimants; and lack of a formal appeal process. In particular:

- Information regarding expenditures or statistics on each disaster was not readily available. There was no single Provincial database that captured the expenditures incurred for each disaster. Furthermore, the Province's Financial Management System does not track expenditures related to each disaster in one account.

- Although FES-NL has a number of guidelines and documents to assist staff and claimants with the DFAA claims process, FES-NL did not have these guidelines and documents consolidated in an approved policy and procedures manual. Furthermore, the guidelines and documents that were in place were out-of-date in relation to allowances affected by the cost of living and minimum wages.

- FES-NL approved claims and made payments for ineligible costs. Eligible costs relate to essential items that were actually damaged during the disaster. Examples of ineligible costs that were paid included exercise equipment (treadmill $600), furniture in excess of the allowed quantity (extra chesterfield and unused spare bedroom contents, 6

instances totalling $11,375), land enhancements (8 instances totalling $61,799), clothing allowance for household members not affected by the disaster (4 instances totalling $10,050), contents not in affected flooded area (1 instance of $9,175), and structural payments for other than the property owner (1 instance of $10,174).

- Disaster assistance claimant files did not always include all of the required documentation. As a result, Provincial payments were made without adequate documentation to support eligibility and the amount to be reimbursed. Of the 106 approved disaster assistance claimant files we examined, we identified the following issues:

  - 3 did not have documentation to support property ownership;
  - 7 had inappropriate approval due to pre-existing conditions;
  - 11 did not have photographs on file to support all of the claim;
  - 2 did not have an engineering assessment of structural damage to the property that was rebuilt;
  - 1 did not have proof of primary residence;
  - 3 did not have the required certificate of insurance signed by the claimant's insurance agent on file;
  - 62 did not have a privacy consent form on file; and
  - 1 did not have a final release and indemnity form.

- Our review identified 1 instance where delays resulted in a damage estimate increasing by $101,070 or 319% of the original damage estimate. In this instance, the claimant's property damage was initially estimated at $31,730; however, the increase resulted from not having any heat in the house for six months, causing pipes to burst and mould to form.

- Our review identified 4 instances, related to insurance deductibles, where errors were made in the amounts paid to claimants. In 3 instances, the claimants had home insurance and were responsible to pay for the deductible (2 at $500 and 1 at $1,000); whereas, claimants with no insurance had no extra payment. Furthermore, as a result of an error in the treatment of the deductible, the 3 claimants not only lost the original deductible payment, but the same amount again was deducted from their eligible amount. In another instance, all of the insurance proceeds of

$12,356 were deducted from the claim; however, $3,763 related to expenses for items, including a piano, which were not part of the claim. Therefore, the claimant was underpaid by $3,763.

- There was no formal process in place for applicants to appeal decisions relating to whether their application was approved or denied, and the decisions relating to the amounts paid for approved assistance.

Federal Claim Process

A significant amount of time passed between the date some disasters occurred and the date the final Federal claim was paid. Of the 11 disasters since January 2000, only 2 – Storm Surge 2000 and Tropical Storm Gabrielle – had Federal claims finalized, in May 2008 and March 2009 respectively. Of the remaining 9 disasters, 2 (Badger Flood and West Coast Flood) occurred in 2003 and, at June 2009, had receivables from the Federal Government estimated at $5.36 million and $6.39 million respectively. The time between the disaster and the final Federal claim increases the probability that documentation, not obtained at the time the assistance is provided, will no longer be readily available. This means that assistance, normally recoverable from the Federal Government, may no longer qualify.

Additional Provincial Disaster Relief Coverage

In addition to disaster relief coverage under DFAA, the Province also provided additional disaster relief coverage. This additional coverage was approved by Cabinet for two of the four disasters we reviewed – the Stephenville flood in 2005 and the Daniel's Harbour landslide in 2007. This coverage included provisions for claimants to receive replacement value for their homes, coverage for vacant land and homes, and coverage for businesses that did not represent 51% of the claimants income, none of which were available under the DFAA program.

Our review of disaster relief coverage for these 2 disasters identified that documentation required to support the eligible costs under the DFAA portion was not always on file. As a result, the portion of assistance that would normally be recovered from the Federal Government under the DFAA program may not be able to be identified and recovered due to inadequate documentation.

Background

Overview

The Disaster Financial Assistance Arrangements (DFAA) program was established in 1970. DFAA is a Federal-Provincial cost shared arrangement in which financial assistance is provided to provincial governments when the cost of dealing with a natural disaster would place an undue burden on the provincial economy. Funds are allocated for incident-specific emergencies or disasters and are provided through a claims process and subject to Federal eligibility requirements.

DFAA is administered provincially by Fire and Emergency Services-Newfoundland and Labrador (FES-NL) under the Department of Municipal Affairs. FES-NL was established on 1 April 2007. Part of FES-NL's mandate is to develop and maintain a fire and emergency management system in Newfoundland and Labrador to mitigate against, prepare for, respond to and recover from fires and other major emergencies and disasters. Prior to 1 April 2007, the mandate of the *Emergency Measures Act* was carried out directly by the Department of Municipal Affairs.

As at 31 March 2009, FES-NL employed 26 staff with offices located in St. John's, Deer Lake, Grand Falls-Windsor and Clarenville.

Figure 1

Fire and Emergency Services – Newfoundland and Labrador
St. John's



Disaster assistance expenditures

For the fiscal years 2000 to 2009, the Province spent approximately $94.53 million on 11 disasters. As of June 2009, $17.71 million had been recovered from the Federal Government while another $47.11 million is expected to be recovered. Figure 2 provides details of these expenditures and recoveries.

Figure 2

Disaster Relief Assistance Expenditures and Recoveries
Fiscal Years 2000 through to June 2009
($ millions)

Disaster	Date	Expenditures to Date	Federal Government		
			Estimated Recoveries	Payments Received	Estimated Receivable
Storm Surge 2000	Jan 2000	$ 4.35	$ 2.56	$ 2.56	$ 0
Tropical Storm Gabrielle	Sept 2001	6.08	4.35	4.35	0
Badger Flood	Feb 2003	8.22	6.36	1.00	5.36
West Coast Flood	Mar 2003	9.59	7.59	1.20	6.39
Burin Flood	Mar 2005	1.34	0.41	0	0.41
Stephenville Flood	Sept 2005	28.29	15.45	0	15.45
North East Coast Flood 2006	Apr 2006	4.66	3.23	0.60	2.63
Storm Surge	Feb 2007	2.91	1.61	0	1.61
Daniel's Harbour Landslide	Apr 2007	2.79	1.50	0	1.50
Tropical Storm Chantal	Aug 2007	24.52	21.06	8.00	13.06
North East Coast Flood	July 2008	1.78	0.70	0	0.70
Total		**$94.53**	**$64.82**	**$17.71**	**$47.11**

Source: Department Information

Cost sharing arrangements

Funding under DFAA is cost-shared with the Federal Government and is approved by the Federal Minister of Public Safety. Cost sharing under DFAA is based on expenditures per capita with the Provincial Government funding 100% of the first $1 per capita, 50% of the next $2 per capita, 25% of the next $2 per capita and 10% of expenditures over $5 per capita. For example, based on a provincial population of 500,000, the Province would fund 100% of the first $500,000, 50% of the next $1,000,000, 25% of the next $1,000,000 and 10% of expenditures over $2,500,000.

Claims process

When disaster assistance is approved for coverage under the DFAA program applications for assistance along with a Confirmation of Insurance Form are provided to the affected individuals and businesses. Claims may be submitted by residential home-owners, tenants, small businesses, non-profit agencies and municipalities. The application includes claimant information and damages to be claimed. When the application is returned to FES-NL, the application is entered into a database, assigned a claims file number and the application is forwarded to the Canadian Independent Adjusters Association which then forwards the applications to a select number of local adjuster companies.

An adjuster will visit the damaged property and determine the level of damage, and determine whether other professional assessments are required (e.g. engineers and contractors). The adjuster completes an adjuster's checklist, adjuster's damage assessment worksheet, and an adjuster's recommendation report. These reports compile personal information of the claimant, proof of ownership/primary residence, availability of insurance coverage, an assessment of damages, household occupancy, history of prior damages, an assessment of contractor quotes and recommended coverage for contents and building damages. In addition, the adjuster is required to take photographs of damages if photographs have not been provided by the claimant. The claim, adjuster reports and other information obtained by the adjuster must be returned to FES-NL for review within 30 days of the request.

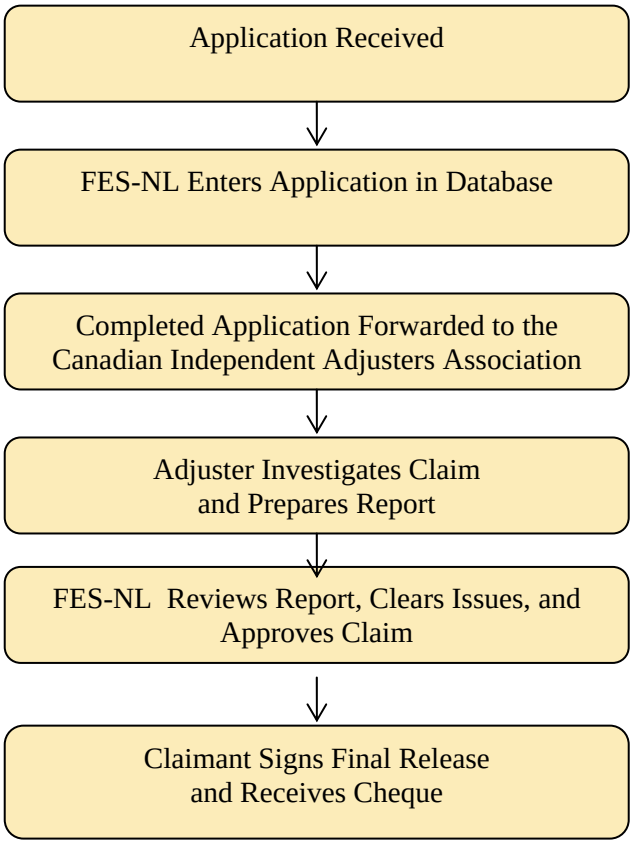
The FES-NL claims examiner will examine the claim by applying the DFAA guidelines to determine eligibility of the claim. Any concerns are followed up with the adjuster, the claimant and the claims examiner supervisor. When issues have been cleared a telephone call is made to the claimant advising of the approval by FES-NL. This is followed up with a letter advising the claimant of the approval.

FES-NL requests a cheque to be processed by the Department of Finance which is returned to FES-NL where a copy is placed on file. The claimant is contacted and an appointment is scheduled where the cheque may be picked up and a Final Release and Indemnity form is completed which releases FES-NL from any further claims by the claimant with respect to the application. A copy of one piece of a claimant's identification (e.g. driver's license, birth certificate) is obtained and filed.

If the claimant decides to have repairs completed by a contractor, payments are issued directly to the contractor. Prior to 2008 these payments were issued jointly to the contractor and the claimant. A final inspection has to be completed by the adjuster to ensure claimed damages were repaired to a pre-disaster condition. Figure 3 illustrates the claim process.

Figure 3

Disaster Relief Assistance
Overview of Claims Process



For **small business** claims, additional information is required to be submitted with the application, including confirmation of business ownership (i.e. incorporation documents), gross and net business income (supported with either tax returns for 3 years or confirmation of income from a professional accountant), and source of business income. For small business losses to be claimable, gross income from the business must exceed $10,000 and be less than $2.0 million. Prior to 2008, the income would also be required to represent at least 51% of the claimant's total income and the loss must create hardship on the business. Large businesses and industries are not covered under the DFAA program.

For **non-profit organization** claims, additional information is required to confirm the organization's community involvement and that the organization is non-profit, including governing documentation, audited financial statements for 3 years, tax returns, annual reports, and information on the organization's objectives (i.e. regulations, by-laws).

For **Municipal** claims, damages are assessed by a municipal engineer, an engineering consultant and/or Department engineers. When the damages are assessed, the associated plans, specifications and detailed cost estimates are submitted to the Department of Municipal Affairs for approval. When approved, public tenders are called and a contract is entered into with the successful contractor. Monthly status reports along with engineering invoices, change orders, performance certificates and contractor progress payments are submitted to the Department of Municipal Affairs for approval. When the project is completed, a final status report, a certificate of substantial completion and completed drawings are submitted to the Department.

Audit Objectives and Scope

Audit objectives

The objectives of our review were to assess whether:

- expenditures under the Disaster Financial Assistance Arrangements (DFAA) program were made in accordance with established guidelines and policies and procedures;
- expenditures under the DFAA program were adequately reported and monitored; and
- claims to the Federal Government were submitted as required.

Audit scope

Our review was completed in November 2009 and covered the DFAA expenditures related to four disasters (Stephenville Flood, Daniel's Harbour Landside, Tropical Storm Chantal and Northeast Coast Flood) occurring between fiscal years 2006 and 2009. Our review included an examination of DFAA guidelines, FES-NL policies and procedures, FES-NL database and various reports, and interviews with the Manager of Disaster Assistance. In addition, a sample of 106 approved claimant files (84 individuals, 17 small businesses, 4 municipalities and 1 non-profit organization) and 20 denied claimant files were examined.

Detailed Observations

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

1. Administration of DFAA Program
2. Claims under DFAA Program
3. Claims paid through Cabinet Approval Process

1. Administration of DFAA Program

Overview of DFAA program

Fire and Emergency Services-Newfoundland and Labrador (FES-NL) under the Department of Municipal Affairs is responsible for the administration of the disaster assistance program. It coordinates the application for assistance and payment process as well as the claim process for recovering funds from the Federal Government under the DFAA program. Under DFAA, the Province pays financial assistance to victims of disasters based on Federal eligibility guidelines, and then files claims with the Federal Government for reimbursement. Financial assistance is provided to claimants for eligible costs which are generally not considered regular business or living costs, and which could not have been recovered by other means, such as through insurance, other government programs, or the courts.

FES-NL has developed various documents to assist claimants and staff with the claims process. Documents include applications, checklists, general rules and guidelines, process descriptions, adjuster forms, insurance forms, and available contents listings. FES-NL also maintains a database which records information on each claimant, financial assistance provided and claim costs for each claim.

The Federal claims recovery process includes:

- Federal approval that the disaster can be included under DFAA;
- submission of disaster relief claims from individuals, businesses, non-profit organizations and municipalities;
- processing and payment of relief claims (restoration work could take a year or longer to complete, especially with respect to major infrastructure items such as buildings, bridges and roads);

- Federal interim audit of claim and expenditures to date for interim payment purposes (as per Department this is at least 4 months after a request by FES-NL to have the audit conducted);
- FES-NL internal review of disaster relief claims (conducted when disaster relief claims have been processed and final claim to Federal Government is ready);
- Final claim submitted to Federal Government (can only be submitted when the Province has paid out assistance based on final, eligible and fully supported claims from disaster victims);
- Federal final audit of claim prior to final claim payment being made to the Province;
- FES-NL appeal if not satisfied with Federal audit results; and
- Final claim payment received.

Our review of the administration of the DFAA program identified issues in the following areas:

A. Processing of Federal Claims
B. Monitoring of Disaster Claims and Expenditures
C. Policies and Procedures

1A. Processing of Federal Claims

Federal claims not prepared on a timely basis

The time period between a disaster and the final claim to the Federal Government under the DFAA program has been a lengthy process. For disasters occurring prior to 2008, there was no time limit established for processing Federal claims. However, effective 1 January 2008, any disasters after this date must have the final claim submitted within 5 years in order to receive Federal funding. Figure 4 provides a summary of the status of the 11 disasters since 2000.

Figure 4

Fire and Emergency Services – Newfoundland and Labrador
Status of Federal Claims

Disaster	Date of Disaster	Federal Interim Audit Completed	Interim Claim Payments Received	Federal Final Audit Completed	Final Claim Payment Received
Storm Surge	Jan 2000	Unknown	Nov 2001 Mar 2005	June 2007	May 2008
Tropical Storm Gabrielle	Sept 2001	Unknown	Aug 2002 Mar 2003 Mar 2005	Oct 2008	March 2009
Badger Flood	Feb 2003	Jan 2004	Apr 2004	No	No
West Coast Flood	Mar 2003	Unknown	Apr 2004	No	No
Burin Flood	Mar 2005	No	No	Oct 2009	No
Stephenville Flood	Sept 2005	No	No	No	No
North East Coast Flood 2006	Apr 2006	Feb 2008	June 2008	June 2009	No
Storm Surge	Feb 2007	No	No	No	No
Daniel's Harbour Landslide	Apr 2007	No	No	No	No
Tropical Storm Chantal	Aug 2007	Feb 2009	June 2009	No	No
North East Coast Flood	July 2008	No	No	No	No

Source: Department Information

As Figure 4 shows, of the 11 disasters since 2000, 7 Federal audits have yet to be completed before a final payment will be received. Our review identified 2 issues with the time period taken to file claims as follows:

Large accounts receivable

- The Province has to carry a large accounts receivable. As at 31 March 2009, the Department was owed $55.1 million ($8.0 million was subsequently received in June 2009) related to 9 disasters since 2003.

Difficult to obtain missing documentation

- As the time period between the disaster and the final claim increases, the probability for obtaining documentation not obtained at the time the assistance was provided decreases. As a result, assistance normally recoverable from the Federal Government may no longer qualify because of incomplete documentation.

Issues with costs claimed

Under DFAA, the Province pays financial assistance to victims of disasters based on Federal eligibility guidelines, and then files claims with the Federal Government for reimbursement. FES-NL and the Federal Government sign a final concurrence report agreeing that all eligible costs have been submitted and any audit deletions have been mutually agreed upon. Once the report is signed by FES-NL, a final payment is issued by the Federal Government. The Province will not be eligible for any costs submitted after the final concurrence report is signed. Our review identified 3 issues with claims for certain costs:

- DFAA guidelines state that the cost of backfilling positions to temporarily cover full-time staff conducting disaster assistance surveys and assessments is eligible provided documentation is available specifying the positions being backfilled, persons employed and actual time spent. The Manager of DFAA was seconded from the Department of Municipal Affairs in September 2007; however, the cost of backfilling the Manager's former position has not been claimed.

- Individuals and small business owners who accepted cash settlements rather than claim the cost of restoration work performed directly by contractors were paid at 70% of quoted contracted prices. For claims processed up to January 2008, FES-NL was allocating an HST portion against the cash settlement amount in the Province's financial management system. As a result, the Department of Finance would claim a rebate from the Federal Government. However, FES-NL also added the HST to its claim for disaster assistance to the Federal Government resulting in the same amount being claimed twice from the Federal Government.

- Overtime incurred by permanent staff can be reimbursed if it is paid out to the employees. However, when overtime is banked it cannot be claimed by the Provincial Government unless it is paid out before the final concurrence report is signed on each disaster.

1B. Monitoring of Disaster Claims and Expenditures

Our review identified the following issues with the capturing and monitoring of claims information:

Database not adequate for monitoring and reporting purposes

- Information regarding expenditures or statistics on each disaster is not readily available. There is no single Provincial database that captures the expenditures incurred for each disaster. FES-NL's database does not capture and report information on claims processed through other departments including the Department of Human Resources, Labour and Employment (HRLE) and the Department of Transportation and Works; and municipalities, where applicable.

- Payments to disaster victims are sometimes made by HRLE or private non-profit agencies for such items as clothing, temporary accommodations, food, etc. prior to the claimants applying for assistance under DFAA. FES-NL reimburses HRLE or the private non-profit agencies for these payments, and, if applicable, deducts the amounts from each claimant's payment to prevent duplicate payments or payment for non-DFAA items.

  However, the amounts paid to the claimant by HRLE or the private non-profit agency are not recorded in the database. As a result FES-NL cannot readily determine if each applicable claim was reduced by the amount paid by another department or agency. For example, for the Stephenville flood, 10 instances, totalling $4,044 were identified where either payments were made to claimants by both HRLE and by FES-NL for the same item or FES-NL reimbursed HRLE for ineligible items.

- There is no check to determine if the database contains duplicate file numbers or addresses. As a result, duplicate claims may be processed and paid. For example, our review identified one instance where duplicate file numbers were issued to the same claimant and this resulted in two different adjusters being assigned to the same claim (one application was faxed while the other was mailed).

Financial information not adequately tracked

- There is no one account code in the Province's financial management system used to record expenditures by the various departments providing disaster assistance. Each department uses different activity and tracking codes. As a result, after each disaster, information has to be accumulated for the departments involved. For example, the Department of Municipal Affairs has one financial activity established which is used to record disaster relief expenditures. In addition, the Department of Transportation and Works tracks disaster relief expenditures by project; however, it has not established a separate activity code to assist with monitoring and claims processes.

Inadequate training

- FES-NL staff have not received formal training for assessing applications and information submitted by contractors and adjusters. FES-NL claims examiners are hired as administrative positions with no specialized training to screen or process applications.

1C. Policies and Procedures

Our review of FES-NL's policies and procedures related to disaster relief identified issues where policies and procedures were absent, out-dated or incomplete as follows:

No policies and procedures manual

- Although FES-NL has a number of guidelines and documents to assist staff and claimants with the DFAA claims process, FES-NL does not have these guidelines and documents consolidated in an approved policy and procedures manual. In addition, FES-NL does not have the roles and responsibilities for staff involved in the DFAA claims process documented.

No application deadline

- Our review identified that for the Stephenville flood an application deadline was not established and applications were received up to 6 months after the flood occurred. Without timely applications it is not possible to determine if the damages were directly related to the disaster, and what contents were present and damaged at the time of the disaster.

Policy and procedures require update

- FES-NL has not reviewed and updated the amounts eligible to be claimed for specific items to reflect increases in cost of living and minimum wages. For example: the clean-up cost for a property was established in 2000 at a maximum of $500 based on the number of hours and minimum wage at that time. Minimum wages have since increased; however, there has been no increase in the amount eligible for clean-up.

- There is no checklist to ensure that all documentation required under the DFAA program was included in the files at the time payments were made to claimants. As a result, each file has to be reviewed by FES-NL internal auditors before a claim can be filed with the Federal Government for a recovery of expenditures.

- There is no policy covering environmental clean-up issues. For example, in Daniel's Harbour, the Province paid $339,000 for the purchase of a property eligible for financial assistance; however, it incurred additional costs of $31,800 for the removal of underground storage tanks and soil contamination although the contamination did not occur as a result of the disaster.

No formal appeal process established

- Policies and procedures do not provide for any formal appeal process in instances where applicants were denied assistance. For example, a claim for assistance related to the July 2008 Northeast Coast disaster was initially denied because the adjuster did not request in a timely manner that an engineer review the damage. As a result, the engineer, once requested, could not determine if the flood caused the damages to the property. With no appeal process it was only through the persistence of the applicant that the file was reviewed and a settlement of $13,500 was paid a year after the disaster.

Recommendations

The Department should:

- improve the timeliness for claims to the Federal Government;

- ensure all financial and claims information is captured and monitored through its database; and

- consolidate its current procedures and guidelines in a policies and procedures manual that encompasses all disaster relief program activities administered by FES-NL.

2. Claims under DFAA Program

Our review of 106 approved claim files identified the following issues:

A. Inadequate Documentation
B. Errors in Claim Payments

2A. Inadequate Documentation

Overview

Our review identified claims that were processed which did not contain all documentation as required by FES-NL. If claims are processed without adequate documentation to support the claim paid, it is not possible to determine if claimants were properly paid or the effect on the future Federal claims process. Our review identified the following issues with the adequacy of documentation:

Required documentation not always on file

- FES-NL was not always assessing the claim file to ensure that all required information was obtained from the claimant or adjuster prior to the claim being processed. Our review of 106 approved claims identified the following:
  - None of the 4 municipality files reviewed for Tropical Storm Chantal had the required insurance and safety inspections clearance letters for contractors on file;
  - 3 claims did not have the required one piece of identification for the claimants;
  - 3 claims did not have adequate documentation of proof of property ownership as of the date of the disaster;
  - 2 claims did not have a documented re-inspection by the adjuster for repairs done by contractor;
  - 62 claims did not have a privacy consent form completed by the adjuster and signed by the claimant for information gathering purposes;

- 11 claims did not have photographs of damages on file to support the claims. In 3 instances assistance was provided to cover damaged contents that had been discarded by the applicant and no photographs were on file to support the payment;
- 3 claims did not have the Certificate of Insurance signed by the claimant's insurance agency;
- 14 claims did not have the required 2 quotes to support estimated building repairs related to electrical/furnace repair and replacement;
- 2 claims did not have an engineering assessment of structural damage to the property that was rebuilt;
- 1 claim did not have the Final Release and Indemnity Form on file;
- 1 claim did not have proof of primary residency at the time of the disaster;
- 6 applications were not date stamped even though there was a deadline; and
- 3 claims did not have a required Joint Payment form.

Inappropriate approval regarding pre-existing conditions

- DFAA guidelines state that damages due to pre-existing conditions should not be covered. Our review identified 7 instances where claims should have been denied or reduced as pre-existing conditions were present. For example:
  - 3 claimants were paid $11,300 for demolition, $366,392 for the reconstruction of new houses, and $32,598 for land enhancement. However, our review identified that engineering reports on file reported that the damaged houses were built on bogs and as such a pre-existing condition existed.
  - One small business claimant was located in a high risk area and denied insurance because of a previous flood in 1999. In addition the claimant was informed by the Department of Transportation and Works that because the warehouse basement was 8 feet below street level; the owner should prevent future flooding by installing a concrete wall.

Furthermore, in 2002, the claimant's insurance was cancelled because the prevention of future damage was not dealt with in a satisfactory manner. The claimant was paid a 70% settlement totalling $20,979 for damages to the property; however, file documentation indicates that the claimant was paid because support jacks were put in place to support the building - a concrete wall was not constructed. The claim should have been denied because the claimant did not take the necessary precautions to prevent flooding due to a pre-existing condition.

Claim cheques not provided as required

- Claim cheques were not always provided to claimants in person as required to ensure the correct claimant was paid and all required forms had been signed. In three instances cheques were mailed to claimants instead of provided in person related to the Northeast Coast flood disaster. For one of these three files, the required claim documentation (related to a cheque totalling **$**2,540**)** was not obtained as of November 2009. As a result, the $2,540 may be excluded from DFAA eligibility because there was no support that the person received the payment or that insurance was carried.

2B. Errors in Claim Payments

Overview

Our review identified various payment errors as a result of claims being paid outside of DFAA guidelines, the inconsistent application of the DFAA guidelines, and errors in the processing of claims. Specifically:

Claims paid in excess of established maximums

- 4 claims were for items totalling $23,239 in excess of maximum established limits. For example:
  - 1 claimant was paid $2,500 for storage for 5 months. The Provincial maximum established under DFAA guidelines was $100 per month; therefore, the claimant was overpaid $2,000.
  - 2 claimants were paid contents damage of $500 each for a built-in dishwasher; however, our review identified that the claimants' property was purchased by the Province based on a property appraisal that already included a built-in dishwasher. As a result, the claimants were overpaid $1,000.

- 1 claimant was paid 100% ($67,464) of structural repairs instead of 70% ($47,225) as established under DFAA guidelines for settlements (work not done by contractor). In this case, the Department of Transportation and Works purchased the property and the payment made by FES-NL was used to bridge the cost of the purchase. However, the payment of $67,464 represents 100% of the structural repairs and, as a result, FES-NL overpaid $20,939 from the DFAA program.

Ineligible items covered

- 17 claims were paid for damages totalling $99,082 that were ineligible under the DFAA guidelines. For example:

  - 4 claimants were paid assistance totalling $10,050 for clothing for ineligible household members. For example, a claimant was paid $5,250 for damaged clothing ($750 maximum per person for 7 household members) as a result of water in the basement. However, claim documentation indicated that only 1 of the 7 members resided in the basement and that only this resident's clothes were damaged.

  - DFAA guidelines state that only property owners can receive payments for structural repairs. One claimant was paid $10,174 for structural repairs; however the claimant did not own the property. In this case, a relative purchased the home on the claimant's behalf; however, there was no evidence on file to support that a rent-to-own property situation was in place. As a result, the claim should have been denied as neither the claimant nor the homeowner would be eligible for funding.

  - When a claimant decides to take a cash settlement on a structural damage claim, certain items on the contractor's estimate are removed before applying the 70% settlement rate, for example, travel costs, removal of carpet and debris. Our review identified 1 claim where required items were not removed from the contractor's estimate before the settlement was paid resulting in an overpayment of $546 related to travel costs.

  - The Department of Human Resources and Labour Employment (HRLE) provided $5,170 to one disaster victim; which was later reimbursed by FES-NL when the claim was received from the claimant. However, only $3,250 of the $5,170 paid to the claimant by HRLE was for eligible items and, as a result, HRLE was overpaid $1,920.

- HRLE paid disaster victims in the Stephenville flood for heat and light expenses while in temporary accommodations from October 2005 to June 2006 and was reimbursed by FES-NL. However, households within the flood zone had the electricity cut off, and as such claimants were not burdened with additional heat and light expenses during this period. It is questionable whether homeowners should have been provided assistance for this.

- 1 claimant was paid $5,418 for damaged hardwood flooring; however, an initial inspection in October 2005 determined that there were no damages caused by the flooding. Documentation on file indicated that the resident had to evacuate the house because there were no sewer services and that the damage was caused due to warping as there was no heat in the house for 6 months. It is questionable whether the flooring damage was an eligible item as it was not damaged by the flood but by the failure to maintain heat in the residence.

- One claimant was paid $9,175 for contents that were located on the main floor and not in the affected flooded area (basement). A contents listing of damaged items was provided by the claimant that stated where items were located (i.e. basement or main floor). In addition, there were no pictures of the damaged items on file and two inspections clearly stated that the flood waters were limited to the basement area.

- We found 8 instances relating to land damages totalling $61,799 paid under DFAA that were ineligible. These included a bridge betterment claim of $8,695 for one small business owner where the old bridge was replaced with a culvert and gravel; a private access road (300ft.) claim of $5,474; a retaining wall claim of $2,478; a landscaping claim of $1,369; an excessive large driveway (37ft. x 94ft.) claim of $11,185; and 3 claims for land enhancements totalling $32,598.

Assistance for non-essential items

- DFAA is not an insurance program and assistance is not to be provided for non-essential items such as non-essential basement furniture, landscaping and fencing. In addition, DFAA does not cover improvements to properties. Our review identified payments that were for non-essential items or were improvements to the existing property. For example:

- 1 claimant was paid $600 for a damaged treadmill. The claim was originally disallowed as an ineligible item; however, after the claimant provided a doctor's note that the treadmill was needed for medical reasons, the assistance was approved.

- 6 claimants were paid $11,375 for furniture and contents in excess of what would be considered essential. For example, one claimant was paid $2,500 for bedroom contents located in the basement; however, the bedroom was not used by a household member. Another claimant was paid $2,475, without support, for extra basement furniture because their disabled child visits.

  Another claimant was paid $4,125 for damaged contents such as a sofa, TV, beds, small appliances, window coverings, lawn mower, dishes, and vacuum cleaner located in the basement. A review of the file indicated that the claimant was residing in the house of a family member who had been living out of Province for a number of years. The claimant stated that the damaged contents were not used and were stored in the basement until the claimant could locate their own residence. These items should not have been considered essential under the DFAA guidelines and paid. Our review also identified that the homeowner also claimed for similar damaged contents located in the household; however, the claim was denied as the primary residence was not established.

Delays resulting in additional damages

- Our review identified 1 instance where additional damages were incurred to a property due to time delays in the assessment process. One claimant's property damage was initially estimated at $31,730 in October 2005 as a result of 16 inches of water damage. However, as a result of not having any heat in the house for 6 months, pipes became broken and mould was present. A second inspection was performed in April 2006 and a revised damaged estimate of $94,480 was prepared. Furthermore, in August 2006 when the contractor started work; additional damages were identified bringing the damage estimate to $147,128. At this time, the adjuster determined that, based on the size of the house, a replacement cost would be cheaper and recommended $130,000 plus $2,800 for clean-up of the property. As a result of these delays, the estimate of the damage increased by $101,070, or 319% of the initial damage estimate and a new house had to be constructed.

Inconsistent application of DFAA guidelines

- 6 files identified the inconsistent application of DFAA guidelines and FES-NL policies and procedures which resulted in different payments for similar claimed items. For example:

  - Hot water tanks were sometimes claimed as damaged contents for $300 - the maximum amount established under DFAA; however, other claims included the cost of a hot water tank in the building repair quote which was either paid out at the quoted price or provided a 70% cash settlement on the quoted price. We also found 4 claims where the claimants were paid more than $300 for hot water tanks.

  - FES-NL requires payments to be made directly to the vendor if furnaces are repaired or replaced; however, our review identified two claimants that were paid a cash settlement of 70% of the repair and replacement costs. There is no provision for settlement payments for heating/utility damages.

Claimant insurance issues

- Damages covered by a claimant's insurance or damages that could have been insured at a reasonable cost are not claimable under DFAA. Claimants are required to inform FES-NL whether insurance was carried or if the claimant was denied coverage. Our review identified the following issues:

  - In 3 instances the claimants had home insurance and were responsible to pay for the deductible (2 at $500 and 1 at $1,000); whereas, claimants with no insurance had no extra payment. Furthermore, as a result of an error in the treatment of the deductible, the 3 claimants not only lost the original deductible payment, but the same amount was again deducted from their eligible amount. For example, one claimant's insurance coverage was $5,000 with a deductible of $500 and FES-NL deducted $5,500 from the claim.

  - In another instance, all of the insurance proceeds of $12,356 were deducted from a claim; however, $3,763 related to expenses for items including a piano, which were not part of the claim. Therefore, the claimant was underpaid by $3,763.

- FES-NL was not consistently applying insurance rules to all claimants. For example: five property claims for one disaster were inspected by an adjuster six days after a flood and determined to have damages caused by sewer back-up. Only one of the five home owners carried sewer back-up insurance and $10,500 was deducted from the claim (damages coverage of $10,000 and a $500 deductible). The other four claims that did not have sewer back-up insurance were paid full claims with no deductions. This situation shows that FES-NL are not strictly enforcing DFAA guidelines. In addition, it appears that claimants that have insurance coverage are being penalized the additional cost of carrying insurance.

Recommendations

The Department should:

- maintain adequate documentation in claim files to support claimed items and decisions made; and
- process claims in accordance with DFAA guidelines and FES-NL policies and procedures.

3. Claims paid through Cabinet Approval Process

Overview

In addition to disaster relief coverage under DFAA, the Province also provided disaster relief coverage approved by Cabinet. Our review included disaster relief coverage approved by Cabinet for two disasters – the Stephenville flood in 2005 and the Daniel's Harbour landslide in 2007.

The following provides an overview of the disaster relief approved by Cabinet for each of the disasters:

Stephenville flood:

Approval was given to designate an area of Stephenville as a flood control area, and for the Department of Municipal Affairs to offer all residents within the area financial compensation for the replacement of structures along with fair market value for land. Property owners outside the flood control area and claims for non-structural items (household contents) would be provided assistance in accordance with DFAA.

Daniel's Harbour landslide:

Approval was given to FES-NL to make an offer of compensation to property owners at replacement cost as per the 10 property appraisals on file.

Our review identified the following issues with FES-NL's administration of the disaster relief provided under each disaster:

Inadequate review of claims by FES-NL

- 1 claim totalling $68,500 for the Stephenville flood did not have support for the payment made.

- 6 claim files related to Daniels Harbour did not have documentation that a final inspection was completed on property purchased by the Province to ensure that items were not salvaged from the time the property appraisal was completed (May 2007) until the property was purchased (August 2007).

  For the Stephenville flood in September 2005, approximately 100 properties were purchased from June 2006 to January 2007. Documentation was not always in the claim files to determine whether items included in the purchase agreements had already been removed from the properties. For example, one claim file indicated keys were obtained 6 months after the property offer; however, there was no indication that someone inspected the property to determine whether structural items had been removed. Another file identified that the claimant salvaged items such as a whirlpool tub, doors, light fixtures, countertop, cabinet doors, shower stall, and toilet with a total value of approximately $12,100 between an appraisal done in May 2006 and a re-inspection of the property in August 2006. There was no documentation on file to indicate whether the keys to the property had been obtained once the property was purchased.

- 5 small business claims did not have documentation to verify clearance from the Canada Revenue Agency and 3 claims did not have documentation to verify clearance from the Workplace Health, Safety and Compensation Commission.

- 2 claim files did not have a required Deed of Conveyance.

- 1 claim file did not have vendor form and affidavit of status signed.

- 1 vacant land lot was purchased from a claimant that did not own the property until after the disaster.

- One claimant related to Daniels Harbour was overpaid $9,320 due to a calculation error made in the property appraisal. The error occurred because the incorrect square footage of a finished basement was used in calculating the replacement value.

Inadequate assessment of claims for future DFAA funding

- Although the disaster relief provided for property damage under each disaster was in excess of what would be covered under DFAA, FES-NL must ensure that future claims submitted to the Federal Government were processed in accordance with DFAA guidelines and established FES-NL policies and procedures. Therefore, we would expect that each claim file would have adequate documentation to support the future Federal claim amount. Our review identified the following issues:

  - 7 small business claim files did not have tax returns or financial statements on file to support the fact that income from the business was 51% of the claimants' total income. In addition, 4 small business claims did not have a business application form completed.

  - 3 residential claim files related to Daniel's Harbour did not have adequate documentation of primary residency by the claimant.

  - Properties were assessed based on the property owned by the property owners with no restrictions placed on what was essential or non-essential property. Our review of 6 property appraisals related to Daniel's Harbour identified that property owners were compensated for the replacement value of extra sheds, extra patio, landscaping, fireplace and above maximum allowances for stoves, dishwashers and a microwave totalling $115,470. Under DFAA, these items would be considered as non-essential and not available for coverage.

  - FES-NL's database recorded the total amount of the claim payments; however, the payments were not broken down between DFAA eligible and non-DFAA eligible. As a result, FES-NL will have to review each claim file (approximately 300 files) to document the amount to be claimed under DFAA.

Unnecessary expenses

- In February 2006, a decision was made to purchase homes in Stephenville that were in a designated flood area. This decision was based on an assessment of damages in October 2005 and the approval of Cabinet to acquire the homes at replacement cost. In March 2006, a second assessment of the required repairs was carried out although no repairs were expected to be made because the homes were being purchased for demolition. A review of a sample of 9 files indicated that this unnecessary assessment for these nine homes cost approximately $16,400.

- FES-NL reimbursed Newfoundland and Labrador Housing Corporation $14,731 for overtime and travel expenses related to its inspections of Stephenville properties on 18 April 2006. This reimbursement included $4,298 related to overtime charged during regular working hours. This is not permitted under DFAA guidelines.

Recommendation

The Department should ensure all claims for assistance are properly reviewed, assessed, and supported by required documentation.

Department's Response

Fire and Emergency Services – Newfoundland and Labrador (FES-NL) has considered the findings of the Auditor General in his review of the Disaster Assistance Program.

Agency executive and staff believe the provision of assistance to citizens, small business and municipalities who have been adversely affected by disasters as one of the most critical elements of their mandate. When these events occur, the lives of citizens and their communities are thrown into disarray. FES-NL is the provincial agency charged with responsibility for helping people and their communities to recover and return to normal life.

In administering the suite of measures which constitute the "Disaster Assistance Program", the Agency's primary objective is to balance the legitimate need of citizens, businesses, and municipalities to be dealt with fairly and expeditiously, against the requirement to ensure consistency and appropriate rigor in program delivery and administration.

It is in this context that FES-NL acknowledges the report of the Auditor General and provides the following responses to recommendations contained therein:

1. Administration of DFAA Program

The Department should improve the timeliness for claims from the federal government

- *Since assuming responsibility for administration of the DFAA in April 2007, FES-NL has been aggressively pursuing resolution of outstanding federal claims under the DFAA. Significant progress has been achieved.*
- *FES-NL has established and staffed a team of qualified individuals dedicated to the claims settlement process. The Manager of this team reports to the Chief Executive Officer of FES-NL and works in the context of an approved work plan.*
- *Since mid-2007, FES-NL achieved final resolution of two claims (Storm Surge 2000 and Tropical Storm Gabrielle 2001). Final audits by Audit Services Canada have been completed on two additional claims (Burin Flood 2005 and Northeast Coast Flood 2006), with the province now awaiting final payments. Internal work has been completed on the claim associated with the 2003 Badger Flood event and a final audit request has been filed with Audit Services Canada. In addition, FES-NL has filed and received an $8.0 M interim claim payment associated with costs arising from Tropical Storm Chantal in 2007. It is anticipated that a final claim on this event will be resolved in the second quarter of FY 2010/11, such final settlement having been achieved within 36 months of the occurrence of the event.*

The Department should ensure all financial and claims information is captured and monitored through its database

- *FES-NL acknowledges the importance of ensuring that all required financial information and associated documentation is captured and monitored through an appropriate data and information management system.*
- *FES-NL is currently working with the Office of the Chief Information Officer, Office of the Comptroller General and an outside management/IT consultant to develop and implement an appropriate solution.*
- *It is anticipated that a new Oracle-based system, linked as appropriate to the government's financial management system, will be in place by March 31, 2010.*

- *This new database system is being designed to ensure that the documentation requirements of both the DFAA and government's internal processes are respected.*

The Department should consolidate its current procedures and guidelines in a policies and procedures manual that encompasses all disaster relief program activities administered by FES-NL

- *Upon assuming responsibility for the administration of the DFAA in 2007, FES-NL commenced a comprehensive review of policies and procedures associated with the administration of the program. This work encompassed a review of policies and procedures internal to FES-NL and across other departments involved in aspects of program delivery, as well as a survey of policies in effect in other jurisdictions across the country.*
- *FES-NL has been directed by government to undertake development of a provincial disaster financial assistance policy framework and to develop and implement an associated suite of appropriate policies and procedures. The Agency's Business Plan 2008-11 commits FES-NL to the achievement of this objective by 2011.*

2. Claims under DFAA Program

The Department should maintain adequate documentation in claims files to support claimed items and decisions made

- *FES-NL strives to ensure that all required documentation is in place prior to issuance of payments to claimants under the DFAA.*
- *It is important to note that any single event qualifying for response under the DFAA can have hundreds of associated individual private property claims as well as dozens of claims from affected small businesses, not-for-profit organizations and municipalities. For example, in the case of Tropical Storm Gabrielle 2001, some 44 file storage boxes of claim documentation were made available to Audit Services Canada to facilitate final settlement of the claim. In this case, FES-NL was successful in attaining recovery of 98.76% of eligible expenditures from the Federal Government, a recovery percentage which attests to the adequacy of the supplied documentation.*
- *FES-NL is currently working with the Office of the Chief Information Officer, Office of the Comptroller General and an outside management/IT consultant to develop and implement a new database/claims management system designed to ensure that the documentation requirements of both the DFAA and government's internal processes are respected.*

The Department should process claims in accordance with DFAA guidelines and FES-NL policies and procedures

- *FES-NL makes best efforts to process claims in accordance with DFAA guidelines and established policies and procedures. These policies and procedures are informed by the federal guidelines and have been developed by FES-NL with a view to achieving an optimal balance between the demand to ensure timely recovery of maximum revenues from the federal government while ensuring the needs of citizens, businesses, organizations and municipalities impacted by adverse events are dealt with in a fair and expeditious manner.*
- *It must be noted that the DFAA guidelines as provided by the federal government are structured to provide broad parameters within which provincial delivery agencies must function. The guidelines* ***are not*** *exhaustive in their content and the process of applying these at the level of the individual claim requires interpretation and the exercise of judgment by staff and management within FES-NL.*

3. Claims Paid through Cabinet Approval Process

The Department should ensure all claims for assistance are properly reviewed, assessed, and supported by required documentation

- *FES-NL is committed to ensuring that all claims for assistance are properly reviewed, assessed and supported by required documentation.*
- *The Agency is currently engaged in a series of initiatives focused on improving identified deficiencies in the delivery and monitoring of the DFAA claims process.*
- *FES-NL has established a team dedicated to administration of the DFAA program and associated claims.*
- *A new database/claims management system is under development and will be operational in FY 2010/11. This new system will provide the capacity to manage program and individual claim data more effectively and assist in efforts to ensure that appropriately rigorous internal control processes do not adversely affect the quality or timeliness of delivery of disaster recovery assistance to claimants.*
- *FES-NL is committed to the establishment of a modern policy and program framework and to consolidating its associated policies and procedures to ensure ongoing effective administration of the DFAA program and associated processes.*

Disaster Financial Assistance Arrangements

PART 2.14

DEPARTMENT OF TOURISM, CULTURE AND RECREATION

ST. JOHN'S ARTS AND CULTURE CENTRE

Executive Summary

The St. John's Arts and Culture Centre (St. John's ACC) is the largest of six such centres in the Province. The centres operate as a division of the Department of Tourism, Culture and Recreation (the Department). Costs relating to the operation of the centres are recorded as expenditures of the Department with costs related to heating, lighting, snow clearing and most major repairs recorded as expenditures of the Department of Transportation and Works.

The St. John's ACC acts as head office for the other five centres which are located at Gander, Grand Falls-Windsor, Corner Brook, Stephenville and Labrador West.

While overall management responsibility for day-to-day operations of all the centres rests with the Director located at the St. John's ACC, each of the other centres has a manager, box office staff, technical and other theatre and clerical staff. All of the centres utilize the same ticketing system and the only accounting department is located at the St. John's ACC. The St. John's ACC Manager of Programming and Promotion, in consultation with the other centre managers, arranges and contracts all of the touring performances.

In total, the centres have 22 full-time and 254 part-time staff and a seating capacity of 3,212.

Our review of the St. John's ACC identified issues with respect to how the finances of the centres are managed, a lack of internal controls, issues with payroll and a lack of written policies and procedures. In addition, there were instances of non-compliance with the Department's complimentary ticket policy and inadequate monitoring of complimentary tickets issued. We identified the following:

Two Separate Accounting Systems

The St. John's ACC uses Government's Financial Management System (FMS) to process its revenues and operating expenses such as salaries and purchased services. The St. John's ACC also has its own bank account and uses its own computerized accounting system to process performance-related revenues and expenditures such as payments to performers. There are a number of issues relating to this arrangement:

- The two systems are not integrated and as a result, complete information required to properly manage and monitor each of the centres is not readily available.

- While the cheque to reimburse the St. John's ACC's own bank account is processed through the FMS, the details related to the expenditures are not captured in the FMS.

- Although the FMS has the capability to record transactions by centres, this capability is not being fully utilized. As a result of not having adequate information by centre, it is difficult to adequately monitor and control operations.

- The St. John's ACC's control related to payments from its own bank account does not provide the same level of control inherent in the FMS (e.g. expenditure verification and approval).

Lack of Internal Control

Although there are at least four staff at the St. John's ACC who could be involved in the control of revenues and the acquisition, approval and processing of expenditures, they have not been assigned specific tasks that would result in an adequate segregation of duties. We identified the following issues regarding the lack of internal controls:

Revenues

- There is a lack of segregation of duties with regard to box office supervisors who are responsible for approving the total cash for the box office and who also process day-to-day cash transactions.

- There is a lack of segregation of duties over miscellaneous revenues relating to merchandise sales commissions and coat check revenues. Furthermore, although pre-numbered receipts were introduced during 2006, the numbers are not being accounted for.

Expenditures

- Controls over the St. John's ACC's own bank account are not adequate in that one person, who co-signs many (15 in our sample of 30) cheques, is responsible for preparing documents for payment, recording the transaction and reconciling the bank account.

  Effective 1 January 2009, the St. John's ACC ceased using its bank account as instructed by the Department. However, as a result of difficulties in paying performers on a timely basis using Government's FMS, in May 2009, the Department authorized the St. John's ACC to resume using its own bank account. Although the bank account was

again being used, the St. John's ACC had taken no action to improve the lack of controls that previously existed.

- Although there is a purchase verification stamp, it is not always fully completed to evidence the procedures followed in reviewing and approving payments.

- The Director does not obtain and review supporting documentation when approving the summary request for reimbursement for their bank account. During the 2009 fiscal year, approximately $1.96 million flowed through this account.

Complimentary Tickets

The guidance and authority for the approval and issuance of complimentary tickets is included in a policy document from the Department dated 1995. This document addresses complimentary tickets issued in relation to centre produced performances and a "2% of capacity" (i.e. approximately 20 seats in the St. John's ACC) complimentary tickets provided for in rental contracts with clients. St. John's ACC officials estimate that the rental contracts make up in excess of 90% of performances.

Departmental policy provides that complimentary tickets can be provided to departmental officials, VIPs and special dignitaries, the media and corporate sponsors. The policy also provides that complimentary tickets may be issued in a *"…judicious manner in order to make small audiences more respectable in size…"* The number of complimentary tickets issued by the centre is noted on the final settlement document with the performer in determining the final payment under the rental contract. The respective managers of each centre outside St. John's and the Director of Arts and Culture Centres are designated to authorize all complimentary tickets and these approvals are to be documented through the use of Complimentary Ticket Vouchers (CTVs). We found the following:

- St. John's ACC officials could not demonstrate who used individual complimentary tickets and therefore whether the tickets were used for appropriate purposes.

- St. John's ACC employees receive complimentary tickets; however, employees are not specifically identified in the policy.

- Although the voucher requesting a complimentary ticket is part of the daily box office reconciliation, the vouchers are not filed so that they can be easily located.

- There are no statistics kept for management review and monitoring of the numbers of complimentary tickets issued. Also, the cost of the use of complimentary tickets is not recorded in the accounting records.

- Contrary to Departmental policy, the Director has delegated authority to approve complimentary tickets to the Manager of Programming and Promotion in certain cases.

- Although complimentary ticket vouchers are to be approved by the Director prior to the box office issuing the tickets, we found instances where the approval was not provided until the tickets had been issued.

Payroll Issues

At 31 March 2009, the centres had recorded accrued time-off-in-lieu (TOIL) totalling approximately $426,000. The increase in TOIL from 2008 to 2009 totalled $89,822 or 27%. Ten employees accounted for $400,675 or 94% of the total TOIL in 2009, an increase of $98,913 or 33% from 2008. At 31 March 2009, one employee at the Stephenville ACC had TOIL of $163,370 or 38% of the total 2009 TOIL. Given the extent of overtime at the centres, we would expect strong controls to be in place over recording and approving overtime. We identified the following issues with regard to how overtime is recorded and approved:

- We found errors in overtime recorded in 7 of 10 employees selected for review.

- The Director does not obtain and review timesheets when approving reimbursement for overtime worked.

- None of the centres use an electronic time clock to improve the accuracy of recording hours worked.

Furthermore, the Director does not always review and approve bi-weekly payroll documents. Our review of 26 payrolls indicated that 13 Part-Time Payroll Detail Sheets for backstage part-time staff, 9 Bi-Weekly Work Registers for backstage full-time staff and 2 Part-Time Payroll Detail Sheets for ushers had no evidence that they were either reviewed or approved.

Policies and Procedures

The St. John's ACC has undertaken very little work to develop policies and procedures to guide staff in day-to-day operations. For example, although the St. John's ACC maintains a separate bank account and accounting system, there are no written policies and procedures for staff. Without adequate policies and procedures, the likelihood of issues with regards to such things as lack of internal controls and inadequate segregation of duties increases significantly.

Background

Overview

The St. John's Arts and Culture Centre (St. John's ACC) is the largest of six such centres in the Province. The centres operate as a division of the Department of Tourism, Culture and Recreation (the Department). The St. John's ACC also acts as head office for the other five centres which are located at Gander, Grand Falls-Windsor, Corner Brook, Stephenville and Labrador West.

Overall management responsibility for day-to-day operations of all the centres rests with the Director located at the St. John's ACC. Each of the other centres has a manager, box office staff, technical, theatre and clerical staff. All of the centres utilize the same ticketing system and the only accounting department is located at the St. John's ACC. The St. John's ACC's Manager of Programming and Promotion, in consultation with the other centre managers, arranges and contracts all of the touring performances.

Figure 1 outlines the seating capacity and numbers of staff for each of the six centres.

Figure 1

Arts and Culture Centres
As at 30 November 2009

Centre Location	Seating Capacity	Staff		
		Full-Time	Part-Time	Total
St. John's (Note 1)	1,089	12	67	79
Gander	401	3	36	39
Grand Falls-Windsor	387	1	60	61
Corner Brook	390	3	25	28
Stephenville (Note 2)	597	1	37	38
Labrador West	348	2	29	31
Total	**3,212**	**22**	**254**	**276**

Source: General Service Payroll and ACC records
Note 1: includes 76 seat Basement Theatre
Note 2: includes 150 seat Black Box Theatre

As Figure 1 shows, the centres have a total of 276 staff and a total seating capacity of 3,212.

The centres are owned by the Province and, while performance activities represent the largest user, space is also utilized for other purposes such as art galleries, rehearsal and work shop spaces. Some centres also house libraries and swimming pools which are not operated by the centres.

Costs related to heating, lighting, snow clearing and most major repairs are recorded as an expenditure of the Department of Transportation and Works. All other expenditures relating to the operation of the centres are recorded as expenditures of the Department of Tourism, Culture and Recreation. Figure 2 shows the financial information for all of the centres across the Province for the last three fiscal years as recorded by the Department of Tourism, Culture and Recreation. This does not include expenditures relating to heating, lighting, snow clearing and major repairs which are incurred by the Department of Transportation and Works.

Figure 2

Arts and Culture Centres
Financial Information
Fiscal Years 2007 through to 2009
($000's)

Description	2007	%	2008	%	2009	%
Salaries	$ 2,016	52.3	$ 2,057	62.2	$ 2,284	60.2
Purchased Services	1,563	40.5	838	25.3	1,184	31.2
Sub-total	**3,579**	**92.8**	**2,895**	**87.5**	**3,468**	**91.4**
Employee Benefits	5	0.1	7	0.2	7	0.2
Transportation & Communications	81	2.1	93	2.8	148	3.9
Supplies	34	0.9	36	1.1	59	1.5
Professional Services	13	0.3	65	2.0	50	1.3
Property, Furnishings & Equipment	147	3.8	211	6.4	63	1.7
Total Expenditures	**3,859**	**100**	**3,307**	**100**	**3,795**	**100**
Revenue – Federal	120		93		76	
Revenue – Provincial	1,268		1,026		1,127	
Total Revenues	**1,388**		**1,119**		**1,203**	
Net Operating Expenditures	**$ 2,471**		**$ 2,188**		**$ 2,592**	

Source: Public Accounts of Newfoundland and Labrador
Note: 2009 amounts for purchased services and provincial revenues have been reclassified to conform to the prior year's presentation.

Operating expenditures

The information in Figure 2 shows that salaries and purchased services represented approximately 91% of the total expenditures in 2009.

The Provincial revenue is a combination of performance ticket sales and revenue from space rented to clients. The Federal revenue is funding from the Arts Presentation Canada Program at the Department of Canadian Heritage.

Reviews of the centres

Since 2006, there have been three reviews of the Arts and Culture Centres – one by the Professional Services and Internal Audit Division of the Office of the Comptroller General, one by the Department's Director of Human Resources and another by an independent consultant as follows:

- As part of the review of all cash handling procedures in Government, the Professional Services and Internal Audit Division of the Office of the Comptroller General conducted a review of revenues and receipts at the St. John's ACC during 2006. This review identified a number of issues relating to the lack of internal controls.

- The Director of Human Resources for the Department of Tourism, Culture and Recreation conducted a review of the St. John's ACC during 2006. This review recommended organizational changes.

- The Department of Tourism, Culture and Recreation arranged for a strategic and operational review of all six centres during 2008 by an external consultant. This review concluded that the centres would operate more efficiently and effectively as a Crown corporation.

Audit Objectives and Scope

Audit objective

The objective of our review was to determine whether adequate financial controls and reporting systems were in place at the St. John's ACC to manage its financial affairs.

Audit scope

The scope of the audit included a review of systems in place at the St. John's ACC for the period 1 April 2006 to 30 November 2009. We reviewed documentation on file at the St. John's ACC and had discussions with officials at the St. John's ACC and the Department of Tourism, Culture and Recreation. We completed our review in December 2009.

Detailed Observations

Overview

The St. John's ACC and the five other centres located at Gander, Grand Falls-Windsor, Corner Brook, Stephenville and Labrador West operate as a division of the Department of Tourism, Culture and Recreation. All of the centres are managed from a head office located at the St. John's ACC.

Figure 3 shows a photograph of the St. John's ACC.

Figure 3

St. John's Arts and Culture Centre



Source: St. John's Arts and Culture Centre

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

1. Financial Accounting, Reporting and Monitoring
2. Revenues and Cash Receipts
3. Purchasing and Payments
4. Salaries and Wages
5. Complimentary Tickets

1. Financial Accounting, Reporting and Monitoring

Overview

The St. John's ACC does the accounting for all six Arts and Culture Centres located in the Province. The St. John's ACC uses Government's Financial Management System (FMS) to process its revenues and operating expenses such as salaries and purchased services. However, officials indicated that the FMS does not allow for prompt payment of certain performance-related expenditures such as the payment of the performers' share of the box office receipts. As a result, the St. John's ACC has its own bank account from which to process these performance-related expenditures. Each month the Department reimburses the St. John's ACC for these expenditures.

The results of our review and testing of the accounting and management systems in place at the St. John's ACC are contained in the following sections:

A. Financial Reporting Systems
B. Policies and Procedures

1A. Financial Reporting Systems

Introduction

The St. John's ACC and the other five centres across the Province are managed by the same management group located at head office at the St. John's ACC. The centres also use the same accounting staff and ticketing systems. Financial information necessary for the management of the centres is found in the FMS and the St. John's ACC's own accounting system.

Bank account transactions not captured in FMS

The transactions processed through the St. John's ACC's own bank account are recorded by the St. John's ACC using an accounting software package, which is a module from the ticketing software provider. This software package is used to record the details of the banking transactions as well as the details of these performance-related expenditures and revenues. When the monthly reimbursement is processed by the Department the total reimbursed is recorded in the purchased services account in the FMS. Therefore, the details of these expenditures are not captured in the FMS.

Financial reports not being used

The ACC accounting system has been in place for a considerable period of time and, as a part of our review of the system, we enquired of officials as to its capacity to provide accurate financial statements and other financial reports. Even though the software had the capacity to generate these financial reports, we were advised by ACC officials that they had never used the ACC accounting system to prepare financial statements or other reports. Officials indicated that they were not aware of the usefulness of the reports or application of the data in evaluating financial management needs.

Transactions recorded in two separate systems

Because the centres use two accounting systems to record financial transactions, neither system contains all the information required to manage the centres. For example, transactions generated from the FMS salary and payments modules are not recorded in the ACC system. Similarly, transactions generated by the ACC accounting system are only recorded in a summary form in the FMS. Two sets of books always result in weaknesses in controls and opportunities for problems.

Inadequate monitoring of all centres

Our review of the St. John's ACC was hampered by the fact that neither of the accounting systems was being used to record financial transactions by individual centre. Although head office accounting officials have tried to address this deficiency by initiating the use of a departmental tracking code system in the FMS to segregate transactions among the various centres, the process has not been fully developed or completed to date. The recording of financial information by centre which would allow reporting by centre and would be a valuable tool in properly monitoring, managing and controlling all the centres.

1B. Policies and Procedures

Introduction

Although the centres operate as a division of the Department, there are certain elements such as their own bank account and box office activity that are unique to their operations. We would have expected that the St. John's ACC would have developed written policies and procedures to provide guidance for those elements that are not sufficiently covered by Government's existing policies and procedures.

No documented policies and procedures manual

Based on our review of the systems in place at the St. John's ACC and discussions with officials, we have concluded that very little work has been undertaken to develop written policies and procedures required to provide consistent guidance in those areas of operation that are unique to the centres and not covered by established Government policies and procedures.

Although they were not in a policies and procedures manual, we did note two instances where a documented policy and procedure was developed:

- In an attempt to improve the controls over coat check revenues noted in the 2006 internal audit review, the Front of House (FOH) Supervisor in St. John's initiated a handwritten coat check log. This log is located in the ushers' room near the box office and contains a daily record of coat check activity. The record is signed off by the usher responsible for the coat check and the head usher. On the front of this log there are hand written procedures describing how the log should be completed.

- While reviewing the complimentary ticket system we asked officials if there was any written policy regarding the issuance and control over these tickets. The Director produced a two page policy dated July 1995, signed by the Minister at the time, outlining a broad list of persons or organizations eligible for complimentary tickets and the officials authorized to approve the issuance of these tickets. However, the document did not contain guidance as to how the approval and recording process would work.

While there may be isolated policies and procedures available at either the centres or the Department, these do not cover all the areas unique to the operations of the centres. Also, since the existing policies are not contained in a manual or available on-line, they are not readily available to staff. The lack of a complete set of written policies and procedures is a significant deficiency in the management of the centres. Written policies and procedures are of particular importance when training new staff. Without such guidance new staff can be confused as to proper procedures to follow.

Recommendations

The Department should:

- provide dedicated professional accounting resources to evaluate the existing accounting systems and guide the development of an integrated accounting system with appropriate financial reports by centre; and

- provide the direction, expertise and resources required to develop and document policies and procedures to guide the operations at the centres.

2. Revenues and Cash Receipts

Overview

The revenue sharing and/or cost recovery arrangements between the centres and their rental clients are set out in signed contracts negotiated between the parties. The financial arrangements can range from straight forward rental agreements to the centres receiving a percentage share of the box office receipts. These percentage share arrangements are usually set up to provide the centres with a share that is the higher of the percentage agreed upon or reimbursement of the actual direct costs incurred by the centre.

In addition to the box office receipts, the centres earn miscellaneous revenue from coat checking and commissions on the sale of performer CDs, DVDs and other merchandise.

The results of our review and testing of transactions for the period 2007 to 2009 and follow-up on the more significant issues noted in the internal audit review are contained in the following sections:

A. Internal Controls
B. Unrecorded Cash

2A. Internal Controls

Introduction

The review carried out by the Office of the Comptroller General in fiscal 2006 reported internal control deficiencies related to the lack of segregation of duties. One area reported was that the box office supervisors who are responsible for approving cash balancing for the day, also process day-to-day cash transactions. The other area involved the recording of miscellaneous cash revenues. While miscellaneous revenues do not form a large source of cash, (approximately $10,000 from September 2006 to November 2009 for the St. John's ACC) officials took steps to implement internal controls to correct the deficiencies in this area.

Officials at the St. John's ACC implemented a number of internal control procedures including pre-numbered forms to account for all miscellaneous revenues. These forms, in triplicate, were designed to document and control the receipt of miscellaneous cash from the time the cash was initially collected until it was deposited in the bank. The key element of this internal control is that each form number is to be accounted for after the monies had

been recorded in the cash book. Such a procedure would ensure that any cash collected had been documented and identify any instances where the cash had not been recorded in the cash book. The official who performs the reconciliation of the bank account, who is not involved in the receipting or depositing of cash, would then be able to identify any instances where the monies recorded in the cash book had not been deposited.

Internal controls not effective

Our review of the internal control procedures indicated that the expected internal control benefits did not actually occur because the procedures were not fully understood and the changes made did not correct the weaknesses related to lack of segregation of duties. At the time of our review, the numerical sequence of these numbers was not being accounted for by any employee. The official responsible for receipting and depositing cash was controlling the distribution of the books of blank forms to the St John's ACC and the other centres; however, that official did not get the used books back to ensure that copies of all voided or other unused forms were accounted for.

2B. Unrecorded Cash

Introduction

In their 2006 report, the Office of the Comptroller General reported that merchandise commission revenue and related cash in the amount of $228 on the sale of merchandise for a particular performer was not recorded in the St. John's ACC's accounts and was not deposited in the St. John's ACC's bank account. They further reported that there were indications that other funds from commission and coat check sales may not have been collected at the source.

The report recommended that the St. John's ACC and Department officials investigate the possibility of more missing funds.

Unrecorded funds not investigated

St. John's ACC officials advised us that the review conducted by the Office of the Comptroller General consisted of the testing of 19 samples of merchandise commissions and coat check revenues. These officials provided a copy of a memo from the Director of the Arts and Culture Centres to the Assistant Deputy Minister of Culture and Heritage (cc Director of Financial and General Operations) dated 6 May 2006 suggesting, *"that an audit of the cash book itself was warranted, specifically coat check documentation from 2000 to 2005"*. St. John's ACC officials indicated that even though an audit of the cash books was suggested no follow-up from the Department was carried out.

Even though the amounts involved here were not large, given the nature of these transactions they should have been thoroughly investigated.

Recommendations

The Department should:

- assist ACC management or provide professional resources to evaluate existing internal controls and make recommendations for improvements; and
- assist ACC officials in evaluating where the system went wrong as it relates to unrecorded funds with a view to ensuring adequate controls are in place.

3. Purchasing and Payments

Overview

The Arts and Culture Centres use two methods to purchase and make payments for goods and services. For day-to-day purchases related to the operation of the centres the Government Financial Management System (FMS) is used. For payments to performers for their share of box office receipts and for materials, supplies and services directly related to performances, a separate purchase system including pre-numbered purchase orders and a separate bank account is used.

Effective 1 January 2009, the St. John's ACC ceased using its bank account as instructed by the Department. As a result, all payments including those related to performances were to be paid through the FMS. This allowed the St. John's ACC to benefit from the internal controls inherent in the FMS (e.g. expenditure verification and approval) for all payments processed. However, as a result of difficulties in paying performers on a timely basis through the FMS, in May 2009, the Department authorized the St. John's ACC to resume using its own bank account. As a result, performance-related payments are being made without the benefit of the controls inherent in the FMS. Although the St. John's ACC bank account was again being used, no action had been taken to improve the lack of controls that previously existed.

The results from our review and testing of the two systems are contained under the following sections:

A. Financial Management System Purchases
B. Performance Account Disbursements

3A. Financial Management System Purchases

Introduction

Departmental policy and procedures are used to guide purchases using the FMS. The centres use manual Departmental Purchase Orders (DPOs) for purchases up to $500. All purchases more than $500 but less than $2,500 require the approval of the Manager of General Operations at the Department of Tourism, Culture and Recreation. The requisition for these purchases, signed by the centre manager or the Director, is forwarded to the Manager of General Operations along with the three price quotes or other evidence indicating that a fair and reasonable price had been obtained. The Manager of General Operations provides a purchase order number from the FMS that is used by centre officials to make the purchase. Purchases $2,500 or greater are publicly tendered by the Government Purchasing Agency.

When the goods or services are received, the supplier's invoice is processed using a purchases verification stamp that provides written certification that the goods and/or services have been received in good order, the calculations are correct, the prices are correct and that it has been approved for payment.

Purchase verification stamp not fully completed

From the examination of the 27 sample payments from the FMS from fiscal year 2007 to 2009, 16 samples required the completion of the purchase verification stamp in order to be paid. The remaining 11 payments were paid to ACC staff to reimburse for travel or supplies. These payments are supported by travel claims or accountable advance expense claims and the purchase verification stamp is not applicable.

Our review of the 16 samples requiring the completion of the purchase verification stamp indicated that 6 did not have the stamp. Included in these 6 purchase invoices were 3 payments for utilities, 2 payments for taxis and 1 payment for a delivery service. Of the remaining 10 samples, while the purchase verification stamp was present, none were fully initialled to indicate that all the functions had been completed. In fact, 6 did not have the purchase verification stamp initialled to indicate that goods and services were actually received.

Supporting documentation not obtained or reviewed

Performance-related payments are processed through the St. John's ACC's own bank account and reimbursed monthly through the FMS. The Accountant at the St. John's ACC prepares a request for the Department that summarizes payments made through their own bank account. The Director approves the request; however, the Director does not obtain and review supporting documentation when approving the summary request for reimbursement for their bank account. During the 2009 fiscal year, approximately $1.96 million flowed through this account.

3B. Performance Account Disbursements

Introduction

St. John's ACC's own bank account was originally set up to make payments to performers for their share of box office receipts and for materials, supplies and services directly related to performances. These payments would be more urgent in nature. For example, many of the performers expect to get paid their share of the box office receipts almost immediately after their performance.

One of the key components of an effective system of internal control is the segregation of employee duties such that certain duties including cash transactions are not concentrated under one employee but instead are organized such that the work of one employee acts as a check on the work of another employee. The St. John's ACC has a limited number of permanent staff; however, there are at least four positions including the Director, the accountant and two office clerks that could be used to establish necessary segregation of duties that must be in place to ensure that assets are safeguarded and that all financial transactions are accurately recorded.

Signing officers and invoice approvers

Our review of 30 sample payments from the St. John's ACC own bank account from fiscal years 2007 through 2009 indicated the following issues related to the lack of segregation of duties:

- All of the 30 cheques were co-signed by the Accounting Clerk;
- Only 2 of the 30 cheques were co-signed by the Director;
- 15 of the cheques were co-signed by the head office Accountant who reconciles the bank account, approves performance invoices including settlement payments to performers and prepares documents for reimbursement of the bank account funds by the Department; and

- The other 13 cheques were co-signed by the Programming and Promotion Manager who negotiates performance contracts and approves performer settlements.

Also from our examination of the 30 sample payments from the Performance Payment System, we noted the following with respect to approval of supplier invoices and other documents supporting payments:

- 2 payments totalling $926 paid in fiscal 2007 for a performer fee and for delivery service had no evidence of approval;

- 23 payments totalling $44,834 were approved by the head office Accountant who also co-signs cheques, reconciles the bank account and prepares documents for reimbursement of the bank account funds by the Department;

- 4 payments totalling $74,256 were approved by the Programming and Promotion Manager who also co-signs cheques, negotiates performance contracts and approves performer settlements; and

- 1 payment for $75 was approved by the Director.

Purchase verification stamp not fully completed

From the examination of the 30 sample payments from St. John's ACC's own bank account from fiscal year 2007 to 2009, 21 samples required the completion of the purchase verification stamp in order to be paid. The remaining 9 payments were to rental clients for the final payment of their share of the box office receipts. These payments are supported by client statements and the purchase verification stamp is not applicable.

Our review of the 21 samples requiring the completion of the purchases verification stamp indicated that 8 did not have a purchase verification stamp. Included in these 8 purchase invoices were 5 payments to individual performers, 2 payments for miscellaneous expenses and 1 payment for a delivery service.

Compensating Controls

Many times when there are internal control weaknesses as a result of the lack of segregation of duties, control can be improved by more involvement of management or alternate procedures.

For example, control over the payments from the St. John's ACC's own bank account would be improved if:

- all cheques with supporting documents attached were approved by the Director. In the event that the Director is not available at the time a payment is made, the supporting documentation could be examined when the Director returned to ensure the payment was proper; and

- one of the co-signers was always a senior staff member. Having a senior person co-sign the cheques offers the opportunity for a thorough second review before payment.

Recommendation

The Department should ensure that all cheques issued from the St. John's ACC's own bank account are properly supported, reviewed and approved.

4. Salaries and Wages

Overview

The payroll for all of the Arts and Culture Centres is processed through the Government payroll system using the same policies and procedures that are used to process the payroll for other Government employees.

Two significant payroll issues for the operations of the centres are the amount of overtime paid to or accumulated by their employees and the number of part-time employees utilized. During fiscal 2009, approximately $142,000 in overtime was paid to employees of the St. John's ACC. Of this amount $115,150 or 81% was paid to eight employees and $65,743 or 46% was paid to only three employees.

We focused our detailed testing on the 49 employees who were paid or had accumulated unpaid overtime in the form of time-off-in-lieu (TOIL) during fiscal year 2009. This included full-time backstage employees, part-time backstage employees and ushers who are all part-time. We also reviewed all 26 payrolls for fiscal 2009 for these three groups for appropriate approvals and required documentation.

We identified all employees who were paid overtime during fiscal year 2009 and selected 10 (6 full-time and 4 part-time) for testing over six pay periods.

The results of our review and testing of the detailed employee transactions and the payroll registers are contained in the following sections:

A. TOIL Reporting
B. Timesheets
C. Approval of Payroll Documents

4A. TOIL Reporting

Introduction

Management employees must work in excess of 35 hours overtime over an 8 week period before being eligible to accumulate TOIL during that 8 week period. Government policy also limits annual overtime and/or TOIL payments to management employees to 10% of the employee's annual salary. For unionized employees there is no limit as long as the overtime is approved by the Department head. Any overtime worked but not paid during the year is accumulated as a TOIL liability by the Department.

The accumulation of TOIL for management employees spans over a number of bi-weekly pay periods and is reported to and approved by the Director on a periodic basis. Since TOIL for the unionized employees is accumulated or paid each pay period, it is documented each pay period using an Accrued Overtime Register which is prepared by the supervisor. This form is signed by the supervisor for preparation and for approval by the Director.

Figure 4 shows the ten employees from all of the centres' with the highest amount of TOIL for fiscal 2009, and comparative figures for the same employees for fiscal 2008 as well as the change for the year. The average increase in TOIL for the year for all of the centres was 26.7%. The average increase is net of any amounts paid to employees during fiscal 2009 from accumulated TOIL.

Figure 4

Arts and Culture Centres
Time-Of-in-Lieu (TOIL)
Fiscal Years 2008 and 2009

	2008		2009		Change	
Employee	**Hours**	**Amount**	**Hours**	**Amount**	**Hours**	**Amount**
1	4,929	$ 138,306	5,392	$ 163,370	463	$ 25,064
2	3,071	67,316	3,274	77,496	203	10,180
3	1,121	23,255	1,896	42,476	775	19,221
4	873	24,452	796	24,106	-77	-346
5	982	19,650	1,085	23,436	103	3,786
6	84	2,672	669	23,100	585	20,428
7	651	18,266	693	21,000	42	2,734
8	41	845	487	10,914	446	10,069
9	70	1,447	378	8,467	308	7,020
10	278	5,553	292	6,310	14	757
Other	1,388	34,399	1,043	25,308	-345	-9,091
Total	**13,488**	**$ 336,161**	**16,005**	**$ 425,983**	**2,517**	**$ 89,822**

Source: Public Accounts of Newfoundland and Labrador

Timesheets not approved

Our testing for full-time and part-time employees included an examination of the Accrued Overtime Registers for six pay periods. These forms contain the opening balance, unpaid overtime earned or taken for the period and the ending balance, and are included in the information sent to the payroll processing clerk at the Department of Finance. We found that all of the Accrued Overtime Registers were approved by the Director; however, the timesheets are not included with the payroll documents when presented to the Director for approval. Because the timesheets are not attached to the payroll information for approval, the Director cannot be sure the bi-weekly payroll summary is correct thus making the approval process incomplete.

During our review of the Accrued Overtime Registers we noted one instance where an employee took 28 hours in TOIL but when the employee's accumulated TOIL was reduced, the 28 hours was divided by the 1.5 overtime premium to calculate an 18.5 hour reduction in TOIL rather than the 28 hours required.

Because of the risk of errors, we compared the closing balances in the Accrued Overtime Register for backstage employees as reported on 30 March 2009 to the annual information included in the Department's Public Accounts Submission. We noted that the Department's year end balances were significantly lower than the balance reported on the Accrued Overtime Register as at 30 March 2009. Further investigation of the Accrued Overtime Register with officials at the Department of Finance indicated that this form is not used in accounting for accumulated TOIL. Adjustments to the TOIL are made directly from the information included in the submitted payroll summaries. If the intention of St. John's ACC preparing Accrued Overtime Registers was to keep track of employee TOIL at the centre level, it is not an accurate document for this purpose and would be misleading to management and employees.

4B. Timesheets

Introduction

The attendance details for each St. John's ACC employee are recorded by them using manual timesheet forms. These timesheet forms are then used by the supervisor, to record the hours worked or leave taken, on the payroll summaries to be submitted to the Director for approval and then to the Department of Finance for payroll preparation. The timesheets for the ushers are attached to the payroll summaries while the timesheets for backstage staff are not.

We selected 10 employees at random from the 2009 fiscal year and examined payroll transactions for these employees for 6 pay periods for a potential of 60 pay samples. The 10 employees selected for sampling included:

- 1 Theatre Technician II;
- 3 Theatre Technicians I;
- 4 Theatre Assistants; and
- 2 Ushers.

Of these 10 samples, 4 were full-time employees and 6 were part-time.

Our audit of the payroll for the samples selected included tracing the details of the employee-prepared timesheets to the backstage employee's Bi-Weekly Work Register and Overtime/Shift Differential Reports and the Usher's Part-Time Payroll Detail Sheet used to prepare the payroll. We also added and cross-added all of the payroll documents.

Timesheets not approved

When approving payroll forms, the Director does not review any of the timesheets. Since no other person has been delegated to review the supervisor's calculations and transcription to other payroll documents the likelihood of errors increases. This can have particular significance where supervisors are preparing and calculating the information on the Bi-Weekly Work Register from their own timesheets.

Errors and exceptions in Theatre Technicians and Assistants timesheets

In assessing the impact of payroll errors it should be noted that errors in timesheets or in transcribing timesheet information to the Bi-weekly Work Register would not be detected and corrected by Department of Finance payroll staff when doing their mathematical checks. The Department of Finance payroll staff would only correct addition errors or other mathematical errors in the Bi-Weekly Work Register itself.

Our review of the Bi-Weekly Work Registers and related timesheets for 4 full-time and 4 part-time backstage employees noted the following:

Full-Time Backstage Employees

- In 4 of the 6 payrolls examined for one backstage technician, the employee did not take any lunch break for 33 days while working an average of 9.7 hours for each day. In effect, this employee was paid overtime for the time normally taken as a lunch break. In this case, the employee may not have taken a lunch break; however, this arrangement should have had prior approval. In addition, there was no evidence that the timesheets for these days were examined by the Director and the payroll documents were approved by the Director for only 3 of the 4 pay periods examined.

- For another employee 7.5 hours were added to the TOIL rather than the 8.5 hours actually worked.

- In the case of two other employees there were errors in calculations on the Bi-Weekly Work Register that resulted in the TOIL addition for one employee being understated by one hour and for the other employee TOIL was overstated by one hour.

Part-Time Backstage Employees

- For one backstage part-time employee, there were errors in 2 of 6 payrolls. In one instance the timesheet read 6 hours for one day not the 7 hours included in the Bi-Weekly Work Register. In the other instance, the timesheet read 3.5 hours for one day not the 4.5 hours included in the Bi-Weekly Work Register. This resulted in an overpayment of 2 hours.

- In the case of another part-time employee, the timesheet read 6.5 hours for one day not the 7.5 hours included in the Bi-Weekly Work Register. This resulted in an overpayment of 1 hour.

- In the case of another part-time employee the timesheet read 8.5 hours for one day not the 11.5 hours included in the Bi-Weekly Work Register. This resulted in an overpayment of 3 hours.

Usher timesheet errors and exceptions

During the course of reviewing the six usher payrolls we noted the following:

- In July 2009 there was a shortage of ushers for a performance and an usher not on shift was called in. This employee agreed to come in for 2.5 hours but was paid for the full 4.25 hour shift the same as the ushers who worked the whole shift.

- We noticed during the review of the Usher Part-Time Detail Sheets that employees were being paid for an additional fifteen minutes if they worked as little as five minutes beyond the end of their shift.

When we discussed these two instances with the Front of House Supervisor responsible for the ushers we were informed that this treatment is not specified in the union contract but has developed as a practice over time. No evidence of a written approved policy for this practice was provided.

No time cards

In situations of significant overtime being worked and significant numbers of part-time employees it would be considered good business practice to use time punch clocks to record the attendance of employees. Given the number of timesheet errors noted in our fairly small sample it appears that such devices would be a good investment for the centres.

4C. Approval of Payroll Documents

Backstage full-time employees

Our review of the 26 payrolls for backstage full-time employees showed that the following payrolls and other documents were not approved by the Director:

- Accrued Overtime Registers (9);
- Bi-Weekly Work Registers (9); and
- Of the 18 payrolls containing Overtime and/or Shift Differential reports, 7 were not approved.

Backstage part-time employees

Our review of the 26 payrolls for backstage part-time employees showed that there were 13 Part-Time Payroll Detail Sheets (similar function to the Bi-Weekly Work Register) that were not signed for approval by the Director. We also noted that all payrolls containing Overtime and/or Shift Differential reports were signed for approval.

Ushers

Our review of the 26 payrolls for Ushers showed that 24 of the 26 Part-Time Payroll Detail Sheets were signed for approval by the Director. The two that were not signed by the Director were signed for approval by the Front of House Supervisor for both preparation and for approval.

Recommendations

The Department should:

- evaluate the TOIL reporting process at the St. John's ACC and ensure that employee balances are accurate;
- ensure that all payroll input documents are supported by timesheets that have been approved by management;
- ensure that all payroll input documents are reviewed and approved by management; and
- consider electronic time clocks to record attendance for the many part-time employees and to document the significant overtime hours.

5. Complimentary Tickets

Overview

The Arts and Culture Centres can issue complimentary tickets for performances. Performances fall into two categories: those produced by the centres and those produced by clients who rent the centre for the production. St. John's ACC officials estimate that clients who rent the centre make up in excess of 90% of performances. In the case of productions produced by the centre, the centre receives all of the box office ticket proceeds and incurs all production costs. For those productions produced by clients who rent the centre, financial and other arrangements such as the issuance of complimentary tickets are covered in contracts negotiated between the client and the applicable centre. In these instances, while most of the complimentary tickets are requested by the client, there is a standard clause in their rental contracts requiring that 2% (ie. approximately 20 seats in the St. John's ACC) of the theatre capacity be made available to the centre for their purposes.

The guidance and authority for the approval and issuance of complimentary tickets is included in a policy document from the Department dated 1995. This document addresses complimentary tickets issued in relation to centre produced performances and the "2% of capacity" tickets provided for in rental contracts with clients. The policy indentifies the situations and persons who are to receive complimentary tickets and the officials designated to authorize them.

The results from our review of the complimentary ticket policy and the systems in place at the St. John's ACC are contained under the following sections:

A. Compliance with Policy
B. Monitoring

5A. Compliance with Policy

Introduction

In accordance with the complimentary ticket policy, tickets may be issued:

- to working press, reviewers and columnists;
- in recognition of funds donated and articles lent;
- to Corporate sponsors;

- in a *"judicious manner in order to make small audiences more respectable in size, and provide feedback to performers"*;
- in lieu of time and service donated to the centres by ACC Consultative Committees as appreciation for time and service donated to the centres;
- for purposes of general public relations;
- for media "give-a-ways";
- to cast members; and
- to V.I.P.'s and special dignitaries.

Complimentary tickets are also available at the request of the Department and St. John's ACC executives for all centre produced performances.

The respective managers of each centre outside St. John's and the Director of Arts and Culture Centres are designated to authorize all complimentary tickets and these approvals are to be documented through the use of Complimentary Ticket Vouchers (CTVs).

Complimentary ticket policy not always followed

Our review of the system in place at the St. John's ACC to authorize complimentary tickets indicated the following:

- Contrary to Department policy, in the St. John's ACC, authority to approve complimentary tickets has been delegated to the Manager of Programming and Promotion in certain cases;
- St. John's ACC employees receive complimentary tickets; however, employees are not specifically identified in the policy;
- Complimentary ticket vouchers can be prepared by three employees. The voucher would then be approved by the Director; however, we found instances where the Director approved the voucher after the box office had issued the tickets; and
- Box office officials prepare CTVs and issue complimentary tickets at the request of rental clients prior to approval by the Director.

5B. Monitoring

Limited monitoring of complimentary tickets

Based on discussions with St. John's ACC officials during the review of the systems in place to monitor the issuance of complimentary tickets we noted the following:

- While the policy provides direction as to who is to receive complimentary tickets; there is no system in place to monitor who actually uses the tickets and whether these patrons are included in those listed in the Departmental policy;

- There are no statistics kept of all complimentary tickets issued for management review and monitoring. Reports of complimentary tickets by performance can be printed from the ticketing system; however, these are only prepared occasionally and do not provide a complete overview of the complimentary tickets issued from the system; and

- Although the cost of complimentary tickets is determined by the system and deducted from the total proceeds in computing net cash proceeds and sales, the cost is not recorded in the accounting records at the St. John's ACC.

Inadequate voucher files

We reviewed 4 performance days for a rental client and one performance day for a centre produced production. We attempted to match the complimentary tickets deducted in balancing the cash to the CTVs authorizing the issuance of the tickets. In order to locate the vouchers, the box office supervisor provided a House Report for Main report from the ticketing system. These reports include information on the complimentary tickets issued for all of the performances including the ticket order number from the ticketing system, the CTV numbers, the seat numbers and the value of the tickets. A review of these reports indicated the following related to the rental client:

- Of the 368 complimentary tickets issued over the 4 days, 314 were requested by the rental client for their own distribution, 50 were issued to St. John's ACC staff and 4 were issued to Department staff. The patrons who actually occupied the seats were not noted on the "House Report for Main" report, rather a list of patrons was attached to the CTV;

- The "House Report for Main" report for the first performance day listed two tickets for a student that did not have a CTV noted beside their name. Neither of the three CTVs making up the complimentary tickets for this day contained the seat numbers for this patron; and

- The St. John's ACC box office copy of the CTV is not filed in an accessible manner that provides for an adequate management trail.

Recommendations

The Department should:

- ensure that complimentary ticket policy is adhered to;

- develop systems to improve monitoring of the issuance of complimentary tickets; and

- improve systems for filing documentation supporting the issuance of complimentary tickets.

Department's Response

The St. John's Arts and Culture Centre was originally established in 1967 by an Order in Council. In 1971, with the establishment of other regional Centres, a Division of Cultural Affairs was established within the Department of Provincial Affairs. In subsequent years, the name of the Department changed several times. In 1999 it became the Arts and Culture Centres Division, a line of business in the Department of Tourism, Culture and Recreation.

1. ***Financial Accounting, Reporting and Monitoring***

Recommendations:

The Department should:

- *provide dedicated professional accounting resources to evaluate the existing accounting systems and guide the development of an integrated accounting system with appropriate financial reports by centre; and*
- *provide the direction, expertise and resources required to develop and document policies and procedures to guide the operations at the centres.*

Response:

The Department recognizes the issues outlined by the Auditor General. The Department will evaluate the current process to determine an appropriate course of action which will mitigate concerns and also meet the expectations of the clients of the Arts and Culture Centre (ACC).

The Department of Tourism, Culture and Recreation concurs with the recommendation of the Auditor General on the need for written policies and procedures and will undertake policy development and implementation.

2. *Revenues and Cash Receipts*

Recommendations:

The Department should:

- *assist ACC management or provide professional resources to evaluate existing internal controls and make recommendations for improvements; and*
- *assist ACC officials in evaluating where the system went wrong as it relates to unrecorded funds with a view to ensuring adequate controls are in place.*

Response

The Department will work with the ACC to provide the necessary expertise to evaluate internal controls with the view to providing recommendations for improvements.

The Department will assist ACC to determine the deficiencies in controls during the period 2000 to 2005 and to ensure adequate procedures are in place for the future.

3. Purchasing and Payments

Recommendation:

The Department should:

- *ensure that all cheques issued from the St. John's ACC's own bank account are properly supported, reviewed and approved.*

Response:

The Department concurs and will ensure that cheques issued are properly supported, reviewed and approved.

4. Salaries and Wages

Recommendations:

The Department should:

- *evaluate the time-off-in-lieu (TOIL) reporting process at the St. John's ACC and ensure that employee balances are accurate;*
- *ensure that all payroll input documents are supported by timesheets that have been approved by management;*
- *ensure that all payroll input documents are reviewed and approved by management; and*
- *consider electronic time clocks to record attendance for the many part-time employees and to document the significant overtime hours.*

Response

The Department agrees to evaluate the TOIL process to ensure employee balances are accurate.

The Department agrees to ensure payroll input documents are supported by timesheets and that timesheets and payroll input documents are reviewed and approved by management.

The Department will investigate the feasibility and practical implications of the implementation of a time clock system.

5. Complimentary Tickets

Recommendations:

The Department should:

- *ensure that complimentary ticket policy is adhered to;*
- *develop systems to improve monitoring of the issuance of complimentary tickets; and*
- *improve systems for filing documentation supporting the issuance of complimentary tickets.*

Response

In excess of 90% of performance activity at Arts and Culture Centres is through third-party client rentals, i.e., the facilities are rented by community producers. Their contracts require payment to ACC for rental facility costs and human resource expenses. The clients receive all revenues and have the right to decide on ticket prices and the distribution of tickets. They routinely distribute complimentary tickets to sponsors, show participants, and any others who they feel have made a contribution to the production or who will promote the success of the show. ACC does not reserve the right to determine the nature or number of the recipients, nor to stipulate that entertainment tickets not be transferable.

In the cases where ACC receives 2% of tickets related to client productions, or in the distribution of tickets for its own presentations, current complimentary ticket issuing and monitoring practices serve the needs of ACCs and its clients and are subject to effective guidelines and controls.

The Department recognizes that existing written policy is outdated and amendments will be made to reflect changed levels of activity by the Centres.

The Department will develop systems to improve monitoring of the issuance of complimentary tickets.

The Department will ensure that the system for the filing of documentation for tickets distributed will be improved.

PART 2.15

DEPARTMENT OF TRANSPORTATION AND WORKS

FERRY SERVICES

Executive Summary

The Department of Transportation and Works (the Department), through its Marine Transportation Services Branch (Branch) is responsible for the provision, maintenance and management of 16 Provincial ferry services for marine operations throughout the Province. The Department uses 18 vessels - 10 Government-owned (8 Government operated and 2 contractor operated) and 8 contractor-owned and operated – in the provision of these 16 routes. Three of the 18 vessels are designated as swing vessels which are used as back-up as circumstances require. Thirteen of these vessels service the Island portion of the Province while the remaining 5 vessels service Labrador.

We identified significant weaknesses in the planning and monitoring of Government's ferry services. In particular, we identified that there was no comprehensive long-term plan for ferry services, aging vessels were currently in use, contractor-owned vessels were not inspected by the Department, owner-operator contracts were not adequately monitored, operating costs were increasing and there were instances of non-compliance with the *Public Tender Act* and the *Financial Administration Act*. Details are as follows:

Aging Vessels

The average age of the 18 vessels is 34 years. The average age of the 10 Government-owned vessels is 30 years, while the average age of the 8 contracted vessels is 39 years. A consultant hired by Government concluded that vessels more than 25 to 30 years of age are typically unreliable and expensive to maintain. At 31 March 2009, 12 of the 18 (67%) vessels in service throughout the Province were older than 30 years. Of these 12 vessels, 5 were Government-owned while 7 were contractor-owned.

Increasing Costs

While the cost of purchased services (e.g. contract costs) and supplies (e.g. fuel) relating to contractor-owned vessels have increased by 7% from $15.8 million in 2007 to $16.9 million in 2009, the cost of purchased services (e.g. maintenance and vessel refit) and supplies (e.g. fuel) relating to Government-owned vessels have increased by 43% during the same period. In 2007, costs relating to Government-owned vessels totalled $15.8 million and increased by $6.8 million to $22.6 million in 2009.

Planning

Island Portion of the Province

Although Department officials indicated that strategy alternatives had been presented to Cabinet, they did not provide evidence of a long-term comprehensive plan for ferry services which would include an analysis and conclusion as to which model (i.e. Government-owned and/or contractor-owned) would be most suitable for each ferry route in the Province and program cost information for whichever model was to be selected. Given the significant cost of ferry operations in the Province, this is important for developing future budgets.

The Department also did not provide evidence that it has undertaken the analysis as directed by Cabinet in 2006 *"…to undertake a thorough analysis of both private and public sector operation models, and report back to Cabinet for further direction."* Although submissions were received and public consultations were held, the Department did not provide evidence of analysis of the results of this information in order to determine whether the private sector contractor model and/or whether the Government-owned and operated model was preferred.

As a result, the Department could not demonstrate why it called tenders in April 2009 for owner-operator contractors to operate all five ferry services on the South Coast for a 10 year period with an option to renew for five additional years. We identified that:

- although the Department gathered information on traffic patterns, it only used this information to determine vessel size and has not used the information to forecast future ferry service requirements.

- the Department had not performed any cost-benefit analysis for either individual ferry service routes or to support which ferry service model would be most appropriate.

- the Department indicated that it chose to re-tender the existing private sector services because it was what the public preferred. Our review of documentation on file indicated that the public were also of the view that there should be changes to the existing services such as to include vehicle capacity and schedule changes. These changes were not included in the tender document.

Labrador

In 2005, Government committed to developing a plan for ferry operations for Labrador. In April 2007, the Northern Strategic Plan was released and covered the five fiscal years from 2008 to 2012. One of the objectives of this plan was "*…to evaluate options for the provision of two new ferries for the Labrador Straits ferry route, that would provide year-round service, pending ice conditions.*"

The Department did not provide evidence of an evaluation of the options for the replacement of two vessels for Labrador. Such an evaluation is particularly important given the age of the vessels and the sea conditions in which they operate. The *M/V Apollo*, currently contracted with an owner-operator, runs on the Labrador Straits ferry route and is 39 years old, well beyond what the consultants considered to be reliable.

There was no Departmental plan to consider any of the ferry services in Labrador. Such a plan is particularly important given the age of the vessels, the sea conditions in which they operate, the potential for increased passenger traffic given the new Trans-Labrador Highway, and increasing costs associated with some of the runs. For example, we found that costs relating to operating the *M/V Sir Robert Bond* went from $4.9 million in 2007 to $8.4 million in 2009, an increase of $3.5 million or 70%. The two Government-owned vessels operating in Labrador experienced the highest increase in costs from 2007 to 2009 of all the Government-owned vessels.

It was noted that the average age of the five vessels operating in Labrador is quite high at 31 years old. The two Government-owned vessels are aged 34 and 23 years old, while the three contractor-owned vessels are aged 39, 38 and 23 years old.

In April 2009, the Department called tenders for a contractor-owned vessel to operate a ferry service in Labrador for a 10 year period with an option to renew for five additional years. However, there was no information on file to show that all options had been considered and that the contractor-owned vessel was the optimal arrangement.

Contract Management

We identified issues with how the Department monitored owner-operator contracts. In particular:

- regular physical inspections of vessels were not performed to determine whether the vessels were in compliance with the requirements of the contract; and

- regular audits of contractors' financial records were not performed.

Furthermore, we identified that:

- Transport Canada inspects all vessels annually; however, the Department's consultant indicated that *"Transport Canada considers compliance with its regulations and standards to be necessary but not sufficient to provide for safe operation."* Operators should develop safety standards in addition to that of Transport Canada.

  However, the Department did not perform any inspections to determine whether safety standards beyond the standards set by Transport Canada had been developed to decrease the risk of having unsafe vessels in operation. Contracts did not include a provision to allow the Department to conduct safety inspections.

  Furthermore, safety management standards, similar to standards developed by the Department in 2009-10, for Government-owned vessels, were not developed for contracted vessels.

- a risk management plan had not been developed to address the potential areas of non-compliance; and

- policies and procedures to guide Departmental officials in conducting compliance and monitoring work were not developed.

Compliance with Legislation

Public Tender Act

The Department contravened the *Public Tender Act* by entering into two separate contracts totalling approximately $2.8 million without calling public tenders. The contracts related to the advance ordering of a propulsion system for a third vessel (Cabinet had approved the design and construction of two other vessels in September 2006). Circumstances around these contraventions were as follows:

- on 13 August 2008, the Department entered into a contract for the purchase of equipment including 2 stern thrusters and 2 propellers. The total cost of the contract was $1,605,500.

- on 6 October 2008, the Department entered into a contract for the purchase of main machinery including 2 engines, 2 generators and a bow thruster. The total cost of the contract was $1,227,717.

In both instances a "Form B" was filed with the Government Purchasing Agency indicating the construction of the vessel was exempt from provisions of a public tender call for economic development purposes as approved by Cabinet. However, our review indicated that Cabinet did not provide authority for exemption from a public tender call for economic development purposes. Cabinet approval for exemption was only provided for the initial two vessels.

Financial Administration Act

The Department contravened the *Financial Administration Act* when, in 11 instances totalling approximately $1,082,000, it ordered goods and services without encumbering funds. Contrary to sound financial management practices, purchase orders were prepared after the date of the related invoices.

Background

Overview

The Department of Transportation and Works (the Department) is responsible for the administration, supervision, control, regulation and management of all matters relating to transportation and public works in the Province.

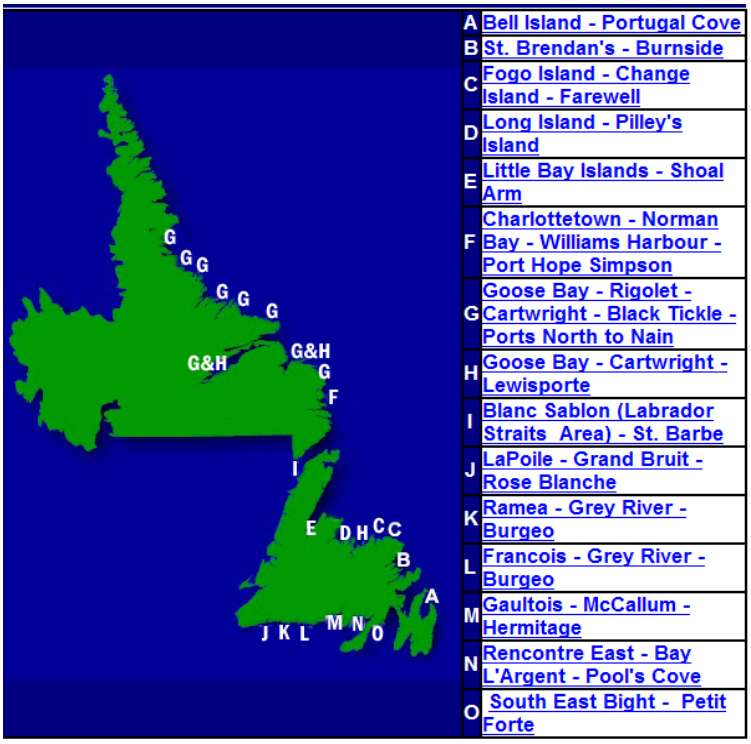
The Department's Marine Transportation Services Branch (the Branch) has three divisions:

- Maintenance and Engineering;
- Vessel Replacement; and
- Ferry Operations

The Branch is responsible for the provision, maintenance and management of 16 Provincial ferry services for marine operations throughout the Province. Fifteen of the 16 routes are passenger ferries and 1 route is for freight only service along the coast of Labrador. Figure 1 shows the 15 passenger ferry routes for the Island portion of the Province and for Labrador.

Figure 1

Department of Transportation and Works
Ferry Service Routes
31 March 2009



Source: Department of Transportation and Works

The Department uses 18 vessels – 10 Government-owned (8 Government operated and 2 contractor operated) and 8 contractor-owned and operated – in the provision of these 16 routes. Three of the 18 vessels are designated as swing vessels which are used as back-up as circumstances require.

Thirteen of these vessels service the Island portion of the Province while the remaining 5 vessels service Labrador. Figure 2 shows the vessels in use, the areas of the Province that they service, whether they are Government-owned or contracted and their age.

Figure 2

Department of Transportation and Works
Vessels Servicing the Province
As at 31 March 2009

Vessel	Contractor-Owned (C) or Government-Owned (G)	Age	Area Where Service Provided
Island Portion of the Province			
Hamilton Sound	G	41	Swing vessel servicing St. Brendan's
Sound of Islay	G	41	Swing Vessel servicing Little Bay Islands
Capt. Earl W. Winsor	G	37	Fogo Island, Change Islands
Island Joiner	G	36	Long Island, Pelley's Island
Beaumont Hamel	G	24	Portugal Cove, Bell Island
Nonia	G	23	Swing vessel
Gallipoli	G	23	Ramea, Grey River, Burgeo
Flanders	G	19	Portugal Cove, Bell Island
Terra Nova	C	47	Gaultois, McCallum, Hermitage
Marine Voyager	C	45	Francois, Grey River, Burgeo
Northern Seal	C	43	Rencontre East, Bay L'Argent, Pool's Cove
Winchester	C	40	South East Bight, Petite Forte
Challenge One	C	35	La Poile, Grand Bruit, Rose Blanche
Labrador			
Sir Robert Bond*	G	34	Goose Bay, Cartwright, Lewisporte
Northern Ranger*	G	23	Goose Bay, Rigolet, Cartwright, Black Tickle, all ports north to Nain
Apollo	C	39	Blanc Sablon, St. Barbe
Astron	C	38	Cartwright, all ports north to Nain - Freight Service
Marine Eagle	C	23	Charlottetown, Port Hope Simpson, Williams Hr, Norman Bay

*Government-owned and contractor operated
Source: Department of Transportation and Works

The average age of the 18 vessels is 34 years. The average age of the 10 Government-owned vessels is 30 years, while the average age of the 8 contracted vessels is 39 years.

Figure 3 shows the costs of marine operations for the fiscal years 2007 to 2009 and shows that costs were approximately $81 million in 2009.

Figure 3

Department of Transportation and Works
Marine Services Expenditure
Fiscal Years 2007 through to 2009
($000's)

	2009					2008	2007
Expenditure	**Ferry Operations Island**	**Ferry Operations Coastal Labrador**	**Ferry Vessels**	**Other***	**Total**	**Total**	**Total**
Salaries	$13,675	$ -	$ -	$1,435	$15,110	$13,387	$12,275
Transportation & Communications	366	1,295	-	199	1,860	1,567	1,158
Supplies	8,518	9,467	-	100	18,085	14,466	13,761
Professional Services	-	-	393	32	425	563	353
Purchased Services	15,124	18,684	24	2,408	36,240	32,582	30,383
Property, Furnishings and Equipment	-	-	9,029	9	9,038	48	374
Allowance and Assistance	9	-	-	-	9	50	8
Total Marine Services	**$37,692**	**$29,446**	**$9,446**	**$4,183**	**$80,767**	**$62,663**	**$58,312**

Source: Public Accounts of the Province of Newfoundland and Labrador
* Includes cost of operating ferry terminals and general administration expenses.

2003 Report

In 2003, we completed a review of ferry operations. At that time, Departmental officials informed us that the normal life expectancy of a vessel was approximately 25 years. At 31 March 2003, 7 of the Province's 12 vessels were more than 25 years old, the average age of all 12 vessels was 26.4 years and ranged from 13 years to 40 years.

The Department also indicated that it had developed a four phase plan to replace 5 of the Province's older vessels; however, no cost or time frame had been established.

We also found that the Department contravened the *Public Tender Act* by awarding three contracts valued at $12.2 million without a public tender call.

Each of these contracts were extensions of existing contracts. Furthermore, these exceptions were not reported to the House of Assembly as required under the *Act*.

Audit Objectives and Scope

Audit objectives

The objective of our review was to assess whether management practices and controls relating to ferry services at the Department were adequate. Our review focused on vessel replacement, contracted ferry service operations and purchasing compliance with legislation.

Audit scope

Our review included an examination of the Marine Transportation Services Branch at the Department and covered the period 1 April 2008 to 31 March 2009. The review included interviews with key personnel within the Department and compliance testing in various areas. We completed our review in December 2009.

Detailed Observations

Findings from our review are reported in the following sections:

1. Vessel Replacement
2. Contract Management- Contractor-Owned Vessels
3. Legislative Compliance
4. Other Findings

1. Vessel Replacement

Four phase plan not implemented

In 2003, we completed a review of ferry operations. At that time, Departmental officials informed us that the normal life expectancy of a vessel was approximately 25 years and it had developed the following four phase plan to replace 5 of the Province's older vessels; however, no cost or time frame had been established.

- Phase 1- Hamilton Sound
- Phase 2- Island Joiner and Inch Arran
- Phase 3- Green Bay Transport
- Phase 4- Sound of Islay

Since 2003, the Green Bay Transport and Inch Arran have been decommissioned. The Hamilton Sound, Island Joiner and Sound of Islay are still in operation. None of these five vessels have been replaced.

Officials informed us that the Department is now planning to construct four vessels instead of five vessels by 2012.

The 4 vessels will include 3 medium size vessels that have a 16 vehicle capacity and one larger vessel that will have a 60 vehicle capacity. The Department indicated that the 3 medium size vessels are expected to cost $25 million each and the larger vessel is expected to cost about $75 million.

The first two medium size vessels are currently under construction at Marystown Shipyard. The anticipated delivery dates for the first two vessels are July 2010 and October 2010. The third and fourth vessels are anticipated to be built in 2011 and 2012, respectively as indicated in Figure 4.

The first two vessels are to be deployed to St. Brendan's and Little Bay Islands-Long Island. Officials indicated that no commitment would be given to construct Vessel #3 and Vessel #4 at a local shipyard until the performance of Vessels #1 and #2 are evaluated.

Figure 4

Department of Transportation and Works
Vessels Scheduled to be Replaced
As at 31 March 2009

Vessel to be Replaced	Age	Anticipated Delivery Date	Area Served
Hamilton Sound	41	2010	Swing vessel servicing St. Brendan's
Island Joiner	36	2010	Long Island, Pelley's Island
Sound of Islay	41	2011	Swing Vessel servicing Little Bay Islands
Capt. Earl W. Winsor	37	2012	Fogo Island, Change Islands

Source: Department of Transportation and Works

In 2005, the Department hired a consultant to evaluate ferry services on the Island portion of the Province "*…to conduct an analysis of various aspects of a vessel replacement strategy for the ferry services around the Island of Newfoundland.*" The work was completed in March 2006 and included a review of ferry services operated by the Province and those provided under contract. The recommendations of the report were to be used by the Department to assist in the development of a vessel replacement strategy.

Findings

Based on our review, we identified issues in the following areas:

1A. Planning
1B. Traffic Reports
1C. Vessel Replacement on the South Coast of Newfoundland
1D. Analysis

1A. Planning

In reviewing the Department's management practices over ferry services we would expect:

- a long-term comprehensive plan for ferry services for the entire Province which would address:
  - Government-owned vessels and contractor-owned vessels servicing the island portion of the Province; and
  - Government-owned vessels and contractor-owned vessels servicing Labrador.
- the implementation of a long-term comprehensive plan to be guided by a divisional operating plan; and
- Department, branch and divisional plans to be in place containing goals, objectives, measures and indicators for the goals and objectives, actions necessary and reporting requirements.

No comprehensive plan

Vessel replacement planning is inadequate in that it is, primarily, reactive and poorly documented. Our review indicated:

- Although Department officials indicated that strategy alternatives had been presented to Cabinet, they did not provide evidence of a long-term comprehensive plan. In May 2008, Cabinet received a presentation from the Department respecting a Vessel Replacement Strategy. The Strategy was amended to provide for the construction of four, instead of five vessels, over approximately the next five years; however, the Department has not provided us with a copy of the Strategy.
- The Department provided us with a copy of its Vessel and Operations Plan. We were informed that this plan is updated on a regular basis and reported on monthly at the Directors meeting with the Assistant Deputy Minister. This plan provided information on planned maintenance and vessel refits; however, it did not contain goals, objectives, related measures or indicators, actions necessary and reporting requirements for vessel replacement.

In its March 2006 report, a consultant recommended that Government should take immediate steps to phase out a number of the existing Government-owned ferries and should consider replacement of the privately owned South Coast vessels in the overall plan. The consultant indicated that vessels more than 25-30 years old are typically unreliable and expensive to maintain. International and Canadian statistics also show that they are more likely to be involved in accidents, and the consequences of such accidents are more likely to be serious.

At 31 March 2009, 12 of the 18 (67%) vessels in service throughout the Province were older than 30 years. Of these 12 vessels, 5 were Government-owned while 7 were contractor-owned.

Island portion of the Province

It can be seen from the Figure 5 that the majority of the vessels providing Provincial ferry services for the island portion of Newfoundland are old. Only 4 of the 13 vessels are newer than 25 years and 2 of these 4 will be 25 years old in just 2 years.

Figure 5

Department of Transportation and Works
Age of Vessels Servicing the Island Portion of Province
As at 31 March 2009

Government-Owned Vessels	Age	Contractor-Owned Vessels	Age	Contract Expiry Date
Hamilton Sound	41	Terra Nova	47	31 December 2010
Sound of Islay	41	Marine Voyager	45	14 December 2010
Capt. Earl W.Winsor	37	Northern Seal	43	14 June 2010
Island Joiner	36	Winchester	40	31 March 2010
Beaumont Hamel	24	Challenge One	35	14 June 2010
Nonia	23			
Gallipoli	23			
Flanders	19			

Source: Department of Transportation and Works

Government-owned vessels servicing island

As Figure 5 indicates, 4 of the 8 Government-owned vessels servicing the island portion of the Province are well over 30 years old. The Department expects to replace four vessels by 2012; however, the vessels not being replaced by the new builds will be 3 years older and will need to be considered for replacement. There is no plan in place to address the remaining Government-owned vessels servicing the island.

Contractor-owned vessels servicing island

As Figure 5 also indicates, all contractor-owned vessels servicing the island portion of the Province are over 30 years of age with 4 of the 5 vessels being 40 years old or older. These vessels are expected to have similar age-related problems to those of the Government-owned fleet.

The consultant indicated that new vessels would be required on the South Coast once the current contracts relating to the 5 vessels come to an end in 2010 and it would take several years to bring new vessels into service. Any delays would increase the period over which older and inefficient ferries will incur increasing cost to remain serviceable.

Figure 5 also shows that the current contracts with owner-operators servicing the South Coast of the Province all expire in 2010. We were informed that the Department called tenders in April 2009. The tenders relate to the 5 vessels that currently serve the South Coast. The tenders stipulate that the new ferries are to be no older than 15 years and that the contracts will be 10 years in duration with a possible extension of 5 years.

Although, these contracts have gone to tender, there is no comprehensive plan in place addressing the replacement of contractor-owned vessels servicing the Island portion of the Province.

Labrador

The Department has 5 vessels servicing Labrador. Three of these vessels are contractor-owned and 2 are Government-owned. As Figure 6 indicates, 3 of these vessels are over 30 years old.

Figure 6

Department of Transportation and Works
Age of Vessels Servicing Labrador
As at 31 March 2009

Government-Owned Vessels	Age	Contractor-Owned Vessels	Age	Contract Expiry Date
Sir Robert Bond*	34	Apollo	39	15 January 2011
Northern Ranger*	23	Astron	38	26 November 2010
		Marine Eagle	23	30 November 2010

*Government-owned and contractor operated
Source: Department of Transportation and Works

Northern Strategic Plan

In 2005, Government committed to developing a Northern Strategic Plan for Labrador. In April, 2007 the Plan was released, highlighting a number of goals for Labrador over the next five years to 2012. One objective of the Plan was to evaluate options for the provision of two new ferries for the Labrador Straits ferry route.

The Department could not demonstrate that a thorough evaluation of vessel replacement options was completed and incorporated into a long-term comprehensive plan for marine services to Labrador.

The Department has taken a step to address the replacement of one contractor-owned vessel in Labrador (The Marine Eagle) by calling a tender in April 2009 for the ferry service in William's Harbour, Labrador. As Figure 6 indicates, the current contract expires in November 2010. The Department does not have a documented plan in place addressing the replacement of the remaining two contractor-owned vessels which are over 35 years old. Also, it does not have an approved, documented plan in place addressing the replacement of its own two vessels which are aging and becoming increasingly more costly to operate and maintain.

Vessel operating costs

Government-owned vessels

Figure 7 shows the cost of supplies (e.g. fuel) and purchased services (e.g. maintenance and vessel refit) for each of the Government-owned vessels. These costs increased by 43% from 2007 to 2009. In 2007, these costs totalled $15.8 million and increased by $6.8 million to $22.6 million in 2009.

Figure 7

Department of Transportation and Works
Costs of Supplies and Purchase Services for Government-Owned Vessels Servicing the Province
Fiscal Years 2007 through to 2009
($000's)

Vessel	2007	2008	2009
Northern Ranger	$ 4,066	$ 4,443	$ 6,066
Sir Robert Bond	4,910	6,324	8,354
Hamilton Sound	366	474	449
Sound of Islay	470	110	485
Capt. Earl W. Winsor	1,807	1,691	2,182
Island Joiner	159	224	233
Beaumont Hamel	1,113	1,390	1,547
Nonia	713	1,178	719
Gallipoli	852	1,229	750
Flanders	1,381	1,347	1,771
Total	**$15,837**	**$18,410**	**$22,556**

Source: Department of Transportation and Works

As Figure 7 shows, the total cost of supplies and purchased services for the Northern Ranger increased from $4.1 million in 2007 to $6.1 in 2009, an increase of $2.0 million (49%) over three years.

Figure 7 also shows the total cost of supplies and purchased services for the Sir Robert Bond increased from $4.9 million in 2007 to $8.4 in 2009, an increase of $3.5 million (70%) over three years.

Despite the evidence of escalating costs, there is no documented plan to replace these two aging vessels that are becoming increasingly more costly to operate and maintain.

Contractor-owned vessels

Figure 8 shows the cost of supplies (e.g. fuel) and purchased services (e.g. contract costs) for each of the contractor-owned vessels. These costs increased by 7% from 2007 to 2009. In 2007, these costs totalled $15.8 million and increased by $1.1 million to $16.9 million in 2009.

Figure 8

Department of Transportation and Works
Costs of Supplies and Purchased Services for Contractor-Owned Vessels Servicing the Province
Fiscal Years 2007 through to 2009
($000's)

Vessel	2007	2008	2009
Terra Nova	$ 1,077	$ 994	$ 1,127
Marine Voyager	1,073	1,080	1,060
Northern Seal	990	969	1,064
Winchester	726	785	762
Challenge One	895	921	1,033
Apollo	7,545	7,842	7,911
Astron	2,978	2,661	3,401
Marine Eagle	510	521	578
Total	**$15,794**	**$15,773**	**$16,936**

Source: Department of Transportation and Works

1B. Traffic Reports

No evidence of long-range traffic forecasts

We were informed that the Department is currently collecting daily marine traffic reports on all Government-owned and operated services as well as the various contracted services. This data is being entered and stored in a database managed by the Department.

To facilitate vessel replacement planning, we would expect the Department to conduct a long-range traffic forecast for all marine services on both the Island portion of the Province and Labrador to help determine the size of replacement vessels needed.

Traffic forecasting is an essential component of a comprehensive vessel replacement plan because it helps determine the most appropriate size vessel to accommodate expected passenger and vehicle traffic and it helps to develop an appropriate daily sailing schedule. Although the Department gathered information on traffic patterns, it only used this information to determine vessel size and has not used the information to forecast future ferry service requirements.

The Department could not provide documentation demonstrating that long-range traffic forecasts were being used to develop a comprehensive, long-term plan for vessel replacement.

1C. Vessel Replacement on the South Coast of Newfoundland

In-depth analysis not completed

In March 2007, the Department released the Island Vessel Replacement Consultation Document to encourage thought and feedback regarding the consultant report. The input that the Department received was to assist Government to determine the most appropriate ferry service to effectively meet the needs of the users throughout the island.

This document summarized some of the recommendations put forth by the consultant and invited feedback from the user of the services.

In the consultant's report, there were a number of recommendations made relating to the improvement of service delivery on the South Coast of Newfoundland including:

- a new configuration be put in place to reduce the three vessels down to two and provide enhanced service to some communities, while maintaining the level of service at others. This may potentially lead to increases in tourism in these communities.

- a more in-depth analysis would be needed to be carried out to determine the extent to which this change in schedule would affect service.

The Department plans to continue with the same service on the South Coast as it has offered in the past. Tenders were called in April 2009 for all five services on the South Coast with the same schedule and service delivery points as currently exist.

The Department indicated that it chose to re-tender the existing private sector services because it was what the public preferred. Our review of documentation on file indicated that the public also indicated that there should be changes to the existing services such as to include vehicle capacity and schedule changes. These changes were not included in the tender document. In addition, there was no evidence that the Department carried out an in-depth analysis to consider such things as costs, infrastructure requirements, service quality, and impact on areas of economic development.

1D. Analysis

Expected costs, funding needs and Government priorities and risks not identified

We would expect that costs, funding needs, Government priorities and risks for all vessel replacement be identified and reflected in a vessel replacement plan. This should include cost-benefit analysis and cost feasibility studies to determine the specific requirements and costs of a vessel replacement.

In September 2006, Cabinet directed the Department *"…to undertake a thorough analysis of both private and public sector operation models, and report back to Cabinet for further direction."*

Our review indicated that the Department did not undertake the analysis as directed by Cabinet. Expected costs, funding needs, Government priorities and risks for all vessel replacement have not been identified. Although submissions were received and public consultations were held, the Department did not analyze the results of this information in order to determine whether the private sector operation model and/or whether the Government-owned and operated model was preferred.

Our review indicated that expected costs, funding needs, Government priorities and risks for all vessel replacement have not been identified. A cost-benefit analysis and cost feasibility studies to determine the specific requirements and costs of a vessel replacement have not been completed.

Recommendations

The Department should ensure that:

- a comprehensive vessel replacement plan is developed and in effect;
- traffic reports on traffic levels are used in developing long range traffic forecasts necessary for vessel replacement planning; and
- cost-benefit analysis, funding needs, Government priorities and risks for all vessel replacement be identified and included in vessel replacement planning.

2. Contract Management – Contractor-Owned Vessels

Overview

The Department is responsible for the provision and management of eight contractor-owned vessels. The Department has entered into ferry service contracts with all eight of these private contractors.

We would expect that an effective contract compliance program be in place to determine whether all services provided by private operators are in compliance with Departmental policy and procedure and with the terms and conditions of their respective contracts.

We would expect to find:

- a risk management plan in place to address the potential areas of non-compliance;
- monitoring, through inspection, the performance of contractors operating contractor-owned vessels and the compliance with safety standards for privately owned vessels;
- monitoring, through audit, the records of owner-operators in relation to the contracts;
- compliance with contract renewal requirements as defined in their respective agreements; and
- well documented policies and procedures relating to contract compliance and monitoring of contractors operating privately-owned vessels.

Observations

Based on our review, we identified issues in the following areas:

2A. Risk Management
2B. Inspection
2C. Audit
2D. Contract Renewal
2E. Contract Management Policy and Procedure

2A. Risk Management

No risk management plan for private service contracts

To help ensure good contract management, we would expect to see a risk management plan in place for the management of owner-operator contracts.

The risk management plan should identify potential areas of compliance vulnerability and risks and action plans in place to mitigate the risks. For example, these risks may include non-compliance with safety standards, improper record keeping, non compliance with terms of the contract and inadequate contract monitoring and reporting.

Our review indicated that there was no risk management plan in place.

2B. Inspection

Department not inspecting vessels of private contractors

In the current contracts for owner-operators, there is a provision that allows the Department to inspect the contractor's work at any time. An inspection could involve a number of areas, some of which include, but are not limited to, ensuring that the vessel has the following: a designated medi-vac area, washrooms that are well vented and adequately serviced, a separate area for the safe carriage of pets, and well maintained passenger areas.

We would expect the Department to perform regular physical inspections to determine whether vessels were in compliance with the requirements of the contract. In addition, owner-operator contracts should include a provision to allow the Department to conduct safety inspections.

Departmental officials indicated that Transport Canada performs annual inspections of vessels. However, the Department's consultant indicated that *"Transport Canada considers compliance with its regulations and standards to be necessary but not sufficient to provide for safe operation."* The ultimate responsibility for safety rests with the Department which should take proper account of the nature of the service in establishing safety standards. The consultant also indicated that *"under the current* Canada Shipping Act *(CSA) many older vessels are 'grandfathered'; i.e. they are exempted from current requirements, and are still certified against standards that would no longer be accepted for new vessels."*

Most contractor-owned vessels are over 40 years of age. The lack of safety standards, beyond the standards set by Transport Canada, increases the risk of having unsafe vessels in operation.

Our review indicated that:

- contractor-owned vessels had not been inspected by the Department from the start of the contracts to 31 March 2009;
- the Department had not established safety management standards, similar to standards developed by the Department in 2009-10, for contractor-owned vessels; and
- there was no requirement in the contracts that owner-operators establish safety management standards.

The lack of adequate vessel inspections by the Department and lack of established safety management standards increases the risk of having unsafe vessels in operation.

2C. Audit

Department not auditing the records of private contractors

The contractor is responsible for the collection of revenues for passengers and freight. All revenues from the operation of the ferry service are to be remitted to the Department. The contractor is also required to prepare and submit monthly operating reports to support expenditure claims.

In the current contracts for private service operators, there is a provision that allows the Department to audit the records of the contractor in relation to the contract, at any time.

Our review indicated that the Department did not perform any audits during the contract periods of all eight private service contracts. The contracts ranged from 2 to 3 years in duration with options to extend for a further 2 years.

Failure of the Department to audit the records of private service contractors increases the risk of inadequate record keeping going undetected. As a result, revenues submitted to the Department by contractors and payments made to contractors by the Department may be inaccurate.

2D. Contract Renewal

Lack of monitoring of contract renewal provisions

Each service contract outlines the period of the contract. It also states that, upon giving a written notice to the contractor, prior to the expiry of the present agreement, the Department has the option to renew the agreement. It states the number of days before the expiry of the contract whereby the option to renew the agreement must be exercised.

During our review, we examined the 8 private service contracts and found two instances where the Department provided written notice after the deadline for renewal. In one instance, the contract had already expired.

- The contract for M/V Astron, servicing Cartwright-Nain, was set to expire on 26 November 2009. According to the contract, the Department was required to give a 180-day written notice to extend the contract. Therefore, notice had to be given by 26 May 2009. We found written notice dated 27 July 2009, two months after the deadline.

- The contract for M/V Winchester, servicing South East Bight-Petite Forte, was set to expire on 31 March 2008. According to the contract, the Department was required to give a 90-day written notice to extend the contract. Therefore, notice had to be given by 31 December 2007.

  We found written notice dated 24 April 2008. Not only is this date almost four months after the deadline for providing written notice of intent to renew the contract, but also it is almost one month after the expiry date of the contract. Therefore, service was being provided and payments made with no legal contract in place.

The Department is not adequately monitoring its private service contracts.

2E. Contract Management Policy and Procedure

No documented policies and procedures relating to contract management

We would expect to see well defined, documented policies and procedures relating to contract management of privately-owned and operated vessels.

During our review, we determined that there are no documented policies and procedures relating to contract management of privately-owned and operated vessels.

There is no defined policy and procedure addressing key areas of contract management. Some key areas include identifying contract risks and ways to mitigate these risks, monitoring contractor services through the performance of audits and inspections, and detailing the process for reporting non-compliance issues.

Without a properly documented and implemented contract management policy and procedure, serious issues may go undetected by the Department.

Recommendations

The Department should ensure that:

- a risk management plan is developed to address the potential areas of compliance vulnerability and risk for private service contracts;
- regular inspections of the privately-contracted vessels are performed to ensure that the contractor's work is in compliance with the terms of the contract;
- private service contracts include a provision to allow the Department to conduct safety inspections;
- safety management standards are developed for all contracted vessels and provision for monitoring compliance included in contracts;
- regular audits of private service contractors are performed;
- it complies with contract renewal requirements as defined in the respective agreements; and
- policies and procedures relating to contract compliance and monitoring of contractors operating privately-owned vessels are developed.

3. Legislative Compliance

Based on our review, we identified non-compliance issues in the following areas:

3A. *Public Tender Act*

3B. *Financial Administration Act*

3A. *Public Tender Act*

Introduction

Whenever goods and services are to be purchased for the operation of marine services, the Department must comply with the *Public Tender Act*.

The *Public Tender Act* requires that, when goods or services cost $10,000 or more, or a public work costs $20,000 or more, then the Department must invite tenders.

The *Act* does provide for exceptions where tenders may not be required. For example, the Department is not required to call a public tender if the purchase is exempted under Section 3(2)(i) of the *Public Tender Act*. This section states that no tender is required *"where, in the opinion of the Minister of Industry Trade and Technology and subject to the approval of the Lieutenant-Governor in Council, the work is for economic development purposes"*.

Background

In September 2006, Cabinet authorized the Department to proceed with design and construction of two ferry vessels. The design process was initiated using a consulting firm.

In early 2007 the consultant received and assessed proposals from engine suppliers. At that point there was no contract with any shipyard for the construction of vessels. A contract was anticipated to be in place by August 2007. It was the Department's intention to have the successful shipyard constructing the vessels to purchase all equipment and outfit.

Due to the lengthy fabrication and delivery times of the engines (12-14 months) the Department placed an order to prevent delays in construction of the vessels.

In September 2006, Cabinet also provided approval to exempt the construction of two new ferry vessels from the provision of a public tender call for economic development purposes. On 5 March 2009, the Department entered into a contract with Peter Kiewit Sons Co., for the construction of two new ferries for $40,983,235.

The Department also entered into 3 contracts for the supply of equipment including engines, stern thrusters and bow thrusters as follows:

- On 18 April 2008, the Department entered into a contract with Detroit Diesel-Allison Canada East Inc. to purchase 4 engines for the 2 new vessels. The total cost of the contract was $1,206,000.

- On 17 July 2008, the Department entered into a contract with Rolls Royce OY AB for the purchase of equipment including 2 stern thrusters for the 2 new vessels. The total cost of this contract was $1,815,000. The contract was later amended to $1,886,400 increasing the contract by $70,800 for the purchase of an additional control station for each vessel.

- On 6 October 2008, the Department entered into a contract for with Detroit Diesel-Allison Canada East Inc. for the purchase of equipment including 4 generators and 2 bow thrusters for the 2 new vessels. The total cost of the contract was $1,249,434.

Non compliance with the *Public Tender Act*

The Department entered into two contracts for the supply of equipment for a third vessel, as follows:

- On 13 August 2008, the Department entered into a contract with Rolls Royce OY AB for the purchase of equipment including 2 stern thrusters and 2 propellers for the third new vessel. The total cost of the contract was $1,605,500.

- On 6 October 2008, the Department entered into a contract with Detroit Diesel-Allison Canada East Inc. for the purchase of main machinery including 2 engines, 2 generators and a bow thruster for the third vessel. The total cost of the contract was $1,227,717.

In both instances a “Form B” was filed with Government Purchasing Agency indicating that the construction of the vessel was exempt from provisions of a public tender call for economic development purposes as outlined in the September 2006 Cabinet approval.

However, our review indicated that Cabinet approval did not provide authority for the Department to enter into a contract relating to the construction of a third new vessel. Cabinet provided the authority for the Department to proceed with an advance order for propulsion systems for Vessel # 3 but did not provide for exemption from a public tender call for economic development purposes. As a result, the Department did not comply with the *Public Tender Act.*

3B. *Financial Administration Act*

Contravention of the *Financial Administration Act*

The Department of Transportation and Works is required to follow Government purchasing policies and procedures, including the *Financial Administration Act*, in the acquisition of goods and services. An integral part of the purchasing policies and procedures necessary for financial management control purposes is the requirement to encumber funds and issue purchase orders in advance of purchases.

Our review identified 11 instances, as shown in Figure 9, totalling approximately $1,082,000, where the Department did not comply with the *Financial Administration Act* in that goods and services were ordered without encumbering funds. In these cases, purchase orders were prepared after the date of the related invoices.

Figure 9

Department of Transportation and Works
Purchases Not in Compliance with *Financial Administration Act*
As at 31 March 2009

Service Provided	Amount	Number of Days After Invoice
Supply and Installation of Shore Ramp Cable	$ 11,708	146
Costs Associated with a Bow Thruster	5,042	70
Installation of Marine Engine	61,692	69
Service on Cylinder Heads	8,976	41
Generator Rental	4,000	30
Costs Associated with a Refit	2,568	29
Ferry Services for Recontre East	55,470	5
Ferry Services for Coastal Labrador	116,514	5
Ferry Services for Coastal Labrador	78,720	5
Ferry Services for Coastal Labrador	164,155	5
Purchase of Engines	572,850	2
Total	**$1,081,698**	

Source: Department of Transportation and Works

Recommendation

The Department should ensure that it complies with the *Public Tender Act* and the *Financial Administration Act.*

4. Other Findings

Not all job descriptions current or developed

In 2007, the Department created a new Marine Transportation Services Branch responsible for marine operations throughout the Province.

Our review disclosed that the following position descriptions have become outdated and have not been updated; two positions have not been updated since 1998.

- Marine Superintendent - 1 January 1998
- Regional Manager Marine Services (Eastern Region) - 1 April 1998
- Manager of Marine Services - 10 January 2005

Our review also disclosed that several positions did not have position descriptions available. In particular, the following position descriptions have not been developed.

- Director of Vessel Replacement
- Regional Manager of Marine Services (Northern Region)

Recommendation

The Department should ensure that all position descriptions for the Marine Transportation Services Branch are developed and updated, where applicable.

Department's Response

While the Department accepts that certain aspects of the marine service require further strengthening, it must also be recognized that significant progress has been made in recent years. Two (2) new vessels are currently under construction, engines have been purchased for a third vessel and design of a fourth vessel is now underway. A separate Marine Services Branch has been established and various operational policies, planning initiatives, procedures and processes have been introduced, with others currently under development as follows:

- *a Safety Management System Manual has been promulgated for implementation throughout the fleet and tenders are issued for the development of vessel specific safety plans and procedures;*
- *a comprehensive Project Management Manual has been developed and implemented;*
- *the Marine Policy Manual has been updated;*
- *currently developing the Vessel Integrity and Maintenance Management System; and*
- *Marine headquarters has been staffed to better manage marine operations including the Contract Compliance Officer and Safety Compliance Officer positions.*

In terms of whether a private sector contractor model and/or a Government-owned and operated model is preferred, the complications of moving between one model and the other should have been acknowledged in your review. Collective agreement restrictions may limit the Department's right to move towards more private sector contracting. Acquisition of replacement vessels limits the Department's flexibility to move towards more public sector operations.

With respect to the specific recommendations, the Department offers the following comments:

The Department does in fact have direction to proceed with construction of 2 new ferry vessels, planning for acquisition of a third vessel, and the design of a fourth vessel and is also evaluating options for consideration of additional vessels.

The Department will enhance and strengthen its private contract compliance efforts.

The Department is of the view that the action it took was in accordance with the exemption to the Public Tender Act granted in relation to new vessel construction. In terms of the Financial Administration Act, the Department acknowledges that funds may not have been officially encumbered, and will take corrective steps.

The Department will ensure that all position descriptions are developed and updated, where applicable.

CHAPTER 3

AUDIT OF THE PROVINCE'S FINANCIAL STATEMENTS

Audit of the Province's Financial Statements



The following comments are made further to my audit of the Province's financial statements (commonly referred to as the Public Accounts) for the year ended 31 March 2009. The Report provides additional information on the financial condition of Government measured by using indicators issued by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants. The Report also offers comments on Government's compliance with generally accepted accounting principles and adherence to principles of sound financial accountability.

The Public Accounts provide an important link in an essential chain of public accountability. They are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

Public Accounts Volume I (Consolidated Summary Financial Statements) provides the most complete information about the financial position and operating results of the Province. They combine the financial position and operating results of central Government and the departments (Consolidated Revenue Fund - Public Accounts Volume II), with those of other Government entities.

There have been substantial improvements in the Province's financial position and fiscal capacity in recent years as evidenced by steadily increasing revenues and a surplus in each of the last 4 years. A significant contributor to the increased revenues in recent years relates to offshore royalties which have increased from $127 million in 2004 to $2.2 billion in 2009 and now represent approximately 26% of total revenues. At the same time, there have been significant increases in expenses, especially in health and education, which in 2009 accounted for approximately 58% of total expenses.

In order to sustain program spending at current levels, similar levels of revenue will be required. However, our current dependence is on revenues from offshore royalties – these revenues are volatile and oil is a non-renewable resource. Government has little control over the items that make offshore revenues volatile - world oil prices, production and foreign currency fluctuations. Budgeting in this environment is challenging as evidenced by the significant variances between budgeted and actual offshore revenues in recent years.

The unfunded pension liability of $1.7 billion and the liability for group health and group life insurance retirement benefits of $1.6 billion will have to continue to be closely monitored by Government. The unfunded pension liability increase of $200 million during the year resulted, for the most part, from a decline in the value of the pension fund assets related to the global

economic downturn. The liability for group health and group life insurance retirement benefits continues to increase and, if action is not taken to address it, is expected to total $1.9 billion by 2012, an increase of approximately $300 million or 19% over 2009.

Government's budget for 2010 has projected very different financial results than have been reported in recent years. Government's 2010 budget predicted a decline in revenue, an increase in expenses and an increase in net debt attributable to an expected deficit of $750 million. The most recent Government projection now has the expected deficit at $443 million. A significant contributor to the expected deficit reduction for 2010 relates to increased oil prices, again highlighting the difficulty in budgeting in such a volatile environment.

Some of the highlights from the Public Accounts for the year ended 31 March 2009 include:

Financial Position

Net Debt - representing the difference between total liabilities and financial assets, decreased from $10.2 billion in 2008 to $8.0 billion in 2009 (the highest net debt of $11.9 billion was recorded in 2005). While this is a significant reduction, I note the following:

- The net debt on a per capita basis represents approximately $15,700 for each Newfoundlander and Labradorian and is the second highest net debt per capita of all provinces in Canada. Also, based on information obtained from Government, the $15,700 net debt per capita is well above the national net debt average of approximately $10,000 per capita.

- At 25%, the Province still has one of the highest net debt as a percentage of GDP ratios of any province and remains in one of the lowest credit rating categories of all provinces.

- During the year, the unfunded pension liability increased from $1.5 billion to $1.7 billion, mainly as a result of the global economic downturn which resulted in a significant decline in the value of fund assets. Government will have to continue to closely monitor this significant unfunded liability.

- During the year, the liability for group health and group life insurance retirement benefits increased from $1.5 billion to $1.6 billion, and is expected to increase in each of the next three years. If action is not taken to address it, the liability is expected to total $1.9 billion by 2012, an increase of approximately $300 million or 19% over 2009. Government will have to continue to closely monitor this significant liability.

Results of Operations

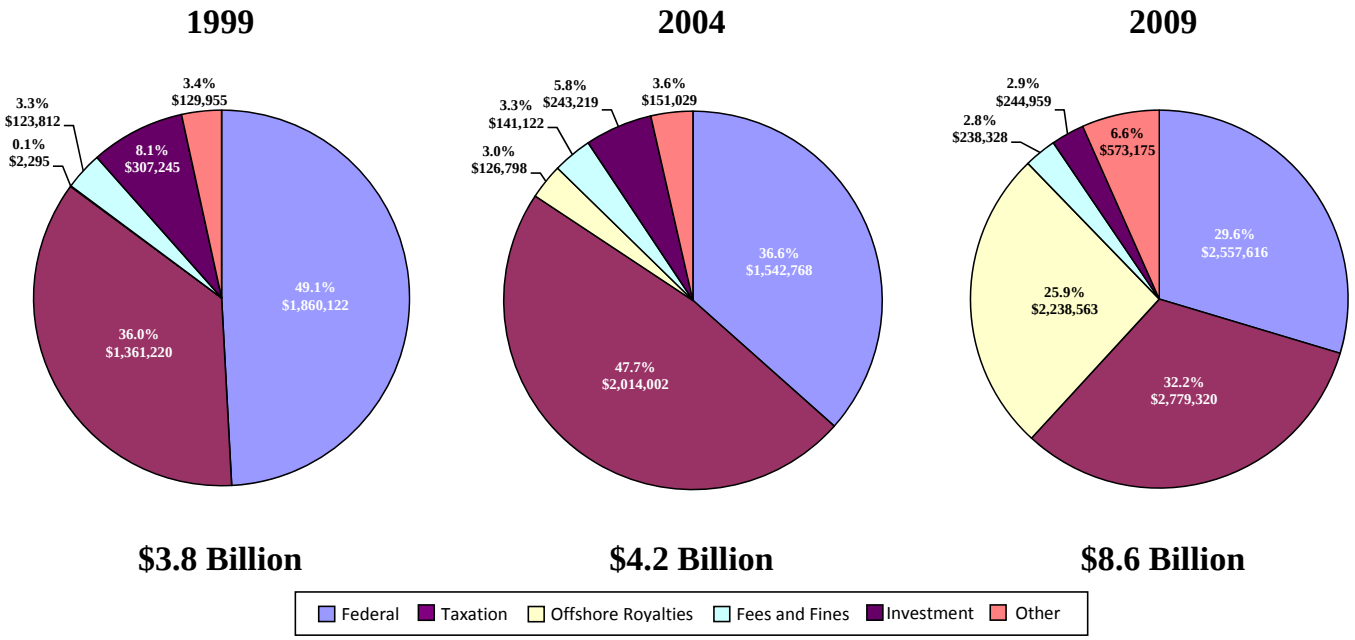
Annual Surplus - representing the excess of revenues over expenses, was $2.4 billion for the year ended 31 March 2009. The $2.4 billion surplus was significantly higher than the budgeted surplus of $544 million and also significantly higher than the reported surplus of $1.4 billion for 2008. A significant reason for the increase in surplus in 2009 related to the recognition of $1.2 billion of the deferred balance of the $2.0 billion Atlantic Accord (2005) Agreement. The $2.0 billion was received in 2005 and has been recognized as a deferral since that time with annual amounts recognized as revenue. Since the Province no longer qualifies for Equalization and has therefore met revenue recognition criteria, the remaining $1.2 billion was recognized as revenue in 2009.

While the Province has experienced significant revenue and expense growth in recent years, the revenues have exceeded the expenses which have resulted in a swing from the historical deficits to surpluses for each of the last 4 years.

Revenues – for the year ended 31 March 2009, total revenues were $8.6 billion and represented an increase of $1.5 billion (21%) from the $7.1 billion total revenues in 2008. Figure 1 outlines the sources of revenue for 1999, 2004 and 2009 and highlights how the sources of Provincial revenue have changed in recent years. It also shows how much total revenues have increased over this period.

Figure 1

Province of Newfoundland and Labrador
Revenues by Source for 1999, 2004 and 2009
($ 000's)

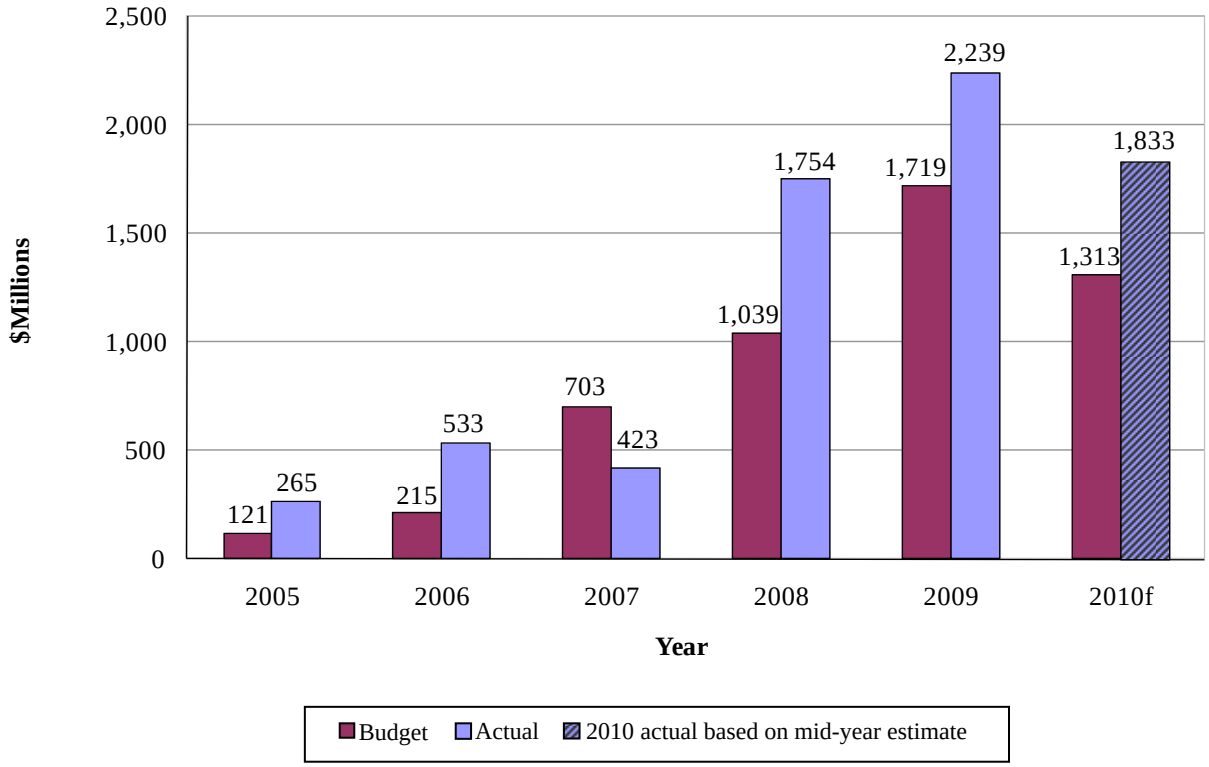


As Figure 1 shows, total revenues have increased to $8.6 billion, an increase of $4.8 billion (126%) from the total revenues of $3.8 billion in 1999. The Figure also shows that while offshore royalties and provincial taxation revenues have increased, Federal revenues as a proportion of total revenues have decreased from 49.1% in 1999 to 29.6% in 2009 (even with the recognition of $1.2 billion of the deferred balance of the $2.0 billion Atlantic Accord (2005) Agreement).

Figure 1 also highlights the dependence on offshore royalties, which in 2009 accounted for approximately 25.9% of total revenues. Along with this dependence on offshore royalties comes volatility. Offshore royalties are volatile by their nature and depend on fluctuations in three main factors: world oil prices, production and foreign currency fluctuations - none of which can be directly impacted by Government. Information on the budget and actual numbers for offshore royalty revenues during the fiscal periods 2005 through to 2009 is outlined in Figure 2. The Figure also provides the budget and most recent Government projection for 2010.

Figure 2

Province of Newfoundland and Labrador
Offshore Royalty Revenues: Budget and Actual
Fiscal Years
($ Millions)

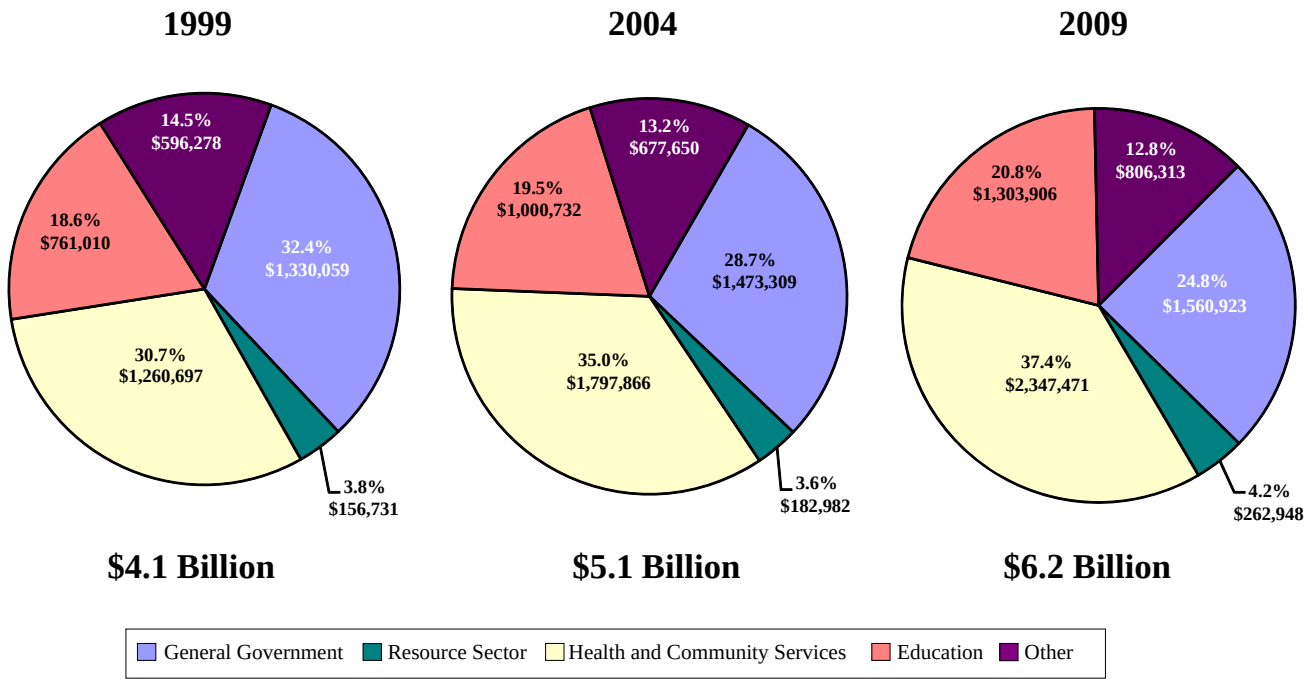


As Figure 2 shows, there are significant variations (in either direction) between budgeted and actual offshore royalties revenues. It is certain that the volatility associated with these revenues is part of the explanation for the variances. This volatility in revenue causes significant challenges when preparing the Provincial budget.

Expenses - for the year ended 31 March 2009, total expenses were $6.2 billion and represented an increase of $0.5 billion (8.8%) from the $5.7 billion total expenses in 2008. Figure 3 outlines the expenses by sector for 1999, 2004 and 2009 and highlights how the expenses in sectors have changed in recent years. It also shows how much total expenses have increased over this period.

Figure 3

Province of Newfoundland and Labrador
Expenses by Sector for 1999, 2004, and 2009
($ 000's)

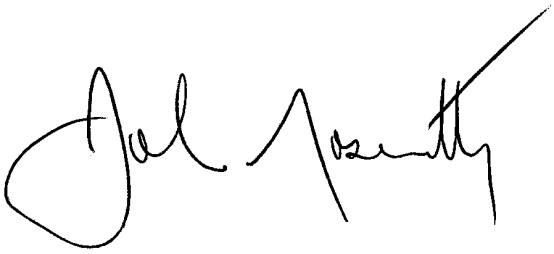


As Figure 3 shows, total expenses have increased to $6.2 billion, an increase of $2.1 billion (51%) from the total expenses of $4.1 billion in 1999. The Figure also shows that funding for health and community services, and education have increased significantly since 1999. Expenses for health and community services has increased to $2.3 billion, an increase of $1.0 billion (77%) from the $1.3 billion in 1999 while funding for education has increased to $1.3 billion, an increase of $543 million (71%) from the $761 million in 1999.

Although recent surpluses may be perceived as there being an abundance of money available for Government programs, Government will continue to be challenged to meet the expenditure needs of the Province, as well as the need to address its significant debt. Sustainability of program spending will require significant revenue streams into the future and will remain a major consideration for Government.

Acknowledgements

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



JOHN L. NOSEWORTHY, CA
Auditor General

3.1 Introduction

Background

This report presents information on the Province's financial statements (commonly referred to as the Public Accounts). These financial statements provide an important link in an essential chain of public accountability. They are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

The Consolidated Summary Financial Statements are prepared on the accrual basis of accounting in accordance with the accounting standards established for governments by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA), and as outlined in the significant accounting policies of the Province.

The statements provide the most complete information about the operating results and financial position of the Province. They combine the results of operations of the Consolidated Revenue Fund, which accounts for the financial activities of the central Government and the departments, with those of other Government entities.

For the year ended 31 March 2009, the Public Accounts contain the Consolidated Summary Financial Statements, the Auditor General's Report on those financial statements, and other information which Government is required to include or chooses to include.

In this report, I comment on the Consolidated Summary Financial Statements and present a summary of certain financial information contained in those financial statements. I have also included two appendices. Appendix I presents answers to questions I am frequently asked in relation to the Public Accounts, while Appendix II presents a glossary of terms used in the Public Accounts.

Legislative Requirements

In accordance with section 59 of the *Financial Administration Act*, Government prepares a document called the Public Accounts which includes the Consolidated Summary Financial Statements of the Province and the Consolidated Revenue Fund Financial Statements. In accordance with the *Act* the Public Accounts must show:

- the state of the public debt;
- the revenue and expenditure;

- all compromises, remissions, refunds and amounts written off; and
- those other accounts and statements that may under good accounting practice be required to show the financial position of the Province at the end of the fiscal year.

Under section 19 of the *Transparency and Accountability Act*, the Comptroller General is required to include (consolidate) the audited financial statements of Government entities in the Public Accounts.

Treasury Board prescribes the manner and form in which the Public Accounts of the Province are prepared, as provided for under the *Financial Administration Act*.

Section 11 of the *Auditor General Act* requires that the Auditor General express an opinion as to whether the financial statements included in the Public Accounts present fairly the financial position, results of operations and changes in the financial position of the Province in accordance with the disclosed accounting policies of the Provincial Government and on a basis consistent with that of the preceding year, together with reservations the Auditor General may have.

Responsibility for the Public Accounts

Government is responsible for providing the House of Assembly with the Province's financial statements (the Public Accounts). While Treasury Board prescribes the manner and form in which the Public Accounts of the Province are prepared, the actual statements, schedules and notes are prepared by the Comptroller General.

The Consolidated Summary Financial Statements include a Statement of Responsibility, signed by the Minister of Finance and President of Treasury Board, and the Comptroller General. The Statement indicates that *"Responsibility for the integrity, objectivity and fair presentation of the consolidated summary financial statements of the Province of Newfoundland and Labrador rests with the Government. As required under Section 59 of the* Financial Administration Act, *these consolidated summary financial statements are prepared by the Comptroller General of Finance in accordance with the applicable legislation and in accordance with the accounting policies as disclosed in Note 1 to these consolidated summary financial statements. These consolidated summary financial statements are prepared based upon information provided by the various Government departments and the noted Crown corporations, boards and authorities pursuant to Section 19 of the* Transparency and Accountability Act *and Section 20 of the* Financial Administration Act. *The Government is responsible for maintaining a system of internal accounting and*

administrative controls in order to provide reasonable assurance that transactions are properly authorized, assets are safeguarded and financial records are properly maintained."

Auditor's Report on the Financial Statements of the Province

The Auditor's Report on the Consolidated Summary Financial Statements of the Province for the year ended 31 March 2009 reads as follows:

To the House of Assembly
Province of Newfoundland and Labrador

I have audited the consolidated statement of financial position of the Province of Newfoundland and Labrador as at 31 March 2009 and the consolidated statements of change in net debt, operations, change in accumulated deficit and cash flows for the year then ended. These financial statements are the responsibility of Government. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by Government, as well as evaluating the overall financial statement presentation.

In my opinion, these consolidated summary financial statements present fairly, in all material respects, the financial position of the Province of Newfoundland and Labrador as at 31 March 2009 and the results of its operations, the changes in its net debt and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles and, pursuant to section 11 of the Auditor General Act*, in accordance with the accounting policies of the Provincial government as disclosed in Note 1 to these financial statements applied on a basis consistent with that of the preceding year.*

JOHN L. NOSEWORTHY, CA
Auditor General

St. John's, Newfoundland and Labrador
15 October 2009

How do our Financial Statements Compare to Other Jurisdictions?

The Consolidated Summary Financial Statements are the principal financial statements of the Province and are in full compliance with the requirements of Canadian generally accepted accounting principles for government. In my opinion, the Province's financial statements are as good as the financial statements of any jurisdiction in Canada.

3.2 Financial Condition of the Province

Introduction

Each year in this Chapter, I present key financial information contained in the Public Accounts. I also present information on the financial condition of the Province, including a discussion of financial indicators in the Newfoundland and Labrador context. These financial indicators are intended to assist the reader in interpreting the financial information contained in the Public Accounts and to more completely understand the significance of the information provided.

The information on the Province's financial position during the year, provided in the following sections, must be put into perspective by considering the important changes in the Province's economic situation since year end. Many of these changes have had or will have significant impact on the Province's fiscal situation.

The considerable increase in the price of oil, from a low of approximately US$44 per barrel to a range of US$75 to US$80 by November 2009, will have a significant positive impact on the Province's future fiscal position. Oil prices in the first nine months of the 2010 fiscal year were higher than Government forecasted and will likely result in a lower than budgeted deficit for the year. The Province will also be affected by impacts being felt directly by businesses in the Province resulting from the economic downturn, e.g. the impact on mining operations in Labrador and on pulp and paper operations in Grand Falls-Windsor.

While many of the changes being experienced have had or will have a significant negative impact on the Province's fiscal situation, there are others which are expected to have a significant positive impact. These include impacts from several recent events, e.g. development of the White Rose expansion oil fields, signing of an agreement with industry partners to develop the Hebron-Ben Nevis oil field, proposed construction of the Vale Inco hydromet facility in Long Harbour, developments with the Lower Churchill project, and reaching payout on the Hibernia project.

It is also important to note that Government recently announced that for the first time since Confederation, Newfoundland and Labrador is considered to be a "Have Province". This means that for Federal equalization transfer purposes, we are considered to be financially self-reliant and will no longer receive these transfers. However, "Have Province" status is subject to future review and could change if the Province's fiscal situation changes.

The following analysis is based on the financial position of the Province for the 2009 fiscal year. Readers are encouraged to reflect on the above comments when considering the information provided.

Key Balances in the Public Accounts

There are five key balances in Volume I of the Public Accounts, i.e. the Consolidated Summary Financial Statements - net debt, accumulated deficit, surplus (deficit), revenue and expense.

Net Debt

Net debt as at 31 March 2009 was $8.0 billion (2008 - $10.2 billion). This is the amount by which the Province's liabilities of $12.4 billion (2008 - $13.4 billion) exceeded its financial assets of $4.4 billion (2008 - 3.2 billion). It is also considered to be the amount which the Government of the day leaves for future Governments to either repay or refinance.

Accumulated Deficit

The accumulated deficit as at 31 March 2009 was $5.5 billion (2008 - $7.8 billion). This is the total net amount of all annual surpluses and deficits experienced by the Province.

Surplus (Deficit)

The consolidated surplus for the year ended 31 March 2009 was $2.4 billion (2008 - $1.4 billion). The $2.4 billion surplus for 2009 is the amount by which the Province's total revenue of $8.6 billion exceeded its total expense of $6.2 billion. The $1.4 billion surplus for 2008 is the amount by which the Province's total revenue of $7.1 billion exceeded its total expense of $5.7 billion.

Revenue

Total revenue for the year ended 31 March 2009 was $8.6 billion (2008 - $7.1 billion). Revenues consist of:

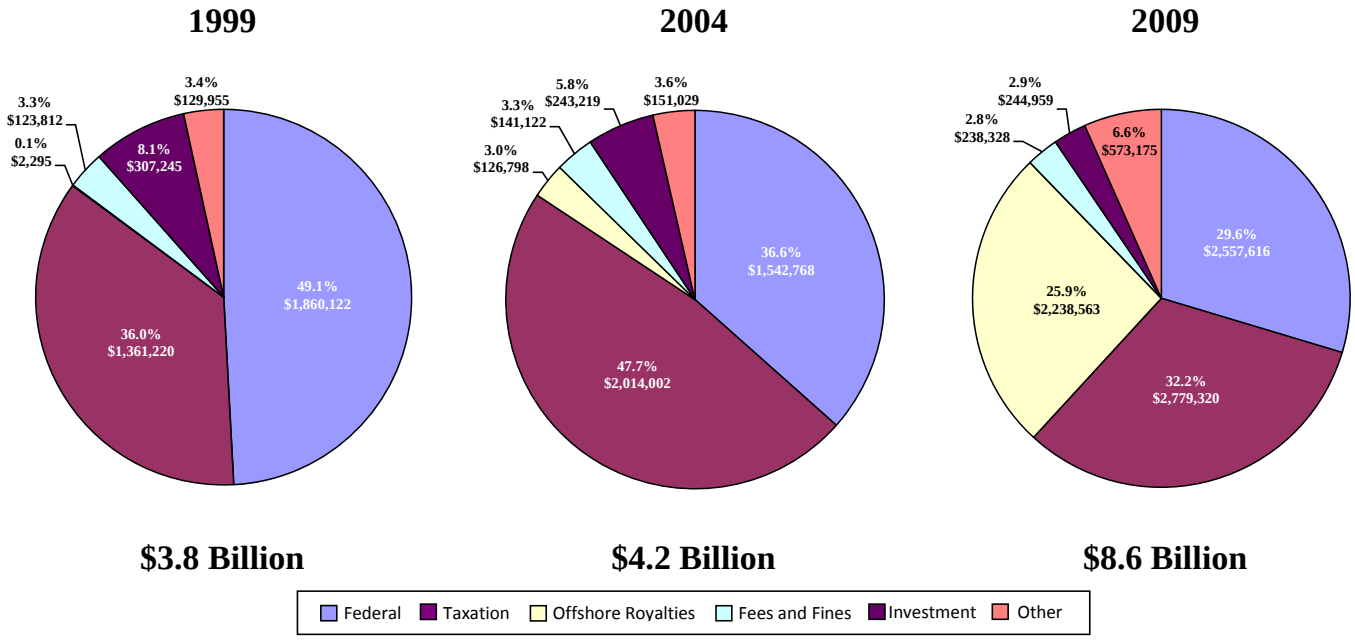
- revenues received from the Government of Canada;
- own source revenues generated by the Province e.g. through taxation, offshore royalties, fees and fines;
- revenues from investments; and

- other revenue sources, including net income of Government business enterprises - considered as organizations which carry on business and sell goods and services to individuals and non-Government organizations as their principal activity and source of revenue. The Government business enterprises included in the 2009 Consolidated Summary Financial Statements consisted of the Newfoundland and Labrador Liquor Corporation (year ended 4 April 2009) and Nalcor Energy (year ended 31 December 2008).

Figure 1 shows the total revenues of the Province by source for 1999, 2004 and 2009.

Figure 1

Province of Newfoundland and Labrador
Revenues by Source for 1999, 2004 and 2009
($ 000's)



As Figure 1 shows, Federal revenues as a proportion of total revenues have decreased from 49.1% in 1999 to 29.6 % in 2009, while the proportion of offshore royalties revenues has increased significantly from being an immaterial amount in 1999 to 25.9% in 2009.

Expense

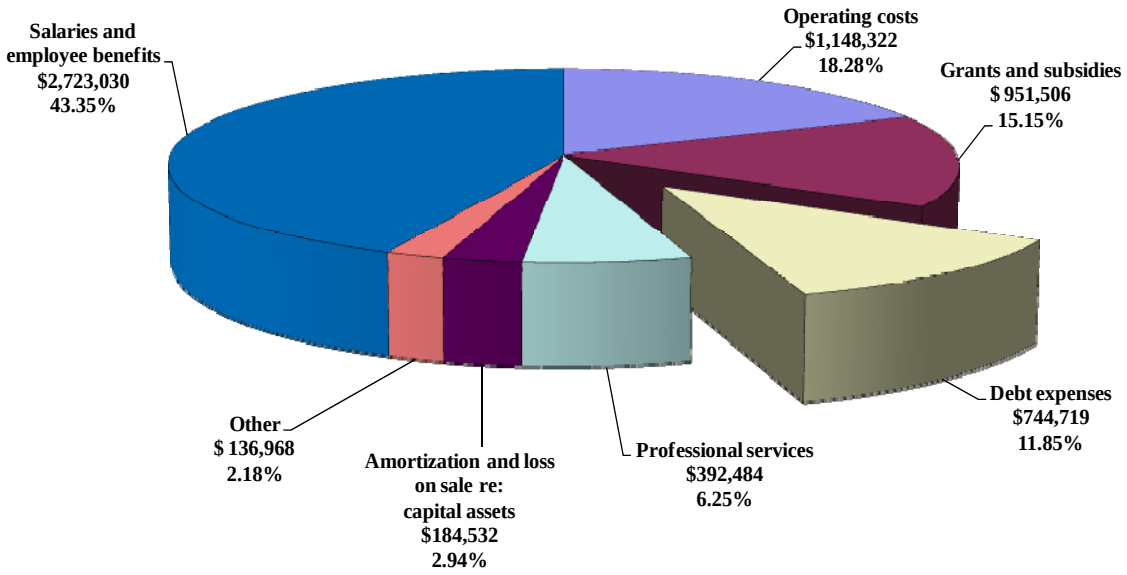
Total expense for the year ended 31 March 2009 was $6.2 billion (2008 - $5.7 billion). Expenses include:

- salaries and employee benefits;
- debt expenses;
- operating costs;
- grants and subsidies; and
- other costs to Government of providing programs and services.

Figure 2 shows the total expenses of the Province by type for 2009.

Figure 2

Province of Newfoundland and Labrador
Expenses by Type for 2009
($000's)

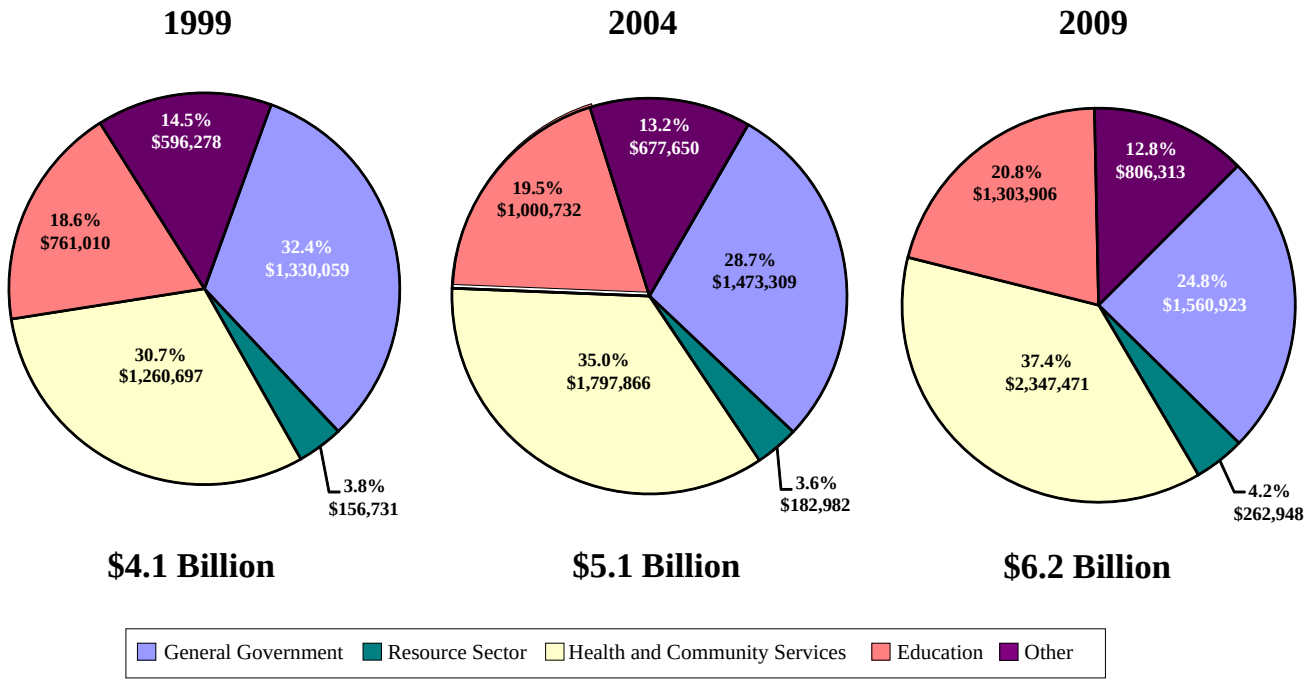


Total: $6.2 Billion

Expenses are summarized in the statements by the three sectors - general Government and legislature sector, resource sector, and social sector (including health and community services, education, and other social sector areas). Figure 3 shows the expenses of the Province by sector for 1999, 2004 and 2009.

Figure 3

Province of Newfoundland and Labrador
Expenses by Sector for 1999, 2004, and 2009
($ 000's)



As Figure 3 shows, funding for the Departments of Health and Community Services, and Education have increased significantly since 1999. Funding for the Department of Health and Community Services has increased from $1.3 billion (30.7% of total expenses) in 1999 to $2.3 billion (37.4 % of total expenses) in 2009, while funding for the Department of Education increased from $761 million (18.6% of total expenses) in 1999 to $1.3 billion (20.8% of total expenses) in 2009. Combined funding for health and education made up 58.2 % of the total expenses in 2009, up from 49.3 % in 1999.

Key Balances

A summary of key balances contained in the Consolidated Summary Financial Statements is provided in Figure 4.

Figure 4

Consolidated Summary Financial Statements
Key Balances
Years Ended 31 March
($ Billions)

Balance	2005	2006	2007	2008	2009
Statement of Financial Position					
Financial Assets	1.845	2.118	2.104	3.177	4.422
Liabilities	13.733	13.802	13.662	13.365	12.391
Net Debt	**11.888**	**11.684**	**11.558**	**10.188**	**7.969**
Non-Financial Assets	2.135	2.289	2.316	2.436	2.467
Accumulated Deficit	**9.753**	**9.395**	**9.242**	**7.752**	**5.502**
Statement of Operations					
Revenue	4.483	5.556	5.521	7.141	8.632
Expense	4.972	5.357	5.367	5.704	6.282
Annual Surplus (Deficit)	**(0.489)**	**0.199**	**0.154**	**1.437**	**2.350**

Source: Consolidated Summary Financial Statements

While Government's financial condition has improved, its net debt of $8.0 billion is still quite high, with net debt per capita of approximately $15,700 as at 31 March 2009 being the second highest in the country. Based on information obtained from Government, this is well above the national average of approximately $10,000 per capita.

Also, while the Province's economic growth has been positive, its ability to raise its own source revenue remains vulnerable to recent changes in the economy, including changes due to fluctuations in oil prices and production levels, the Canadian dollar and interest rates.

With regards to offshore royalties revenues, the Province is becoming increasingly reliant on these revenues due to growth in this revenue source in recent years. Actual offshore royalties revenues in 2004 were $127 million and increased by $2.1 billion to $2.2 billion in 2009. These revenues are generated from non-renewable resources and are very vulnerable to changes in world oil prices and production levels - both outside the control of Government. As a result, there can be significant variances between Government estimated revenue and actual revenue which can have significant impacts on fiscal performance.

To illustrate, in December 2009, Government increased its offshore royalties revenue estimate for the 2010 fiscal year by $520 million. This had a significant impact on the expected fiscal outlook and was a major factor in changing the original budgeted deficit of $750 million for the 2010 fiscal year, to a projected deficit of $443 million.

There has to be a continued improvement in Government's financial results in order to support a reasonable plan to address the substantial net debt. By way of illustration, consider that the Province would require a surplus of $300 million each year for almost 27 years to eliminate its current net debt of $8.0 billion.

Maintaining a substantial net debt means incurring significant annual costs to service that debt. It also means that these annual costs could change significantly due to changes in interest rates. Debt expenses for the year ended 31 March 2009 totalled $744 million, which represents 8.6% of total revenues (also known as the "interest bite"). This means that the Province spent $744 million to pay financing costs associated with debt incurred in the past, as well as changes in the unfunded pension liability and the liability for group health and life insurance retirement benefits. As a result, that amount was not available to spend on programs and services. Furthermore, at 31 March 2009, the Province had $1.0 billion in U.S. debt (net of sinking fund assets). Therefore it has exposure to currency fluctuations. For example, a 1 cent change in exchange rates would have an impact of approximately $10 million on the Province's debt.

Although Government recently announced that Newfoundland and Labrador is considered a "Have Province", the Province remains heavily reliant on transfers from the Federal Government in order to fund its programs and services. Of the Province's total revenue of $8.6 billion for the year ended 31 March 2009, $2.6 billion or 30% resulted from Federal transfers.

Aside from the risk of fluctuating revenues, Government faces continued demand for expenditures, especially in health and education. Expenses in these two departments over the last eight years increased by $1.5 billion (or 68%) from $2.2 billion for 2001 to $3.7 billion for 2009, and accounted for 58% of total Government expenses for the year ended 31 March 2009.

There are other factors which could also result in changes to the annual surplus or deficit, including an aging infrastructure, an aging population, and changes in population migration. With respect to changes in population migration, it is noted there was an increase in population for the Province of 2,484 from 1 July 2008 to 30 June 2009 (increase of 1,484 from 1 July 2007 to 30 June 2008).

Figure 5 provides details of the Province's liabilities, annual surplus (deficit), net debt and debt expenses for the years 1995 to 2009 as reported in the Consolidated Summary Financial Statements of the Province.

Figure 5

Consolidated Summary Financial Statements
Liabilities, Annual Surplus (Deficit), Net Debt and Debt Expenses
Years Ended 31 March
($ Millions)

Year	Net Borrowing and other Liabilities	Unfunded Pension Liability	Group Health and Group Life Insurance Benefits Liability	Total Liabilities	Annual Surplus (Deficit)	Net Debt	Debt Expenses
1995	6,535	2,686		9,221	(374)	6,831	1,004
1996	6,725	2,739		9,464	(190)	7,121	822
1997	6,730	2,943		9,673	(107)	7,254	819
1998	6,373	3,134		9,507	133	7,301	865
1999	6,758	3,352		10,110	(187)	7,851	1,008
2000	6,689	3,309		9,998	(269)	8,087	883
2001	6,801	3,348		10,149	(350)	8,437	951
2002	7,270	3,392		10,662	(468)	8,932	942
2003	7,581	3,557	985	12,123	(644)	10,616	979
2004	8,073	3,746	1,067	12,886	(914)	11,487	982
2005	8,640	3,934	1,159	13,733	(489)	11,888	940
2006	10,336(1)	2,201	1,265	13,802	199	11,684	947
2007	10,334(2)	1,925	1,403	13,662	154	11,558	777
2008	10,393(3)	1,459	1,513	13,365	1,437	10,188	751
2009	9,057	1,704	1,630	12,391	2,350	7,968	744
Total					**281**		**13,414**

(1) Includes deferral of $1.678 billion Atlantic Accord (2005) money.
(2) Includes deferral of $1.459 billion Atlantic Accord (2005) money.
(3) Includes deferral of $1.153 billion Atlantic Accord (2005) money.

As Figure 5 shows, prior to 2006, the Province had substantial deficits and interest costs and an increasing net debt each year. There was some improvement in 2006 and 2007 and a significant improvement in 2008 and 2009. The total surpluses (net of deficits) reported over the 14 year period is $281 million, with total debt expenses over the same period of $13.4 billion.

Although the Province had budgeted a surplus of $544 million for 2009, it had an actual surplus of $2.4 billion. The $2.4 billion surplus was significantly higher than the budgeted surplus of $544 million and also significantly higher than the reported surplus of $1.4 billion for 2008. A significant reason for the increase in surplus in 2009 related to the recognition of $1.2 billion of the deferred balance of the $2.0 billion Atlantic Accord (2005) Agreement. The $2.0 billion was received in 2005 and has been recognized as a deferral since that time with annual amounts recognized as revenue. Since the Province no longer qualifies for Equalization and has therefore met revenue recognition criteria, the remaining $1.2 billion was recognized as revenue in 2009.

Figure 6 provides details on the budget forecast compared to actual results for the year ended 31 March 2009.

Figure 6

Consolidated Summary Financial Statements
Actual Compared to Budget
As at 31 March 2009
($000's)

	Actual	Original Estimates	Impact on Surplus	% of Impact
REVENUE				
Provincial				
Taxation	2,779,320	2,464,797	314,523	17.4%
Investment	244,959	205,245	39,714	2.2%
Fees and fines	238,328	218,844	19,484	1.1%
Offshore royalties	2,238,563	1,719,300	519,263	28.7%
Other	367,807	341,353	26,454	1.5%
Government of Canada	2,557,616	1,826,984	730,632	40.4%
Net income of Government business enterprises	205,368	212,474	(7,106)	(0.4%)
Total Revenue	**8,631,961**	**6,988,997**	**1,642,964**	**90.9%**
EXPENSE				
General Government Sector	1,560,923	1,626,095	65,172	3.6%
Resource Sector	262,948	337,939	74,991	4.2%
Social Sector	4,457,690	4,481,056	23,366	1.3%
Total Expense	**6,281,561**	**6,445,090**	**163,529**	**9.1%**
SURPLUS	**2,350,400**	**543,907**	**1,806,493**	**100.0%**

As Figure 6 shows, the significant increases in offshore royalties' revenue ($519 million) and taxation revenue ($315 million) from the amounts contained in the Province's original estimates, along with a net reduction of expenses of $164 million, were also factors in why the projected surplus of $544 million became an actual surplus of $2.4 billion.

For 2009, the amount of Government of Canada revenue which the Province received increased by $770 million compared to 2008. There was also an increase in Provincial Government revenues (including net income from Government business enterprises) of $721 million. This increase primarily related to an increase of $485 million in offshore royalties revenues. During the year, salaries and other operating expenses increased by approximately $585 million. This was offset by the savings in interest expenses of $7.0 million largely due to the continued effect of the payment of approximately $2.0 billion on the unfunded pension liability of the Teachers' Pension Plan in 2005.

As a result of the $1.5 billion increase in revenue and the $578 million increase in expenses, the Province's annual surplus was increased by $913 million from $1.4 billion in 2008 to $2.4 billion in 2009.

Financial Indicators

An important role for my Office is to provide Members of the House of Assembly with information on the state of Government's finances. This information is necessary in order to have an informed debate about the issues that Government has to address. Issues include the ability of Government to fund programs and services, where the revenues will come from and the impact of surpluses, deficits, and debt.

he Public Sector Accounting Board issued a Statement of Recommended Practice on indicators of financial condition that governments should use that will help the average person understand whether a government is better or worse off than the year or years before.

These indicators combined indicate the financial condition of a government: its financial health as measured by **sustainability**, **flexibility** and **vulnerability**, looked at in the context of the overall economic and financial environment. An explanation of these terms is as follows:

- **Sustainability** - whether a government is living within its means;
- **Flexibility** - whether a government can meet rising commitments by expanding its revenues or increasing its debt; and

- **Vulnerability** - the extent to which a government relies on money from the Federal government or other outside sources to pay for existing provincial programs.

In this section, the indicators are discussed in the Newfoundland and Labrador context. Each indicator can and should be analyzed in detail, combined with other information, and monitored over time.

Sustainability

Sustainability is the degree to which a government can maintain existing programs and meet existing creditor requirements without increasing the debt burden on the economy. Sustainability indicators include a government's:

- annual surplus or deficit;
- net debt and a province's gross domestic product (GDP) in relation to net debt;
- net debt as a percentage of province's GDP;
- Canadian and U.S denominated borrowings;
- borrowings and sinking funds; and
- debt expenses.

Each of these indicators provides useful insight into the sustainability of a government's revenue raising and spending practices.

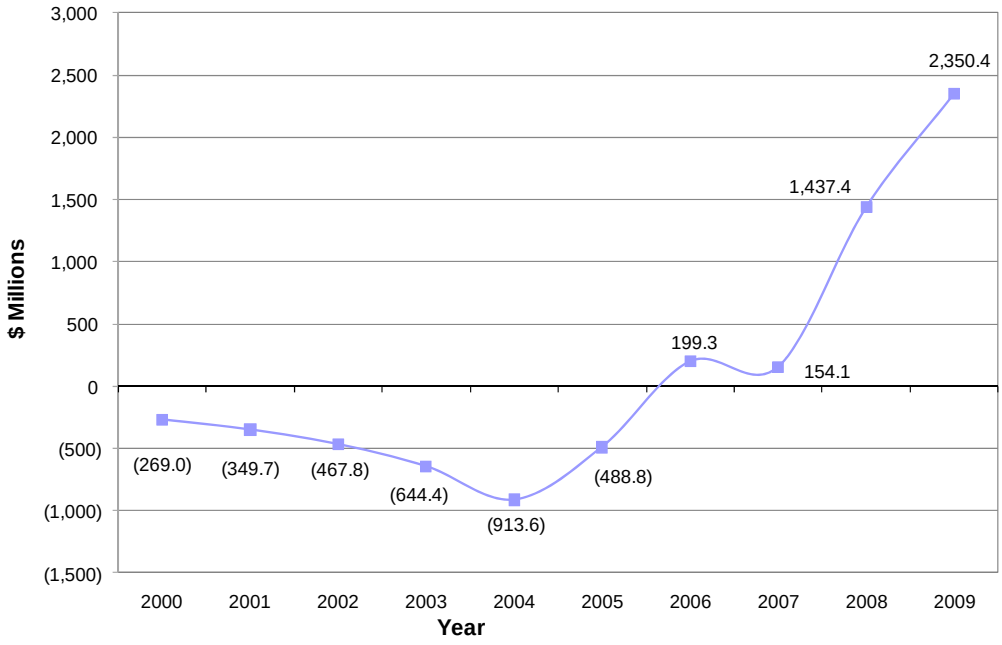
(a) Annual surplus or deficit

The annual surplus or deficit shows the extent to which a government spends less or more than it raises in revenues in one fiscal year. It is an indicator of whether a government is living within its means.

For the year ended 31 March 2009, the annual surplus reflected in the Province's Consolidated Summary Financial Statements was $2.4 billion. Figure 7 provides details as to the annual surplus or deficit each year from 2000 to 2009.

Figure 7

Consolidated Summary Financial Statements
Annual Surplus (Deficit)
Years Ended 31 March
($ Millions)



As Figure 7 shows, that prior to 2006, Government had an annual deficit each year. In 2006, there was a reported surplus of $199 million, the first surplus since 1998. The Figure also shows that Government's annual deficit grew each year from 2000 to 2004, with the deficit of $914 million in 2004, representing the largest annual deficit recorded by the Province. Government also had a deficit in 2005; however, it had decreased from the record deficit in 2004, to $489 million. For 2006, Government had a surplus of $199 million, which was due in large part to an increase in offshore royalties revenues and an increase in Government of Canada revenue. There was also a surplus in 2007; however, it had decreased from 2006 to $154 million. The surplus in 2008 increased to $1.4 billion and increased further in 2009 to $2.4 billion.

(b) Net debt and a province's gross domestic product (GDP) in relation to net debt

Users of a province's financial statements should look at long-term trends such as net debt to GDP and net debt as a percentage of GDP. Such trends are further indicators of whether a government is living within its means.

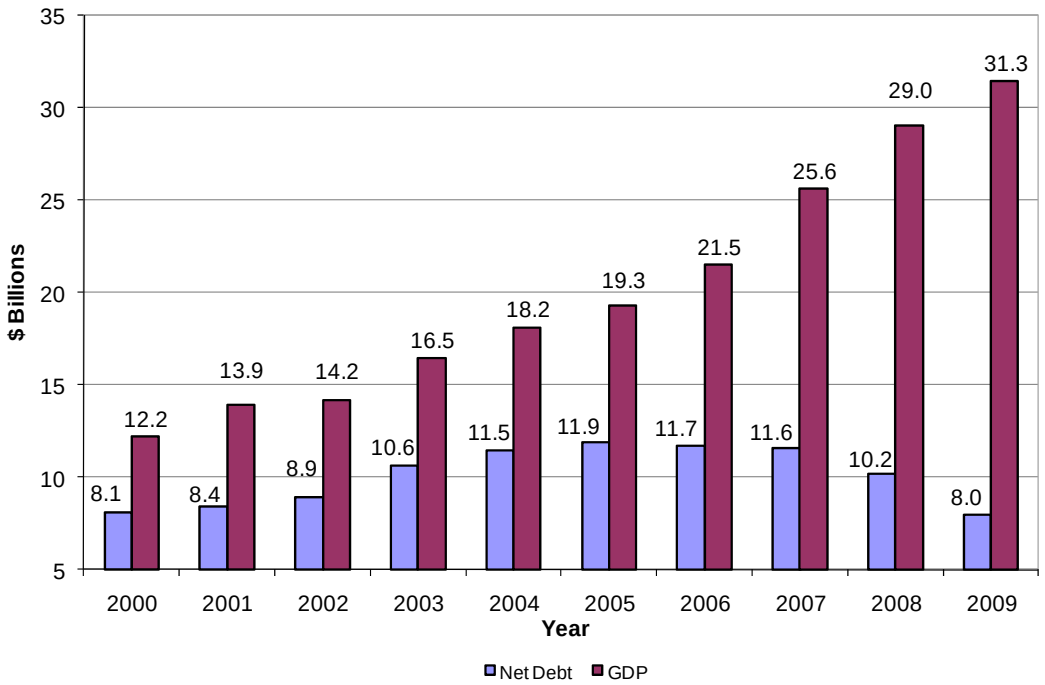
Net debt is the total of all liabilities reduced by financial assets (e.g. cash, temporary investments, and receivables). It is the amount which the government of the day leaves for future governments to either repay or refinance. As at 31 March 2009, the net debt reflected in the Province's Consolidated Summary Financial Statements was $8.0 billion.

The Province's GDP is a measure of the total value of all goods and services produced in Newfoundland and Labrador in one year. It is the number most often used to indicate the size of a provincial economy. Government must manage its revenue raising and spending practices in the context of the economy of the Province.

Figure 8 provides details as to the net debt in relation to GDP from 2000 to 2009. For purposes of this report, GDP for 2009 is reported at $31.3 billion, based on information obtained from the Provincial Department of Finance.

Figure 8

Consolidated Summary Financial Statements
Net Debt in Relation to GDP
Years Ended 31 March
($ Billions)



As Figure 8 shows, the GDP of Newfoundland and Labrador increased substantially from 2000 to 2009. The 2009 GDP of $31.3 billion is an increase of $19.1 billion (157%) from the 2000 GDP of $12.2 billion. Figure 8 also shows that the Province's net debt increased each year from 2000 to 2005, then decreased each year to 2009.

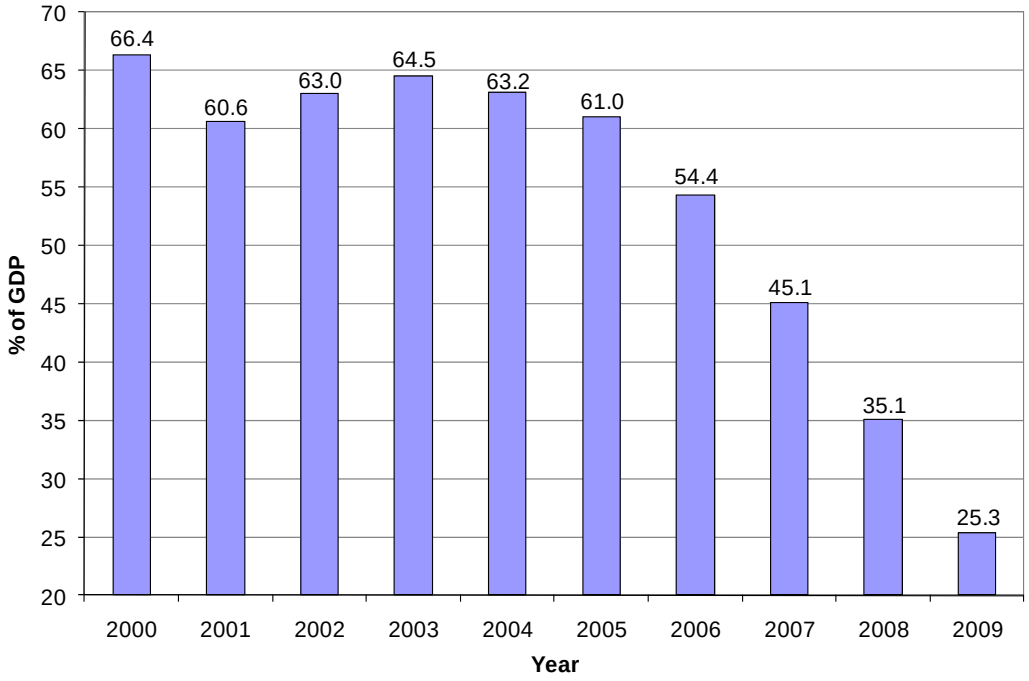
(c) Net debt as a percentage of Province's gross domestic product (GDP)

The financial demands placed on the economy by Government's spending and revenue raising practices can be assessed for sustainability by comparing Government's net debt to the Province's GDP. The thinking behind this measure is that the larger the GDP the more debt Government can afford to carry.

While the Province's net debt has decreased in recent years, the Provincial GDP has been increasing. Therefore, as shown in Figure 9, the net debt as a percentage of GDP has decreased significantly. The net debt of the Province as a percentage of GDP in 2009 was 25.3%, a significant decrease from 66.4% in 2000.

Figure 9

Consolidated Summary Financial Statements
Net Debt as a Percentage of GDP
Years Ended 31 March



(d) Canadian and U.S. denominated borrowings

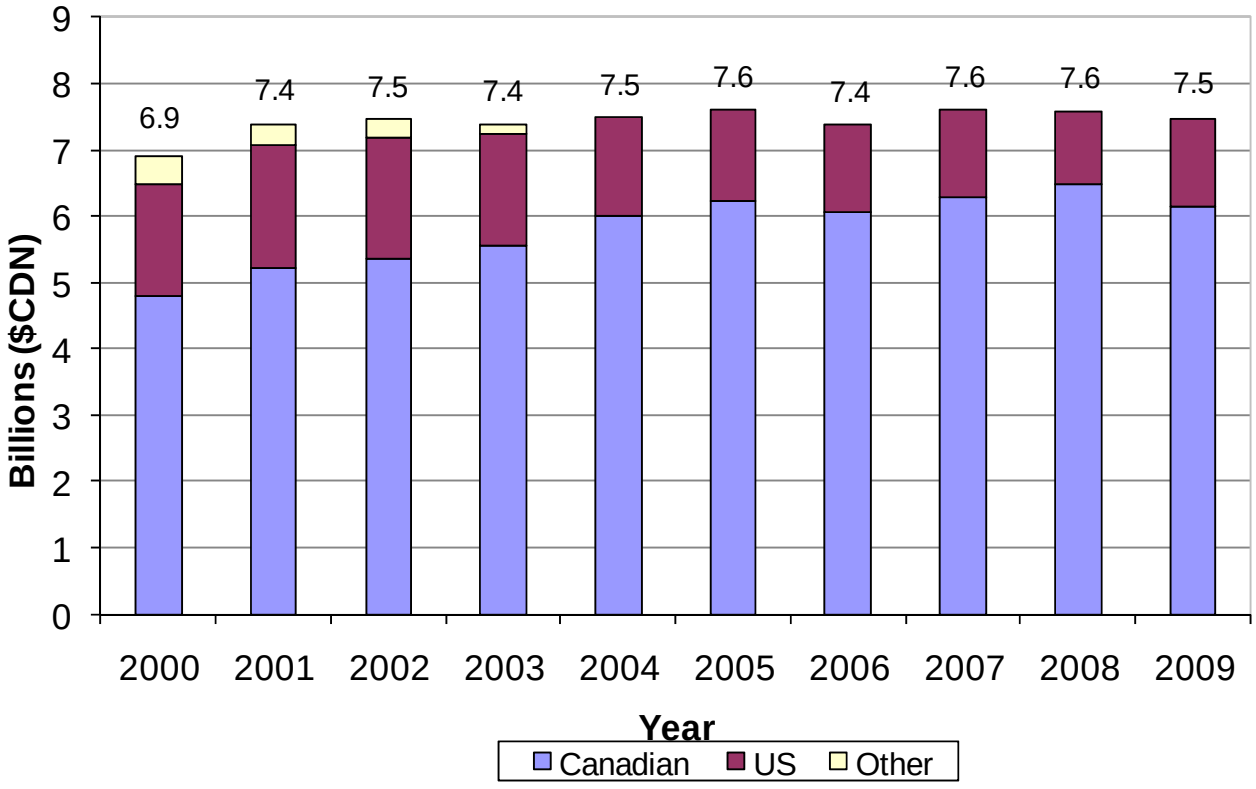
As at 31 March 2009, borrowings were reported in the Consolidated Statement of Financial Position at $6.6 billion, which represents total borrowings of $7.5 billion less sinking fund assets of $885 million. Total borrowings consist of general debentures in both Canadian and foreign currencies, amounts borrowed from the Government of Canada and its agencies, as well as other notes and loans payable by the Province. The $6.6 billion total borrowings of the Province, net of sinking fund assets for various debentures, is comprised of $6.063 billion in debt reflected in the Consolidated Revenue Fund, $182 million in health care organization debt, $170 million in Student Loan Corporation of Newfoundland and Labrador debt, $119 million in Newfoundland and Labrador Municipal Financing Corporation debt, $24 million in Newfoundland and Labrador Housing Corporation debt, and other miscellaneous debt of $36 million.

The net borrowings of $6.6 billion do not include the borrowings of Nalcor Energy. This accounting policy is consistent with the recommendations of the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants which require that the net equity position of a Government business enterprise such as Nalcor Energy be recorded in the Consolidated Summary Financial Statements of the Province. In the audited financial statements of Nalcor Energy for the year ended 31 December 2008, the Corporation reported debt of $1.2 billion (31 December 2007 - $1.4 billion).

Figure 10 shows the total borrowings as at 31 March for each year from 2000 to 2009 as disclosed in the Consolidated Statement of Financial Position. The Figure provides a breakdown of Canadian and foreign currency debt.

Figure 10

Consolidated Summary Financial Statements
Total Borrowings
Years Ended 31 March
($ Billions)



As Figure 10 shows, there were only Canadian and U.S. denominated borrowings as at 31 March 2009. The Canadian denominated borrowings totalled $6.2 billion and accounted for 82.67% of total borrowings.

(e) Borrowings and sinking funds

Many of the debentures held by the Province have sinking fund requirements. Sinking funds are a pool of cash and investments accumulated during the life of the debentures to repay the debt at maturity.

Figure 11 provides information on sinking funds as at 31 March 2009 along with the related debenture debt outstanding and the net amount left after reducing the debt by the amount of the sinking funds.

Figure 11

Consolidated Summary Financial Statements
Borrowings and Sinking Funds
As at 31 March 2009
($ Billions)

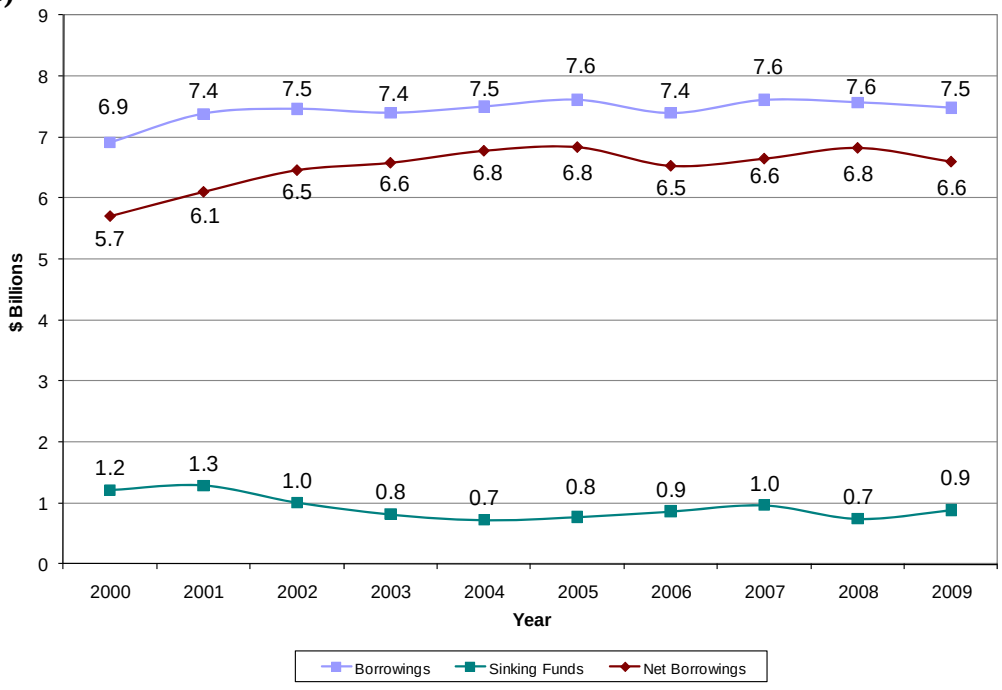
	Debt Outstanding	Sinking Fund Balance	Balance net of Sinking Fund
Total Debt with Sinking Funds	5.127	0.885	4.242
Total Debt without Sinking Funds	2,352	-	2,352
Total	**7.479**	**0.885**	**6.594**

As Figure 11 shows, Government had approximately $885 million in sinking funds at 31 March 2009.

Figure 12 shows borrowings net of sinking funds for each of the past ten years.

Figure 12

Consolidated Summary Financial Statements
Borrowings and Sinking Funds
Years Ended 31 March
($ Billions)



As Figure 12 shows, there has been no significant change in these balances in recent years.

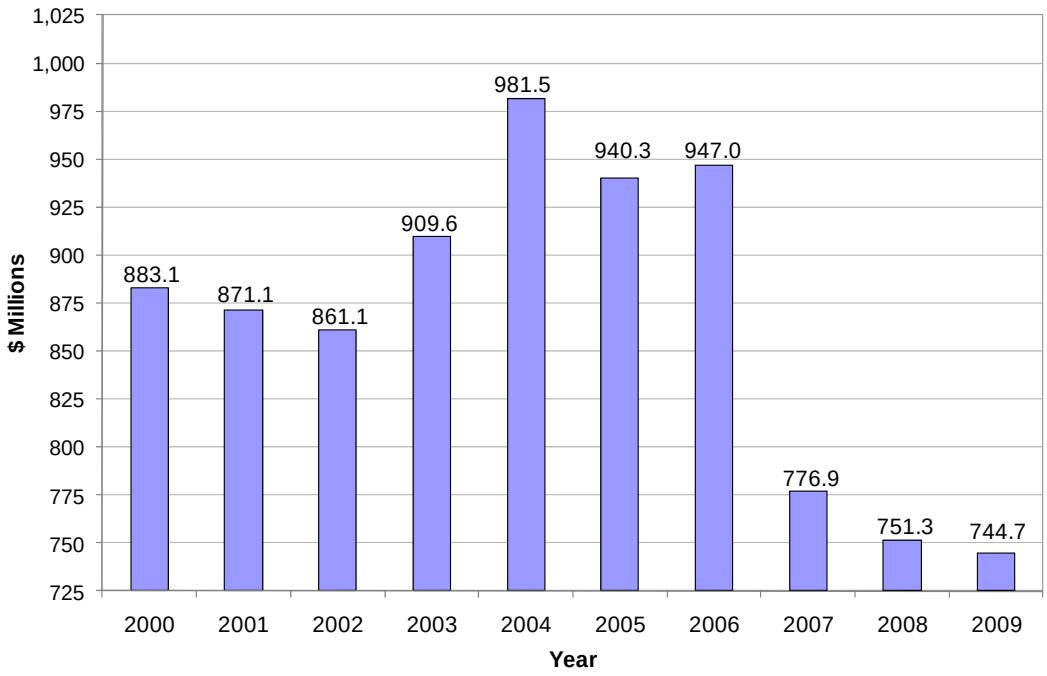
(f) Debt expenses

Debt expense (also known as the "interest bite") is the amount the Province has to pay to service its debt. The Province's debt expenses for 2009 as recorded in the Consolidated Summary Financial Statements totalled $744 million, which consists of approximately $169 million for the unfunded pension liability, $82 million for the net liability for group health and life insurance retirement benefits, and $493 million for the Province's borrowings.

Total debt expenses for the Province for each year from 2000 to 2009 are outlined in Figure 13.

Figure 13

Consolidated Summary Financial Statements
Debt Expenses
Years Ended 31 March
($ Millions)



As Figure 13 shows, debt expenses have decreased significantly over the past 3 years primarily due to the impact of transferring approximately $2.0 billion of the proceeds from the Atlantic Accord (2005) Agreement to reduce the unfunded liability of the Teachers' Pension Fund. Debt expenses as a percentage of total expenses has decreased from 20.3% in 2000 to 11.9% in 2009.

Flexibility

Flexibility is the degree to which a government can increase its financial resources to respond to rising commitments, by either expanding its revenues or increasing its debt. Flexibility indicators include:

- interest costs as a percentage of total revenue; and
- own source revenues to GDP.

Together with a government's net debt and a province's GDP, these indicators provide insight into a government's flexibility in responding to rising commitments. For example, when a government has a large net debt and high interest costs, it has fewer resources to allocate to programs and services.

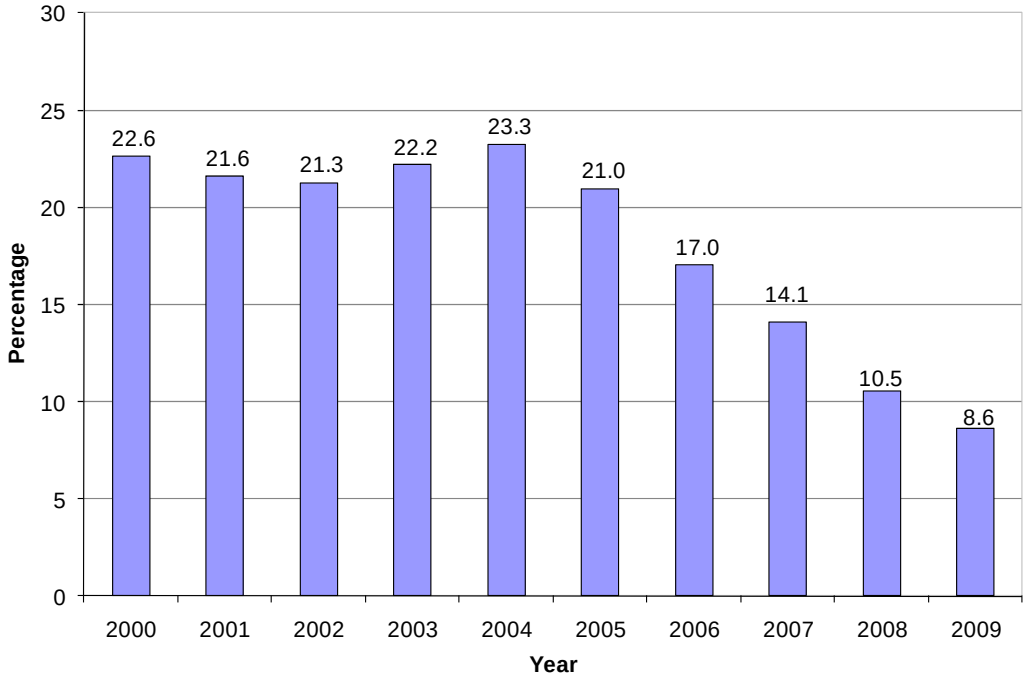
(a) Interest costs as a percentage of total revenue

Government incurs interest costs on its borrowings, as well as on its liabilities relating to retirement benefits. At 31 March 2009, Government's long-term borrowings net of sinking funds was $6.6 billion, its unfunded pension liability was $1.7 billion and its unfunded group health and life insurance retirement benefits liability was $1.6 billion. In 2009, Government's interest costs (debt expenses) totalled $744 million. The significance of debt expenses is that this money is not available to fund programs and services.

Interest costs as a percentage of total revenue, sometimes called the "interest bite", is an important indicator of the state of a government's finances. Figure 14 provides the total debt expenses as a percentage of total revenue for the years ended 31 March 2000 to 2009.

Figure 14

Consolidated Summary Financial Statements
Total Debt Expenses as a Percentage of Total Revenue
Years Ended 31 March



While Figure 14 indicates a significant decrease in debt expenses as a percentage of total revenue, these costs continue to be a substantial burden for Government.

Continued reductions in debt expenses would allow Government to use more of its revenues to pay for programs and services, and use less of its revenues to pay for debt expenses.

(b) Own source revenues to GDP

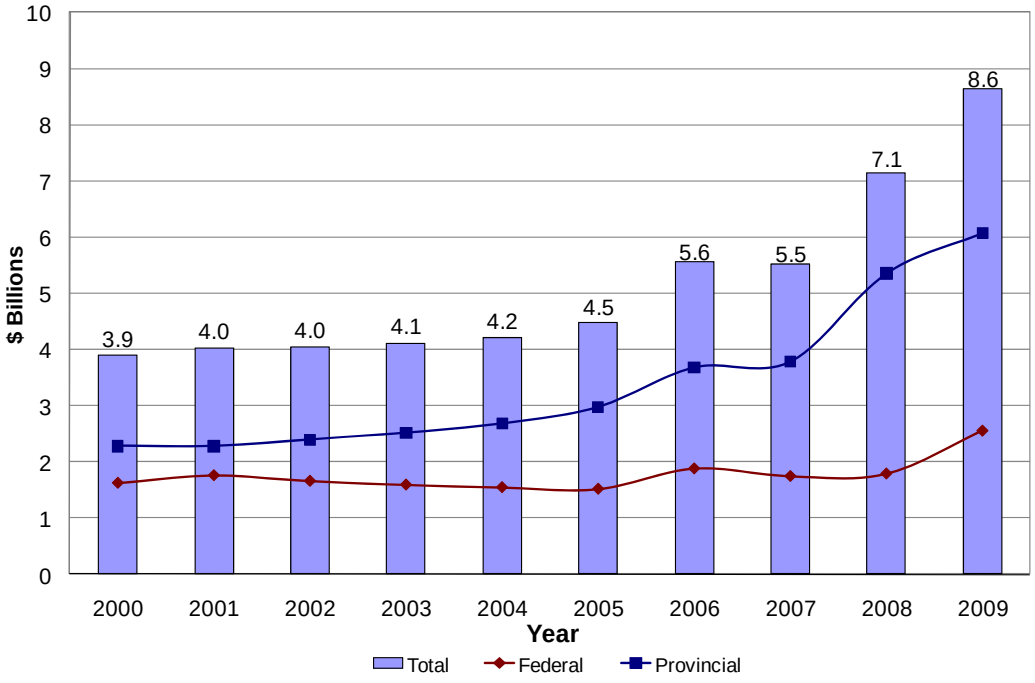
The Government of Newfoundland and Labrador receives revenue from two general sources. The first revenue source is from within the Province. This source is called "own source revenue". The second source of revenue is transfers from the Federal Government.

Government's own source revenue to GDP reflects how much revenue Government can raise from the Provincial economy e.g. through taxes and fees. It shows the extent to which Government obtains its revenues from the Provincial economy as opposed to transfers from the Federal Government, and the flexibility it has in increasing its financial resources through own source revenues if faced with decreases in Federal Government transfers.

Figure 15 provides information on own source and Federal revenues from 2000 to 2009.

Figure 15

Consolidated Summary Financial Statements
Revenue by Source
Years Ended 31 March
($ Billions)



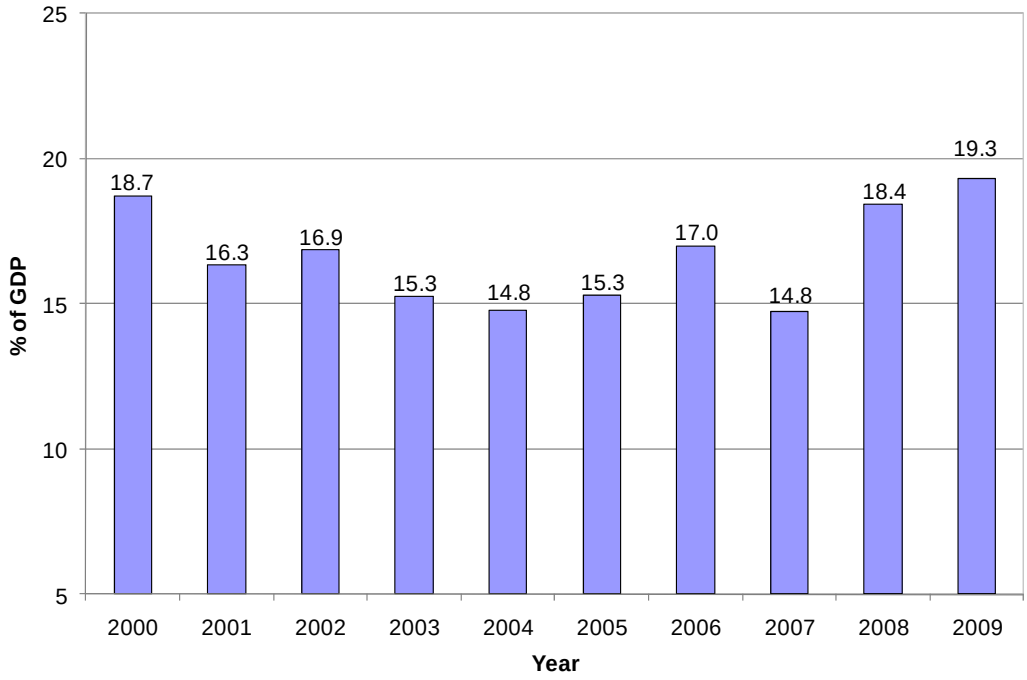
As Figure 15 shows, although a substantial portion of our total revenue continues to come from the Federal Government, there has been no significant change in this revenue source. At the same time, however, Provincial revenues have increased. As a result, Federal revenues as a percentage of total revenues have declined from 41.6% in 2000 to 29.6% in 2009.

Another important factor to consider is the comparison of the change in a government's own source revenue to the size of the economy as indicated by the GDP.

Figure 16 provides information on this indicator from 2000 to 2009.

Figure 16

Consolidated Summary Financial Statements
Own Source Revenue as a Percentage of GDP
Years Ended 31 March



As Figure 16 shows, revenue raised from sources within the Province, as a percentage of GDP, generally declined from 2000 to 2004. In 2000 the percentage was 18.7% while in 2009 it was 19.3%. This means that the Province is now taking about the same income out of the economy as it was in 2000.

Vulnerability

Vulnerability is the degree to which a government becomes dependent on, and therefore vulnerable to, sources of funding outside its control or influence. This indicator measures the extent to which a government can manage its financial affairs without having to rely on others. Important vulnerability indicators include:

(a) Federal Government revenues compared to own source revenues;

(b) foreign currency debt to total government debt; and

(c) offshore royalties revenues as a percentage of own source revenues.

(a) Federal Government revenues compared to own source revenues

A comparison of Federal Government revenues to own source revenues reflects how dependent Government is on transfers from the Federal Government and how vulnerable Government is to changes in these transfers in its ability to finance its programs and services.

A significant portion of Government's revenue in this Province consists of transfers from the Federal Government such as Health and Social Transfers, and cost-shared programs.

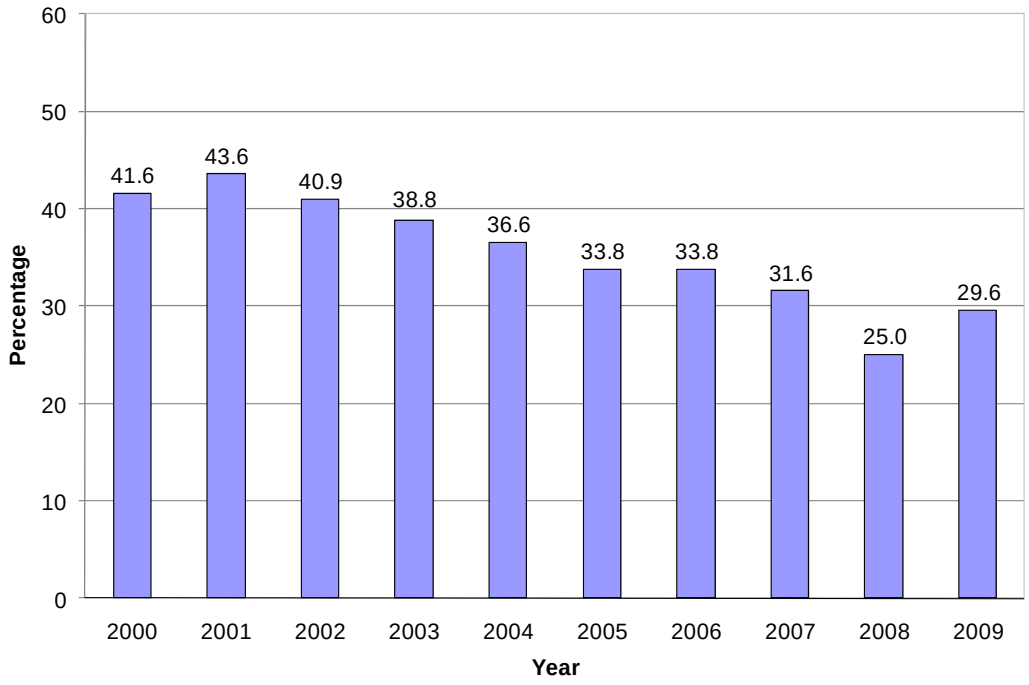
In the case of equalization, Government recently announced that for the first time in 60 years, Newfoundland and Labrador will not be receiving any equalization payments. The Province is now classified as a "Have Province", meaning that we are considered to be financially self-reliant. However, equalization transfers are affected by each province's performance in relation to the performance of other provincial economies, and therefore are subject to change.

Offshore royalties revenues have become the single largest own source revenue for Newfoundland and Labrador with the increase in this revenue being largely responsible for generating a surplus of $2.4 billion for 2009. The Province is especially vulnerable to changes in world oil prices and production levels. If resource revenues were to decline significantly it could result in the reversal of a "Have Province" to a Province that may possibly once more be a recipient of equalization payments from the Federal Government. To illustrate, the increased oil prices in the first eight months of the 2010 fiscal year will likely result in a lower than budgeted deficit for that year.

Figure 17 provides information on the percentage of Federal revenues compared to the Province's total revenues from 2000 to 2009.

Figure 17

Consolidated Summary Financial Statements
Federal Revenues as a Percentage of Total Revenues
Years Ended 31 March



As Figure 17 shows, Federal revenue as a percentage of total revenue has generally declined since 2000.

As indicated in Figure 17, over the past ten years, Federal revenue as a percentage of total revenue ranged from a high of 43.6% in 2001 to a low of 25.0% for 2008.

The lower the percentage of Federal revenues as a percentage of total revenues, the less potential impact, i.e. the vulnerability the Province has related to any change in these revenues.

(b) Foreign currency debt to total government debt

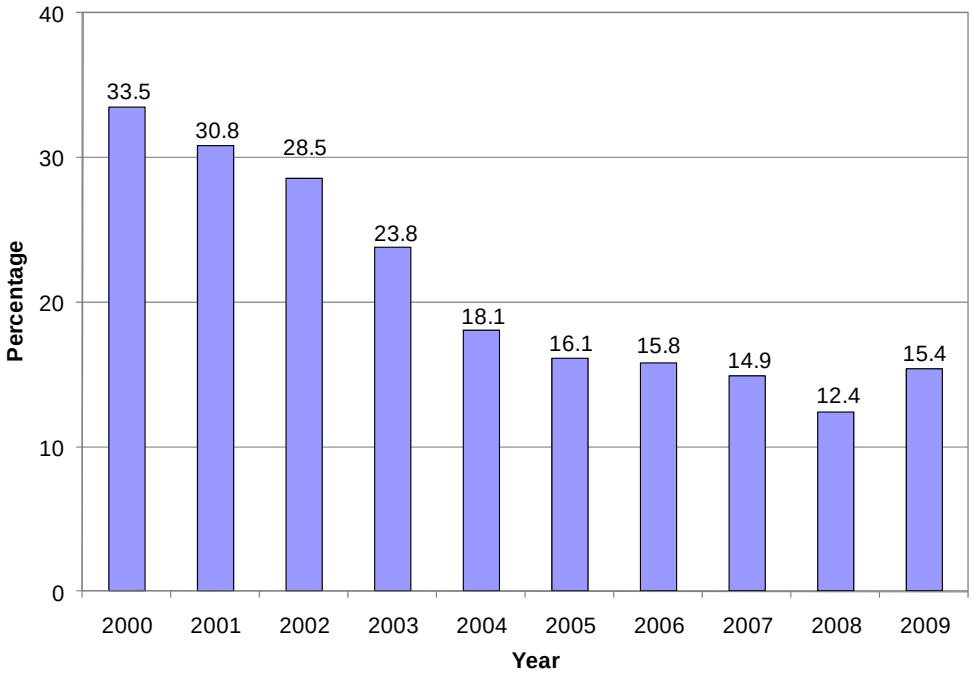
Of the $6.6 billion in total borrowings (net of sinking fund assets) as at 31 March 2009, $1.0 billion was foreign (U.S.) debt.

A comparison of a government's foreign debt to its total debt reflects the degree to which it is vulnerable to currency swings.

Figure 18 provides information on the Province's foreign currency debt as a percentage of its total borrowings from 2000 to 2009.

Figure 18

Consolidated Summary Financial Statements
Foreign Currency Debt as a Percentage of Total Borrowings (Net of Sinking Funds)
Years Ended 31 March



As Figure 18 indicates, over the last ten years, foreign currency debt as a percentage of total debt has been generally decreasing from a high of 33.5% in 2000 to a low of 12.4% in 2008.

Although foreign currency debt is decreasing, Government is still vulnerable to currency swings in relation to this debt. To illustrate, as of November 2009, the foreign exchange rate for one US dollar was $1.0845, a decrease of $0.1768 over the $1.2613 rate at year end. If, as at 31 March 2009, the foreign exchange rate had been $1.0845, there would have been an increase in foreign exchange gain of $142.2 million.

(c) Offshore royalties revenues as a percentage of own source revenues

There is a growing reliance by Government on offshore royalties revenues to fund its programs and services. This revenue source as a percentage of Provincial revenues has increased substantially in recent years. To illustrate, in 2005 offshore royalties revenues were $265 million (8.9% of own source revenue) while in 2009, offshore royalties revenues were $2.2 billion (36.9% of own source revenue).

However, world oil prices are highly volatile and production levels relating to such non-renewable resources can vary significantly. Therefore, changes in these factors can result in significant differences between budget forecasts and actual. As a result, Government's financial position can be significantly impacted by factors outside of its control.

Figure 19 shows budget and actual offshore royalties revenues from 2005 to 2009, along with budget and revised forecasts for 2010.

Figure 19

Consolidated Summary Financial Statements
Offshore Royalties Revenues: Budget and Actual
Years Ended 31 March
($ Millions)

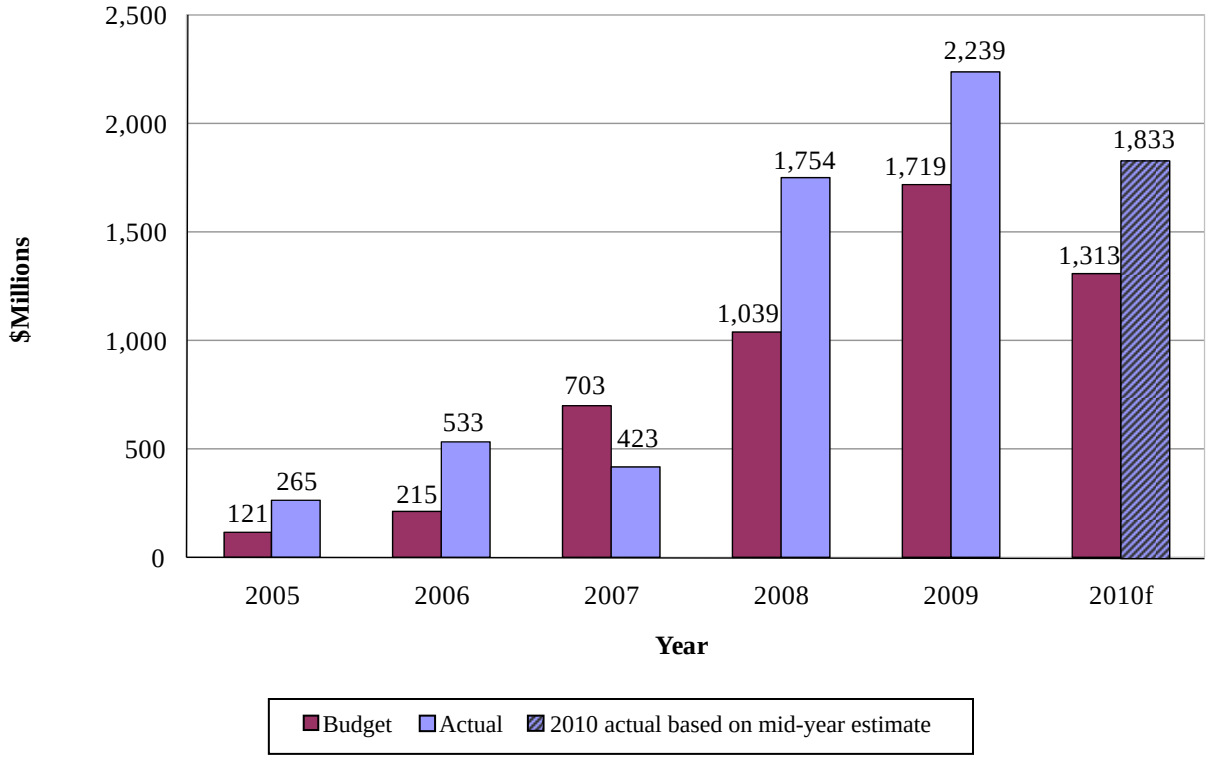
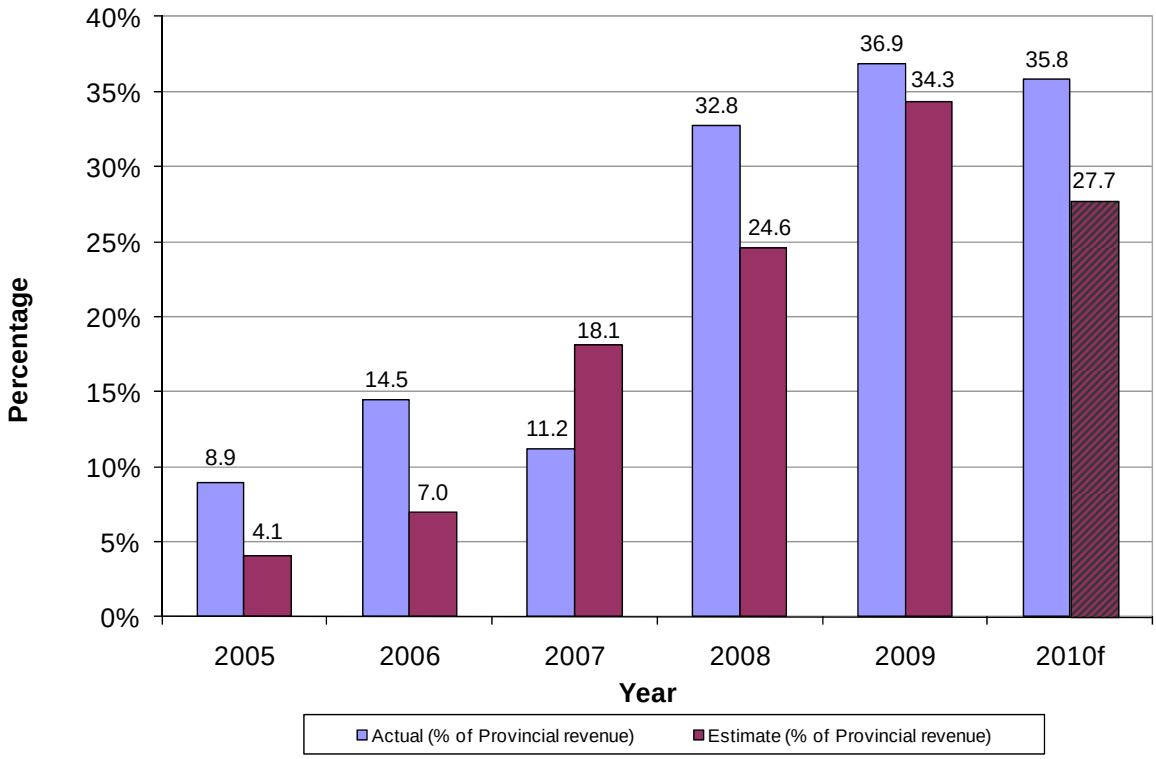


Figure 20 shows budget and actual offshore royalties revenues from 2005 to 2009 as a percentage of own source revenues, along with budget and revised forecasts for 2010.

Figure 20

Consolidated Summary Financial Statements
Oil Revenues: Percentage of Own Source Revenues
Years Ended 31 March



As Figures 19 and 20 show, oil revenues and the percentage of own source revenues they represent have increased significantly since 2004. The Figures also show that there have been significant differences between budget forecasts and actual offshore royalties revenues from 2004 to 2009 (and forecasted for 2010).

The significant increase in offshore royalties revenues, for the most part, is attributable to changes in oil prices and/or production levels. For example, in 2009, while offshore royalties revenues were budgeted at $1.719 billion, actual revenue was $2.239 billion, an increase of $520 million or 30%. This change could have been in either direction, and highlights the vulnerability associated with this revenue source. In fact, the opposite occurred in 2007 when offshore royalties revenues were budgeted at $703 million, with actual revenues of $423 million, representing a decrease of $280 million or 40%. The decrease was due to a longer than anticipated shutdown of the Terra Nova oil production facility. The difference between budget and actual demonstrates the volatility that exists in predicting offshore royalties revenues.

Furthermore, although offshore royalties revenues were budgeted for 2010 at $1.313 billion, in December 2009, Government announced an increase in its oil revenue estimates by $520 million to $1.833 billion in large part as a result of higher oil prices for a portion of that fiscal year.

Given its lack of control over oil prices and production levels, and its increasing dependence on this revenue source, Government has to carefully consider the degree to which it relies on this revenue source to fund its programs and services.

Credit Rating

The Province's credit rating will affect the debt servicing costs over time because the interest that the Province will have to pay on its borrowing will decrease as the credit rating improves, and conversely, the interest costs will increase as the credit rating declines.

The Province's credit ratings as established by Dominion Bond Rating Services, Moody's Investors Services, and Standard and Poor's are outlined in Figures 21, 22 and 23 respectively.

Figure 21

Province of Newfoundland and Labrador
Credit Ratings Established by
Dominion Bond Rating Service

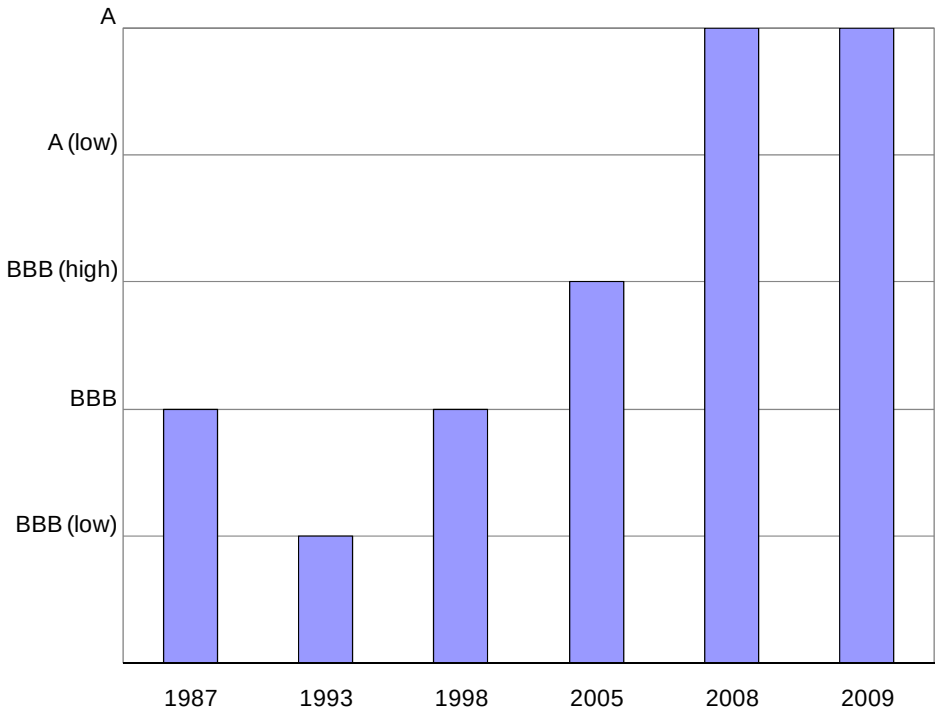


Figure 22

Province of Newfoundland and Labrador
Credit Ratings Established by
Moody's Investors Service

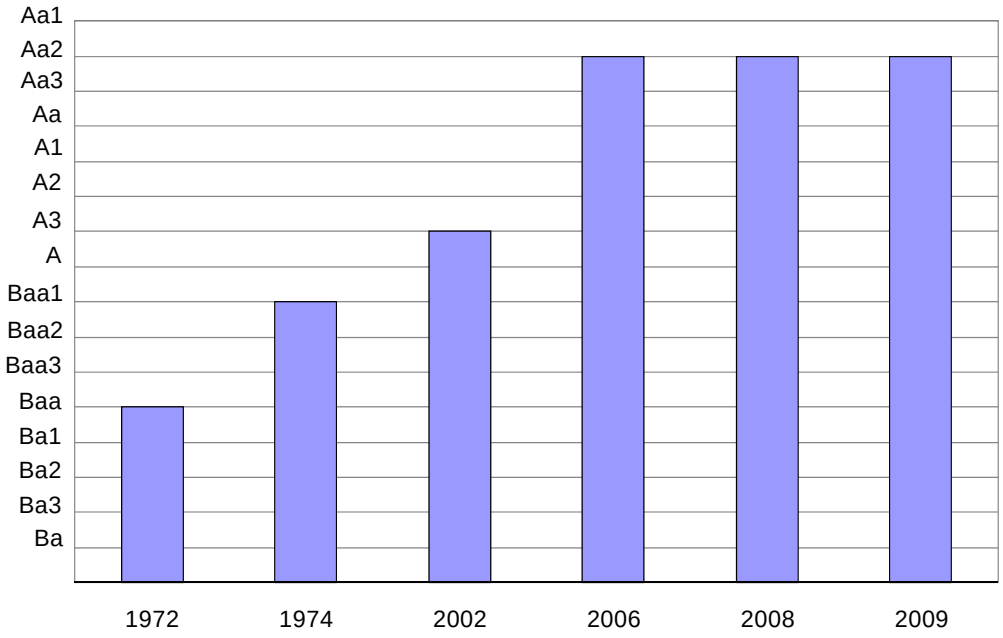
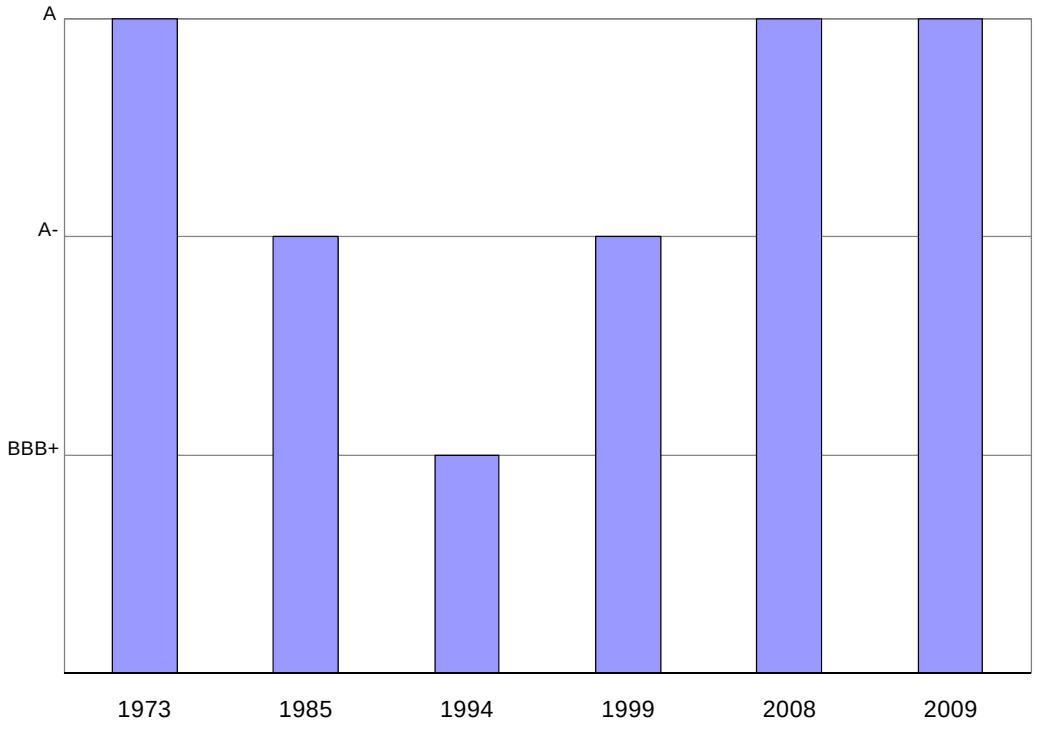


Figure 23

Province of Newfoundland and Labrador
Credit Ratings Established by
Standard & Poor's



Although these Figures show that the Province's credit rating has improved significantly, Figures 24, 25, and 26 which follow show that, while Newfoundland and Labrador is no longer the lowest rated Province in Canada, it is still rated among the lowest provinces.

Figure 24

Credit Ratings Established for Canada and the Provinces by Dominion Bond Rating Service

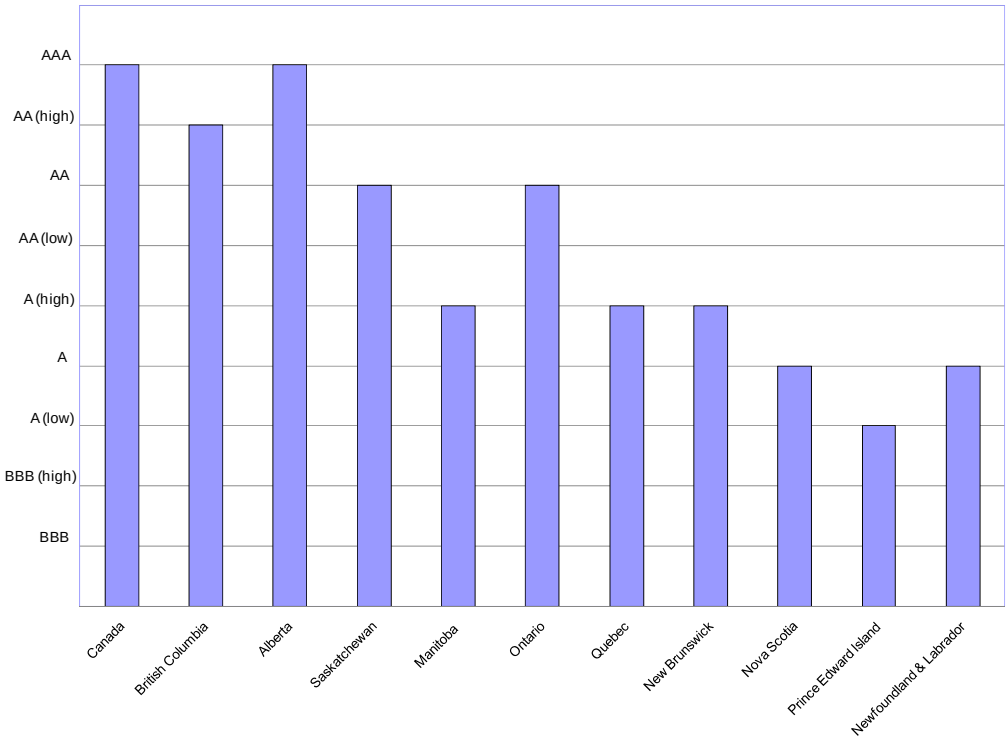


Figure 25

Credit Ratings Established for Canada and the Provinces by Moody's Investors Service

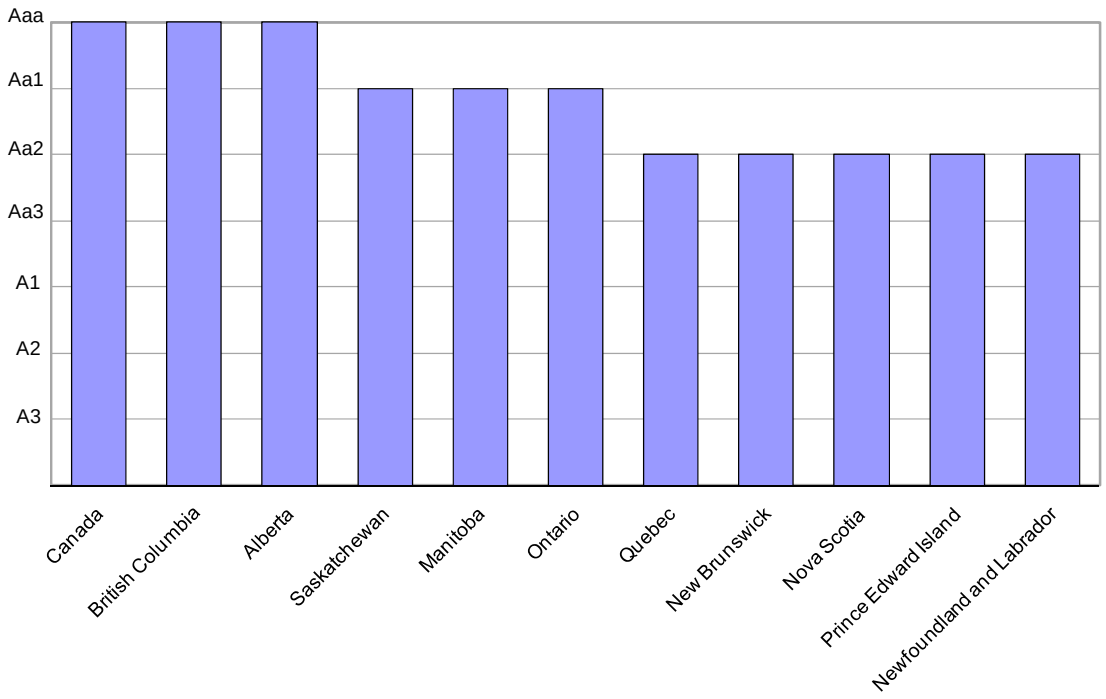
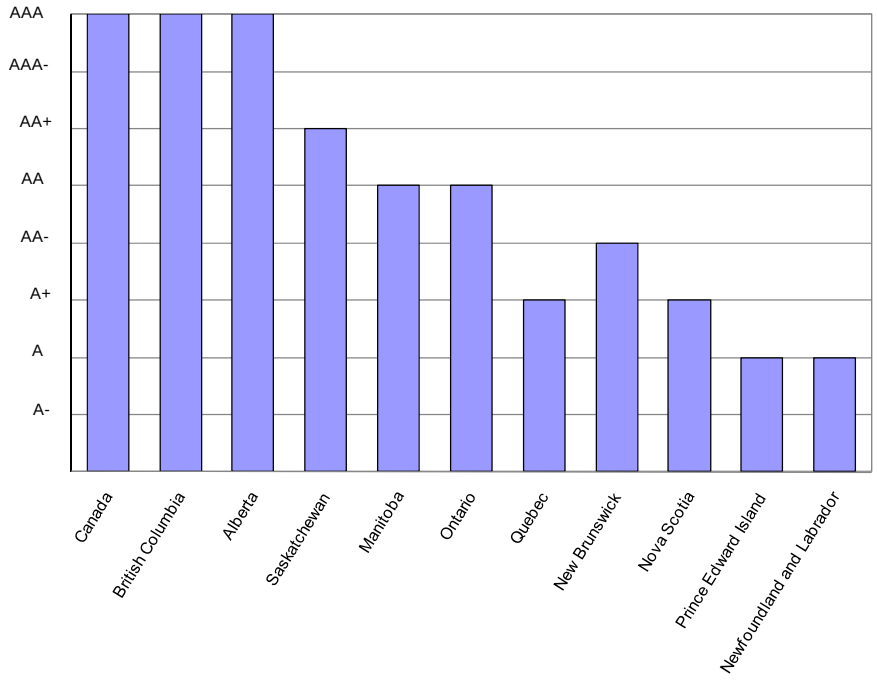


Figure 26

Credit Ratings Established for Canada and the Provinces by Standard & Poor's



3.3 Comments on Selected Financial Information

Retirement Benefits - Pensions

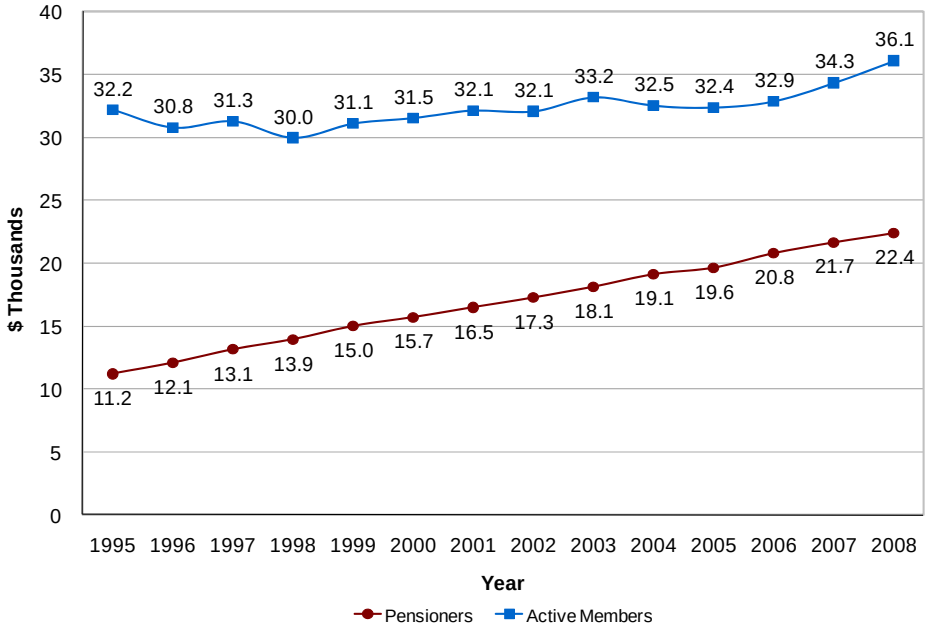
Pensions Administered under the Newfoundland and Labrador Pooled Pension Fund

Prior to 1967, public service salaries and pension benefits were paid under the authority of the *Civil Service Act.* Under that legislation there were no employee or employer contributions to a pension plan and pension benefits were paid out of the Consolidated Revenue Fund. In 1967, legislation was enacted which required that employees contribute to a pension plan. Employees' pension premiums were paid into the Consolidated Revenue Fund and pension benefits continued to be paid out of it.

In 1981, legislation was enacted which created the Province of Newfoundland and Labrador Pooled Pension Fund and required that employee and employer pension premium contributions be paid into the Fund. Subsequent to the establishment of the Fund, pension benefits were paid by the Fund irrespective of whether the employee had contributed pension premiums to it. Figure 1 provides historical data for the Fund relating to pensioners and active members for the past 14 years.

Figure 1

Province of Newfoundland and Labrador Pooled Pension Fund
Population History: Pensioners and Active Members
Years Ended 31 December
(000's)



As at 31 December 2008, the Province of Newfoundland and Labrador Pooled Pension Fund was comprised of the following five pension plans:

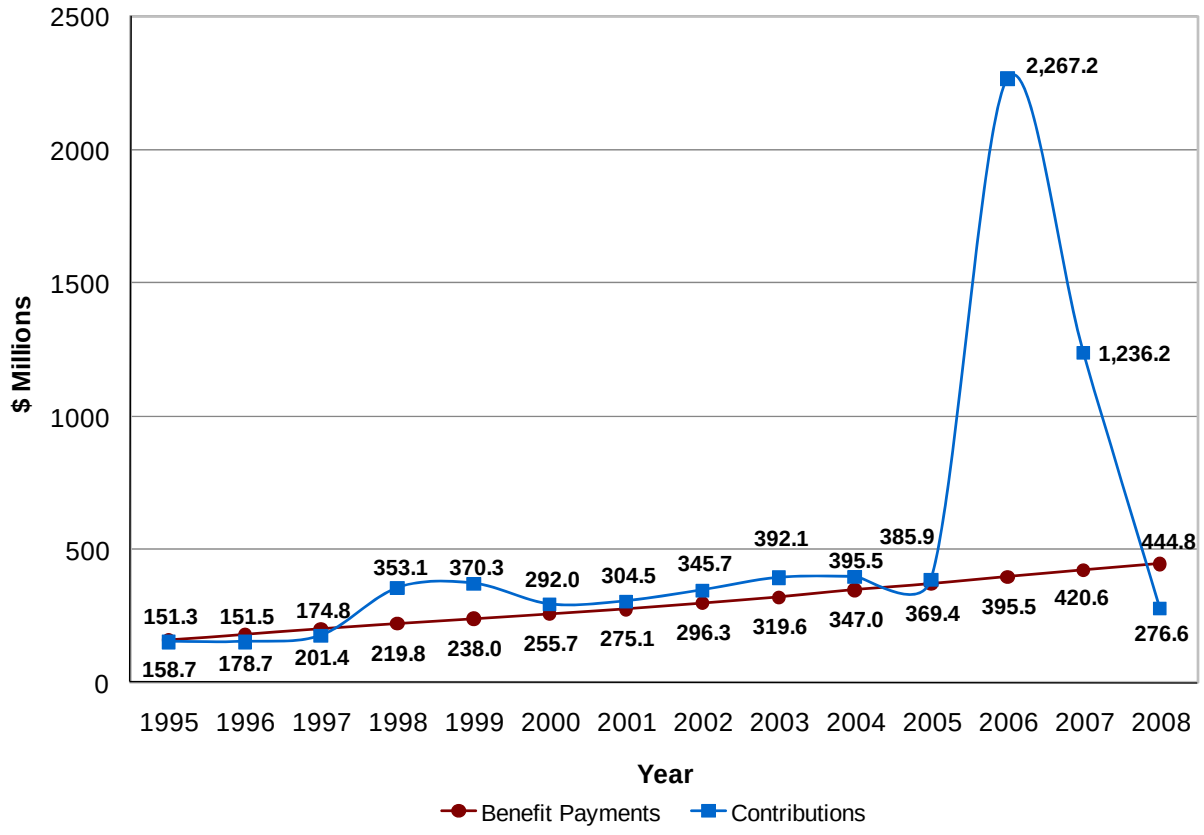
- Public Service Pension Plan;
- Teachers' Pension Plan;
- Uniformed Services Pension Plan;
- Members of the House of Assembly Pension Plan; and
- Provincial Court Judges' Pension Plan.

All employee and employer contributions are deposited into the Fund and pension benefits to plan members and other pension payments are made from it.

For the year ended 31 December 2008, approximately 36,100 employees, Members of the House of Assembly, and the employer paid pension contributions totalling $276.6 million into the Pension Fund under the five pension plans. During the same period, the Fund provided benefits totalling $444.8 million to approximately 22,400 retirees. Figure 2 provides historical data for the Fund relating to pension benefits paid and pension contributions received for the past 14 years.

Figure 2

Province of Newfoundland and Labrador Pooled Pension Fund
Pension Benefit Payments and Contributions
Years Ended 31 December
($ Millions)



Memorial University of Newfoundland Pension Plan

Commencing with the year ended 31 March 2006, the Province included Memorial University of Newfoundland (MUN) in its reporting entity.

MUN's plan is a defined benefit pension plan for its full-time employees and is administered separately from the plans administered under the Province of Newfoundland and Labrador Pooled Pension Fund.

As at 31 March 2009, the MUN plan had 3,496 active participants and 1,133 pensioners. For the year ended 31 March 2009, the employer and employees paid pension premiums totalling approximately $40 million, and provided benefits to pensioners of approximately $35 million.

Unfunded Pension Liability

The unfunded pension liability as at 31 March 2009, including the unfunded liability of the MUN plan of $24.1 million, totalled $1.704 billion. This is an increase of $245 million from the balance of $1.459 billion as at 31 March 2008.

The $1.704 billion unfunded pension liability continues to represent a significant debt for Government. Information on the overall unfunded pension liability from 2000 to 2009 is outlined in Figure 3.

Figure 3

Consolidated Summary Financial Statements
Unfunded Pension Liability
As at 31 March
($ Billions)

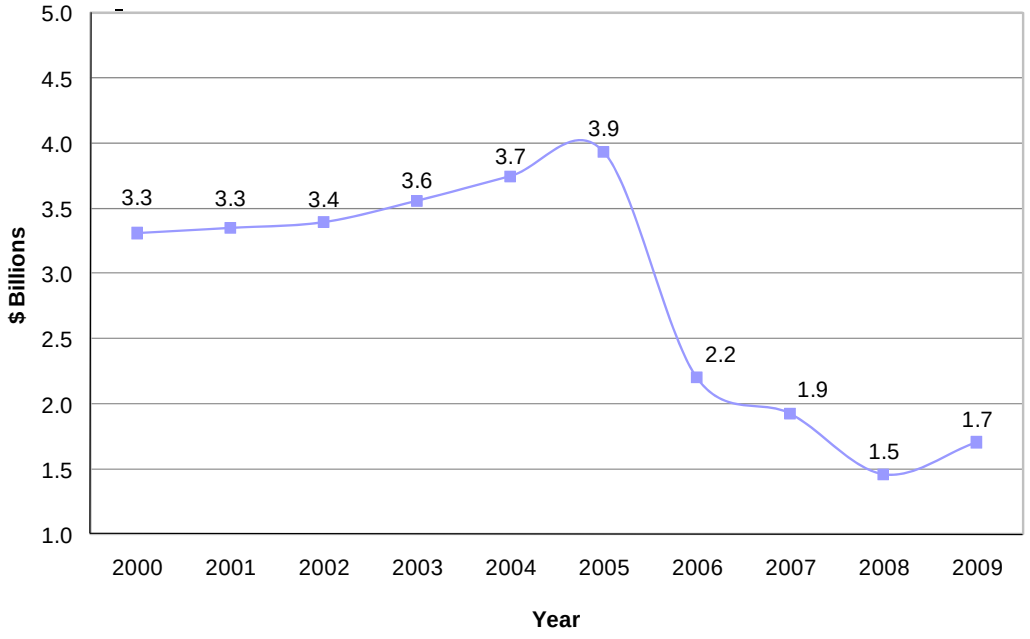
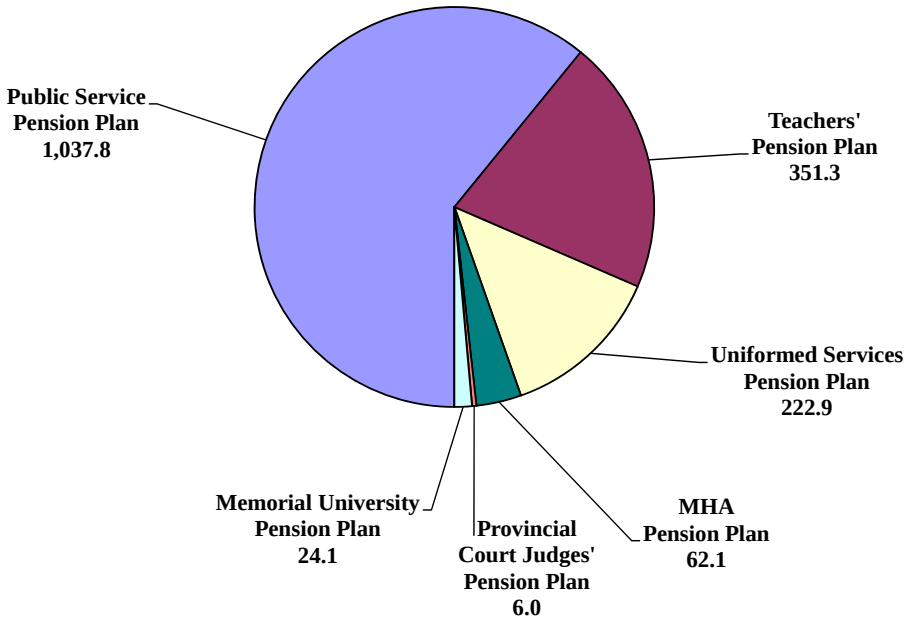


Figure 4 shows the unfunded pension liability by plan as at 31 March 2009.

Figure 4

Consolidated Summary Financial Statements
Unfunded Pension Liability by Plan
As at 31 March 2009
($ Millions)



The total unfunded pension liability increased from 2008 by a total of $245.2 million in six of the pension plans included in Figure 4 – Public Service Plan ($126.2 million), the Teachers' Pension Plan ($81.2 million), the Uniformed Services Pension Plan ($20.6 million), the Members of the House of Assembly Pension Plan ($3.3 million), Memorial University Pension Plan ($13.2 million) and the Provincial Court Judges' Pension Plan ($0.8 million).

Interest Costs

The interest costs relating to the pension plans each year from 2000 to 2009 are outlined in Figure 5.

Figure 5

Consolidated Summary Financial Statements
Interest Costs on the Unfunded Pension Liability
Years Ended 31 March
($ Millions)

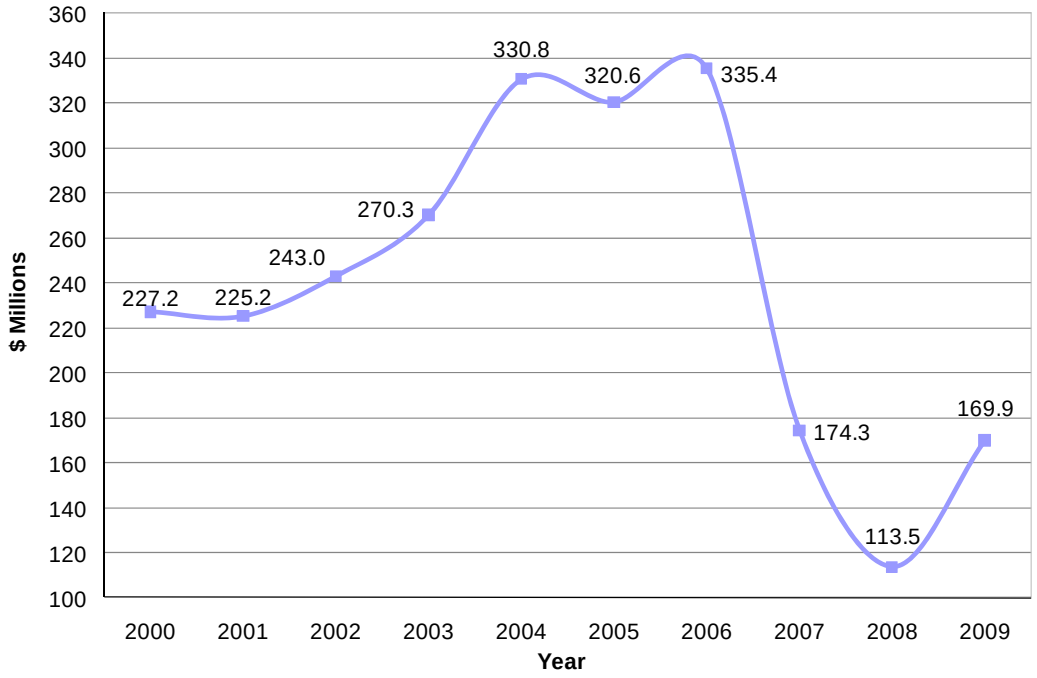


Figure 5 indicates that from 2001 to 2006 there was a significant increase in interest costs associated with the Province's unfunded pension liability. In 2001, interest costs amounted to $225.2 million while in 2006 interest costs were $335.4 million, an increase of $110.2 million or 49%. In 2007 and 2008, there were large decreases in interest costs and a significant increase in 2009.

Government will have to continue to closely monitor this significant unfunded liability.

Retirement Benefits - Group Health and Life Insurance

Active and retired public sector employees and Members of the House of Assembly are eligible to participate in group health and group life insurance plans. Plans for active and retired Government employees, Members of the House of Assembly and Provincial Court Judges are managed by Government. Plans for teachers are managed by the Newfoundland and Labrador Teachers' Association and plans for employees of Memorial University of Newfoundland are managed by the University.

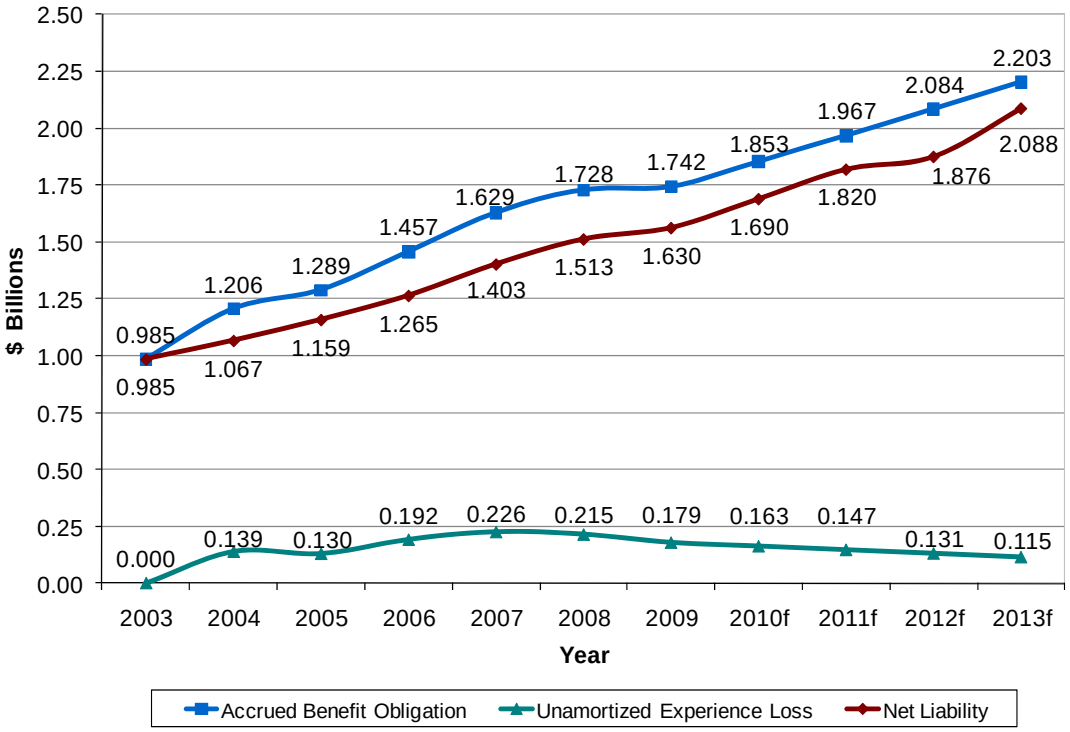
As at 31 March 2009, the plans provided benefits to a total of 18,758 retirees. Obligations for retirement benefits result from a commitment by Government to provide benefits to employees on retirement in return for their current services. Extended health care and life insurance benefits are a form of compensation offered for current services rendered by employees and accrue over the years employees work. The fundamental accounting task is to determine the amount of the total obligation for future retirement benefits and to determine the cost of future benefits for each year of employee service (current service cost).

The net liability relating to group health and group life insurance retirement benefits recognized in the Province's Consolidated Summary Financial Statements as at 31 March 2009 was $1.630 billion (2008 - $1.513 billion).

Figure 6 provides information regarding the projected net liability as extrapolated to 31 March 2013.

Figure 6

Province of Newfoundland and Labrador
Group Health and Group Life Insurance
Net Liability
As at 31 March
($ Billions)



f – The forecasted amounts relate to CRF only.
Source: Public Accounts and Actuarial Valuation

The liability for retirement benefits other than pensions has added to the already considerable debt load of the Province and, as Figure 6 shows, is expected to increase in each of the next four years. By 2013 the net liability is expected to total $2.088 billion, an increase of $1.021 billion or 96% over 2004, if action is not taken to address it.

Government will have to continue to closely monitor this significant liability.

3.4 Comments on Government's Financial Reporting

Generally Accepted Accounting Principles

The Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants prescribes generally accepted accounting principles (GAAP) for the public sector in Canada. PSAB pronouncements represent the consensus of senior government officials, legislative auditors and other experts in public sector accounting across Canada. They represent minimum standards for governments and are the benchmark for acceptable financial reporting.

Government in this Province has made significant progress by preparing financial statements that provide information about the operating results and financial position of the Province in accordance with GAAP. However, there are still issues that should be addressed which would improve its overall financial reporting.

Government Reporting Entity

Under the standards established for governments by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants, the Province's Consolidated Summary Financial Statements are required to include all organizations that are controlled by Government. A detailed listing of organizations and enterprises included as part of the Government reporting entity is presented in a schedule to the statements.

Government considers the Workplace Health, Safety and Compensation Commission to be a form of trust and has disclosed information on the Commission's net fund deficiency ($187.9 million) and accumulated operating deficit ($96.5 million) as at 31 December 2008 in a note to the Schedule of Trust Accounts in the Consolidated Summary Financial Statements. Accounting for entities similar to the Workplace Health, Safety and Compensation Commission continues to evolve, with variations among jurisdictions in Canada.

Government should continue to monitor how other jurisdictions in Canada account for entities similar to the Workplace Health, Safety and Compensation Commission.

Environmental Liabilities

There are many sites in the Province which have environmental contamination resulting from such things as PCBs, old fuel storage tanks and solid waste landfills. These sites include, for example, the old Harmon air force base, Octagon Pond, Buckmaster's Circle, Marystown Shipyard and abandoned mining properties.

In my 2002 Annual Report to the House of Assembly, I concluded that:

"There is no central inventory of contaminated sites ... The lack of a central inventory makes it more difficult for Government to determine the nature and extent of contaminated sites in the Province, the extent of progress of remediation efforts, and estimated future remediation costs to be incurred by Government."

Although Government has started to capture information on contaminated sites, there is still no complete central inventory of such sites.

Government will ultimately have involvement with all contaminated sites in the Province; however, the extent of the involvement and resulting financial costs may vary. Costs associated with remediation are usually significant - for example Government spent approximately $18.9 million to complete remediation at the former Hope Brook Gold Mine property. While it is possible that the Province may be able to recover some of the remediation costs from other parties, the remaining remediation costs associated with contaminated sites would likely be significant.

Generally accepted accounting principles require that, if a reasonable estimate of the costs of the environmental remediation of Government-owned sites can be determined and it is likely that the Province will be liable for these costs, this amount should be recorded in Government's financial statements. Note 10.(c)(vi) to the statements indicates that "... *while the Province is aware of a number of contaminated sites, the full extent of the remediation costs for these known sites is not readily determinable".*

Although the Province's environmental liability relating to remediation costs for contaminated sites may be a significant amount, only $7.9 million (2008 - $8.3 million) has been recorded as a liability in the Province's financial statements. A financial report made public by Government in January 2004 indicated that *"The Province is facing environmental issues requiring more than $237 million for compliance with legislation and for remediation...."* The report indicated that the issues were spread across several departments and agencies, each of which had indicated an inability to handle remediation costs within the current expenditure levels. The most significant environmental issue reflected in the report related to regional waste sites.

Government has made little progress in this area since I first reported my concerns in 2002.

As I noted in past Reports, Government should be more proactive in identifying all contaminated sites in the Province for which it is potentially liable, determining the estimated liability associated with remediation costs, and recording the resulting liability in the Province's financial statements.

Government should continue with its efforts to identify all contaminated sites in the Province for which it is potentially liable, determine the estimated liability associated with remediation cost, and comply with generally accepted accounting principles by recording any resulting liability in the Province's financial statements.

Periodic Financial Statements

Periodic financial statements, while not specifically required by generally accepted accounting principles, are considered to be an important component of any financial accountability framework. These statements are important to effectively monitor and control Government's financial operations.

Since September 2002, Government has been preparing periodic financial statements to show the Province's results of operations and financial position. However, officials of the Department of Finance indicated that these financial statements are only distributed to the Minister of Finance/President of Treasury Board, other Treasury Board Ministers, the Deputy Minister of Finance, the Comptroller General, various officials of the Department of Finance, and the Auditor General.

While I have commended the Office of the Comptroller General in the past for preparing such financial statements; in my opinion, these financial statements should be more widely distributed. Ideally, these financial statements should be part of accountability information provided on an on-going basis to all Members of the House of Assembly and senior Government officials.

Periodic financial statements should be provided to Members of the House of Assembly and senior Government officials as part of Government's accountability framework.

Accounting for Federal Revenues

Government currently records Federal revenues based on regular entitlements received for the current year, with adjustments made against future years' revenues when known. These revenues include health and social transfers, personal income taxes, corporate income taxes, and Harmonized Sales Taxes (HST). As I noted in past Reports, financial reporting would be improved if Government provided a reasonable estimate of future revisions, rather than wait until actual adjustments become known.

Government should develop a reasonable basis for estimating future revisions to entitlements, which could be used as a basis for recording Federal Government revenues.

3.5 Expenditures of the Consolidated Revenue Fund

Introduction As part of our audit of the financial statements of the Consolidated Revenue Fund (CRF), we perform tests and reviews of the expenditures made by the various departments. Figure 1 outlines expenditures, by category, recorded in the Consolidated Revenue Fund financial statements for the years ended 31 March.

Figure 1

Consolidated Revenue Fund Expenditures
By Category
Years Ended 31 March
($ Millions)

Consolidated Revenue Fund Expenditures					
Category	**2005**	**2006**	**2007**	**2008**	**2009**
Salaries and Employee Benefits	356	385	371	427	483
Retirement Costs	120	102	146	131	201
Transportation and Communications (See Figures 13, 14)	31	35	40	45	48
Supplies	56	70	84	107	102
Professional Services (See Figures 9, 10)	258	285	304	326	368
Purchased Services (See Figures 7, 8)	135	197	216	253	295
Property, Furnishings and Equipment (See Figures 5, 6)	9	48	17	60	79
Allowances and Assistance (See Figures 11, 12)	346	354	361	368	372
Grants and Subsidies (See Figures 2, 3, 4)	2,479	2,429	2,614	2,849	3,138
Debt Expenses	881	877	711	689	678
Information Technology	19	-	-	-	-
Amortization (tangible capital assets)	83	88	12	82	81
Bad Debts	2	4	87	29	2
Total	**4,775**	**4,874**	**4,963**	**5,366**	**5,847**

Source: Consolidated Revenue Fund financial statements

During the past year, we obtained expenditure information from the Government's financial management information system relating to all expenditures of the Consolidated Revenue Fund. We performed a general review and analysis of amounts paid relating to: grants and subsidies; property, furnishings and equipment; purchased services; professional services; allowances and assistance; and transportation and communications. Details of the expenditures in each of these categories are provided as follows:

Grants and Subsidies

Government has established programs which provide grants or subsidies to various Crown agencies, private corporations and individuals. These payments are made to health boards, to school boards, to the College of the North Atlantic and Memorial University of Newfoundland, and to certain Crown agencies for operational funding. Other grants and subsidies are paid to private corporations and individuals in accordance with Government support programs.

During the year we continued our process of monitoring and reviewing payments made for grants and subsidies. Figure 2 indicates for the year ended 31 March 2009, grants and subsidies amounted to approximately $3.14 billion or approximately 53.7% of the total expenditures of the Consolidated Revenue Fund. For the year ended 31 March 2008, payments for grants and subsidies were approximately $2.85 billion and represented approximately 53.1% of the total expenditures of the Consolidated Revenue Fund.

Figure 2

Grants and Subsidies Expenditures
By Department
Years Ended 31 March
($000's)

Grants and Subsidies Expenditure by Department		
Department	**2008**	**2009**
Department of Health and Community Services	1,607,364	1,810,300
Department of Education	945,066	999,464
Department of Municipal Affairs	155,407	166,268
Newfoundland and Labrador Housing Corporation	36,042	42,505
Department of Human Resources, Labour and Employment	20,544	27,034
Department of Tourism, Culture and Recreation	22,461	23,281
Department of Natural Resources	19,777	21,456
Department of Innovation, Trade and Rural Development	14,699	14,630
Department of Justice	10,254	13,532
Department of Transportation and Works	6,373	5,666
Department of Fisheries and Aquaculture	3,022	4,820
Executive Council	2,263	2,610
Department of Finance	3,367	2,340
Department of Labrador and Aboriginal Affairs	1,499	1,711
Department of Environment and Conservation	2,190	1,265
Department of Business	38	1,048
Legislature	480	210
Department of Government Services	126	127
Accrual adjustments	(2,101)	(672)
Total	**2,848,871**	**3,137,595**

Source: Government's Financial Information System

We also summarized the payments of grants and subsidies by the type of entity for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008. The results of this summary are outlined in Figure 3.

Figure 3

Grants and Subsidies Expenditures
By Type of Entity
Years Ended 31 March
($000)

Types of Entities Receiving Grants and Subsidies		
Type of Entity	**2008**	**2009**
Health Boards and Related Entities	1,577,248	1,771,700
School Boards – Teachers' Payroll	427,434	463,683
Memorial University of Newfoundland	262,928	294,327
Municipalities	155,407	166,268
School Boards and Related Entities – Other Payments	147,488	157,458
College of the North Atlantic	88,623	92,754
Newfoundland and Labrador Housing Corporation	36,042	42,505
Economic Renewal, Labour Market and Industry Support	31,070	37,464
Educational Agencies and Post Secondary Education Support	51,705	31,937
Culture and Heritage	14,837	16,341
Newfoundland and Labrador Legal Aid Commission	9,569	12,495
Provincial Information and Library Resources Board	10,213	10,654
Canada-Newfoundland Offshore Petroleum Board	5,392	6,650
Agriculture Development	8,250	6,523
Recreation and Sport	6,070	5,494
Transportation grants	5,494	5,184
Newfoundland and Labrador Hydro	1,972	3,500
Labrador Agreement and Native Peoples Support	1,499	1,711
Newfoundland and Labrador Film Development Corporation	550	585
Other Miscellaneous Grants	9,181	11,034
Accrual adjustments	(2,101)	(672)
Total	**2,848,871**	**3,137,595**

Source: Government's Financial Information System

Figure 4 provides the names of all entities which received grants and subsidies funding in excess of $10 million for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008.

Figure 4

Grants and Subsidies Expenditures
Payments in Excess of $10 million
Years Ended 31 March
($000's)

Entities Which Received in Excess of $10 Million		
Entity	**2008**	**2009**
Eastern Regional Integrated Health Board	918,288	1,029,315
Teachers Payroll	427,434	463,683
Memorial University of Newfoundland	262,928	294,327
Central Regional Integrated Health Board	229,154	255,611
Western Regional Integrated Health Board	224,125	254,369
Labrador-Grenfell Regional Integrated Health Board	119,504	135,660
College of the North Atlantic	88,623	92,754
Eastern School District	71,221	77,207
City of St. John's	51,005	46,629
Newfoundland and Labrador Housing Corporation	36,042	42,505
Newfoundland and Labrador Municipal Financing Corporation - Payments to Municipalities	38,832	35,411
Nova Central School District	32,403	35,091
Western School District	30,302	33,367
Canadian Blood Services	18,298	21,017
Labrador School District	12,056	12,972
Newfoundland and Labrador Legal Aid Commission	9,569	12,495
Provincial Information & Library Resources Board	10,213	10,654
Student Loan Corporation	22,450	5,700
Grants $10 million and less paid to over 6,400 entities in 2009 (2008 – over 4,600 entities)	285,467	322,806
Accrual adjustments	(39,043)	(43,978)
Total	**2,848,871**	**3,137,595**

Source: Government's Financial Information System

Property, Furnishings and Equipment

The Property, Furnishings, and Equipment category generally includes capital items such as equipment purchased for use by Government departments. This category also includes funding provided by the Department of Health and Community Services to the various health boards for the purchase of equipment. During the year ended 31 March 2009, the Province paid $54.7 million (2008 - $44.8 million) to the health boards for equipment which is included in the property, furnishings and equipment category. As indicated in Figure 1, payments for property, furnishings and equipment totalled $79.1 million for the year ended 31 March 2009, and $59.4 million for the year ended 31 March 2008. Figure 5 shows, by department, payments made for property, furnishings and equipment for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008.

Figure 5

Property, Furnishings and Equipment Expenditures
By Department
Years Ended 31 March
($000's)

Property, Furnishings and Equipment Expenditures by Department		
Department	**2008**	**2009**
Department of Health and Community Services	44,829	54,680
Department of Transportation and Works	12,762	30,201
Executive Council	9,566	7,518
Department of Natural Resources	4,929	5,579
Department of Education	2,261	5,201
Department of Innovation, Trade and Rural Development	10,127	5,094
Department of Justice	2,915	3,952
Department of Environment and Conservation	842	1,463
Department of Human Resources, Labour and Employment	426	1,069
Department of Government Services	820	855
Legislature	325	738
Department of Fisheries and Aquaculture	430	718
Department of Municipal Affairs	348	437
Department of Tourism, Culture and Recreation	331	245
Department of Finance	300	189
Public Service Commission	25	81

Property, Furnishings and Equipment Expenditures by Department		
Department	**2008**	**2009**
Department of Labrador and Aboriginal Affairs	12	79
Department of Business	9	16
Accrual adjustments	(31,898)	(39,064)
Total	**59,359**	**79,051**

Source: Government's Financial Information System

We also summarized the payments for property, furnishings and equipment to show all entities which received payments in excess of $1 million for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008. These entities are listed in Figure 6.

Figure 6

Property, Furnishings and Equipment Expenditures
Payments in Excess of $1 million
Years Ended 31 March
($000's)

Entities Which Received in Excess of $1 Million		
Entity	**2008**	**2009**
Eastern Regional Integrated Health Board	23,619	21,354
Central Regional Integrated Health Board	5,247	10,735
Western Regional Integrated Health Board	10,228	10,653
Labrador Regional Integrated Health Board	3,972	9,354
Royal Bank of Canada	242	7,477
Harvey & Co. Ltd.	951	5,723
Persona Communications	10,000	5,325
Kiewit Offshore Services	-	4,098
Hickman Motors Ltd.	2,962	3,151
J W Allen Co. Ltd	1,837	2,661
Detroit Diesel-Allison Canada East Inc.	-	2,561
Bell Aliant - IT Equipment	5,402	2,452
Rolls Royce Oy Ab (Rauma, Finland)	-	2,368
Avalon Ford Sales Ltd.	537	2,092
Notrax Canada Inc.	-	2,082
Triware Technologies Inc.	488	2,059

Entities Which Received in Excess of $1 Million		
Entity	**2008**	**2009**
Newfoundland and Labrador Centre for Health Information	-	1,625
Western Star Trucks Newfoundland Ltd.	6,056	121
College of the North Atlantic	1,500	-
Payments $1 million and less to over 700 entities in 2009 (2008 – over 650 entities)	18,216	22,224
Accrual adjustments	(31,898)	(39,064)
Total	**59,359**	**79,051**

Source: Government's Financial Information System

Purchased Services

Purchased services include such services as heat and light, general maintenance, printing, vehicle rentals and repairs, advertising, and insurance. As indicated in Figure 1, payments for purchased services totalled $295 million for the year ended 31 March 2009 ($253 million 31 March 2008). Figure 7 shows, by department, payments made for purchased services for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008.

Figure 7

Purchased Services Expenditures
By Department
Years Ended 31 March
($000's)

Purchased Services By Department		
Department	**2008**	**2009**
Department of Transportation and Works	202,970	247,621
Department of Education	47,440	49,210
Department of Health and Community Services	45,958	46,379
Department of Justice	12,032	17,512
Department of Natural Resources	14,074	16,939
Department of Tourism, Culture and Recreation	11,736	15,785
Executive Council	6,497	5,785
Department of Environment and Conservation	4,696	4,939
Department of Government Services	3,937	4,523
Department of Human Resources, Labour and Employment	3,338	4,061
Department of Innovation, Trade and Rural Development	1,540	1,514

Purchased Services By Department		
Department	**2008**	**2009**
Department of Finance	1,102	1,285
Department of Municipal Affairs	963	1,191
Legislature	2,457	1,171
Department of Fisheries and Aquaculture	999	1,052
Department of Business	161	300
Public Service Commission	274	285
Department of Labrador and Aboriginal Affairs	391	178
Consolidated Fund Services	42	74
Accrual adjustments	(107,132)	(125,227)
Total	**253,475**	**294,577**

Source: Government's Financial Information System

We also summarized the payments for purchased services to show all entities which received payments in excess of $1 million for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008. These entities are listed in Figure 8.

Figure 8

Purchased Services Expenditures
Payments in Excess of $1 million
Years Ended 31 March
($000's)

Entities Which Received in Excess of $1 Million		
Entity	**2008**	**2009**
Johnson's Construction Ltd.	16,817	33,088
Northlinks Construction	4,480	21,522
Pomerleau Inc.	13,404	19,868
Labrador Marine Inc.	14,152	15,630
Municipal Construction Ltd.	8,098	14,483
Humber Valley Paving Limited	10,248	13,478
J-1 Contracting Limited	9,281	13,394
Penney Paving Ltd.	7,123	9,918
Mista Shipu Construction Ltd.	1,868	9,748
Brook Enterprises Ltd.	15,092	9,500

Entities Which Received in Excess of $1 Million		
Entity	**2008**	**2009**
Nortech Construction Company Ltd.	7,641	9,394
Eastern School District	3,204	8,970
Target Marketing	8,146	8,908
Allied Construction Ltd.	3,616	8,135
Newfoundland and Labrador Light and Power	7,764	8,079
St. John's Dockyard Limited	5,823	6,655
Marco Services Ltd.	20,314	6,544
Concord Paving Ltd.	7,111	6,269
Federal-Provincial Contractors	2,347	5,364
Eastern Contracting Ltd.	609	4,475
Rock Construction Co Ltd.	3,200	4,401
H J O'Connell Construction Ltd.	3,189	4,337
Marine Contractors Ltd.	1,098	3,826
Pennecon Heavy Civil Ltd.	-	3,779
Farrell's Excavating Ltd.	1,301	3,453
Royal Bank	2,349	3,242
College of the North Atlantic	3,217	3,158
Mike Kelly & Sons Ltd.	3,627	3,123
Western Health Care Corporation	480	2,903
Bluebird Investments	8,321	2,870
Bell Aliant	4,297	2,492
Trident Construction Limited	1,354	2,353
Ultramar Ltd.	339	2,339
Receiver General for Canada	365	2,337
Central Regional Integrated Health Board	3,028	2,303
Nova Central School District	1,561	2,126
Corner Brook Pulp & Paper Ltd.	1,012	1,971
Clarenville Drydock Ltd.	1,986	1,824
Eastern Health	55	1,751
Western School District	2,008	1,533
Fortis Properties Corporation	1,219	1,513
Academy Canada	903	1,477
RSM Mining Services Inc.	1,746	1,470
Puddister Trading Company Ltd.	1,452	1,425

Entities Which Received in Excess of $1 Million		
Entity	**2008**	**2009**
Atlantic Catering Ltd.	1,274	1,404
Eastern Demolition & Recyclers	415	1,381
Baine Johnston Insurance	1,409	1,379
Hydro-Guard Roofing Systems	658	1,375
Churchill Construction Ltd.	45	1,353
Abitibi-Consolidated Inc.	1,377	1,339
Kelloways Construction Ltd.	1,331	1,318
Newfoundland & Labrador Hydro	1,373	1,303
Brook Construction Inc.	71	1,295
Puddister Shipping Ltd.	1,187	1,281
Marsh Canada Limited	2,795	1,255
Western Petroleum	1,631	1,226
H J Bartlett Electric Inc.	-	1,205
Redwood Construction Ltd.	-	1,111
The Telegram	534	1,096
Weirs Constr Co Ltd.	916	1,080
Granco Construction Ltd	770	1,077
C Barnes Excavating	904	1,047
Southwest Properties Partnership	1,152	1,040
Chard's Construction Ltd.	103	1,020
P & B Trucking & Rentals Inc.	359	1,007
Transcontinental Media Inc.	1,495	959
Can-am Construction Limited	1,286	782
Irving Oil Marketing Limited	2,160	752
10122 Newfoundland Ltd.	1,520	483
Enviroclean Newfoundland Ltd.	2,189	262
J & T Construction Ltd.	1,593	238
Olympic Construction Ltd.	6,197	58
Team Mechanical Construction Ltd.	1,071	44
Labrador Construction Limited	1,290	10
Island Aggregates & Ready Mix Inc.	9,442	2
B & M Paving Ltd	2,736	-
Coady Construction Ltd.	1,348	-
Cougar Engineering & Construction Ltd.	1,172	-

Entities Which Received in Excess of $1 Million		
Entity	**2008**	**2009**
Janes & Noseworthy Limited	4,048	-
RJG Construction Limited	1,382	-
Terra Nova Industries Ltd.	1,086	-
Payments $1 million and less to over 5,900 entities in 2009 (2008 – over 5,170 entities)	87,043	95,194
Accrual adjustments	(107,132)	(125,227)
Total	**253,475**	**294,577**

Source: Government's Financial Information System

Professional Services

Professional services generally include the fees and expenses of those engaged in a specialty profession such as accountants, doctors, lawyers, and engineers who provide a service, a report or advice to Government. As indicated in Figure 1, payments for professional services totaled $368 million for the year ended 31 March 2009 ($326 million 31 March 2008). Figure 9 shows, by department, payments made for professional services for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008.

Figure 9

Professional Services Expenditures
By Department
Years Ended 31 March
($000's)

Professional Services By Department		
Department	**2008**	**2009**
Department of Health and Community Services	225,997	242,033
Department of Justice	58,117	65,447
Executive Council	25,492	36,350
Department of Transportation and Works	3,260	10,153
Department of Education	5,860	9,825
Department of Natural Resources	3,231	3,691
Department of Human Resources, Labour and Employment	1,286	2,581
Department of Environment and Conservation	1,466	1,917
Department of Tourism, Culture and Recreation	1,476	1,779
Department of Innovation, Trade and Rural Development	1,327	987
Legislature	738	889

Professional Services By Department		
Department	**2008**	**2009**
Department of Fisheries and Aquaculture	382	832
Public Service Commission	477	524
Department of Municipal Affairs	1,053	438
Department of Finance	744	267
Department of Government Services	220	233
Department of Business	841	222
Consolidated Fund Services	4,921	220
Department of Labrador and Aboriginal Affairs	101	19
Accrual adjustments	(10,841)	(10,855)
Total	**326,148**	**367,552**

Source: Government's Financial Information System

We also summarized the payments of professional services to show all entities or individuals who received payments in excess of $600,000 for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008. These entities or individuals are listed in Figure 10.

Figure 10

Professional Services Expenditures
Payments in Excess of $600,000
Years Ended 31 March
($000)'s

Entities or Individuals Which Received in Excess of $600 Thousand		
Entity	**2008**	**2009**
Receiver General For Canada (RCMP Contract)	53,030	57,353
Bell Aliant	16,111	19,619
Medical Practice Associates	16,030	18,751
Eastern Regional Integrated Health Board	13,298	15,837
MTS Allstream Inc.	9,347	14,172
Lemarchant Medical Imaging PMC	4,953	4,798
AMEC Earth & Environmental Limited	380	4,020
Deloitte & Touche Inc.	1,872	3,292
Pediatric Diagnostic Imaging Services	2,602	2,995
Nephrology Partnership	2,411	2,832
Hatch Mott Macdonald Ltd.	-	2,627

Entities or Individuals Which Received in Excess of $600 Thousand		
Entity	**2008**	**2009**
Hampton Architect Inc.	663	1,423
Gibbons Snow Architects Inc.	209	1,392
PHB Group Inc.	291	1,330
Canadian Policy Research Networks	3	1,227
Design Management Group Limited	523	1,135
EWA-Canada Ltd.	641	1,132
AMEC Americas Limited	642	1,131
Dr. Kevin N. Melvin Professional Medical	1,003	1,068
Dr. Joseph F. Coffey Professional Medical	261	1,029
Labrador-Grenfell Regional Integrated Health Board	1,549	977
Dr. Geoffrey W. Smith	690	902
AE Consultants Limited	312	845
Retina Services Professional Medical	816	831
Dr. Eric W. Stone	771	825
Cox & Palmer	454	781
Dr. Richard B. Lush	662	776
Grant Thornton LLP	-	757
White Ottenheimer & Baker	678	749
Dr. Christopher S. Jackman	792	718
BAE Newplan Group Ltd.	1,132	714
Dr. Kamel Ohson Professional Medical	774	713
Dr. Yiki Sahajpal Professional Medical	736	711
Dr. Kenneth J. Burrage	723	708
Applecore Interactive Inc.	496	703
Central Regional Integrated Health Board	865	694
Dr. Thomas Guy Hogan	748	694
Dr. Michael Furey	791	693
Dr. Palinder Kamra Profession Medical	663	689
Dr. Peter J. Blackwood	493	689
Dr. John McNicolas Professional Medical	667	687
Dr. Eng T. Tjan	654	675
Dr. Thomas E. Poole Professional Medical	703	675
Weirfoulds LLP	-	674
Dr. Mark O'Driscoll Professional Medical	487	651

Entities or Individuals Which Received in Excess of $600 Thousand		
Entity	**2008**	**2009**
Dr. Chandra Sekhar Professional Medical	631	649
Dr. Kam W. Mong	557	647
Dr. Tony Batten Professional Medical	623	647
Dr. Yahya Ismail Professional Medical	47	641
Jacques Whitford Stantec Limited	-	640
Dr. Neil J. Pearce	612	638
Sheppard Case Architects Inc.	655	637
Dr. Amin Mohamed Addetia	538	625
Dr. David Lacey Professional Medical	594	625
Dr. Yoganathan Wijayanayagam	579	615
Dr. Kenneth Ringer Professional Medical	520	613
Dr. John Tucker Professional Medical	536	604
Western Regional Integrated Health Board	915	589
Dr. Todd M. McEachren	654	520
Dr. Zohair Tomi	698	485
Dr. M & S Kathir Gramanathan Professional Medical	823	481
Royal Bank	913	385
Dr. Craig MacDonald Jewer	626	334
Hearn Fougere Architects Inc.	995	73
Associated Radiologists PMC Incorporated	1,785	-
Payments $600 thousand and less to over 2,020 entities in 2009 (2008 – over 5,170 entities)	182,762	192,265
Accrual adjustments	(10,841)	(10,855)
Total	**326,148**	**367,552**

Source: Government's Financial Information System

Allowances and Assistance

Allowances and assistance expenditures include costs relating to such items as: allowances for Members of the House of Assembly, social assistance allowances paid to individuals, out of court settlements, and allowances paid on behalf of individuals to organizations. As indicated in Figure 1, payments for allowances and assistance totalled $372 million for the year ended 31 March 2009 ($368 million 31 March 2008). Figure 11 shows, by department, payments made for allowances and assistance for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008.

Figure 11

Allowances and Assistance Expenditures
By Department
Years Ended 31 March
($000's)

Allowances and Assistance By Department		
Department	**2008**	**2009**
Department of Human Resources, Labour and Employment	222,219	222,426
Department of Health and Community Services	132,041	139,145
Department of Education	4,706	5,528
Department of Justice	2,618	2,025
Legislature	5,653	1,339
Department of Transportation and Works	146	1,163
Department of Government Services	204	208
Department of Municipal Affairs	170	168
Department of Finance	101	72
Executive Council	20	20
Department of Natural Resources	9	15
Public Service Commission	9	2
Accrual adjustments	118	60
Total	**368,014**	**372,171**

Source: Government's Financial Information System

We also summarized the payments of allowances and assistance to show all entities which received payments in excess of $500,000 for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008. These entities are listed in Figure 12.

Figure 12

Allowances and Assistance Expenditures
Payments in Excess of $500,000
Years Ended 31 March
(000's)

Entities Which Received in Excess of $500 Thousand		
Entity	**2008**	**2009**
Social Assistance	182,319	178,909
Bell Aliant (re: Newfoundland and Labrador Prescription Drug Program)	114,320	121,167
Eastern Regional Integrated Health Board	4,389	4,323
Newfoundland and Labrador Health Boards	452	2,297
Minister of Finance (Ontario) (MCP payments)	1,954	2,049
Provincial Treasurer of Alberta (MCP payments)	1,969	1,516
Medical Services Insurance	1,347	1,390
Roebothan, McKay & Marshall (Out of Court Settlement)	17	1,120
The Salvation Army	830	851
Bay St. George Community Employment Corporation	796	771
Humber Valley Community Employment Corporation	539	666
Avalon Employment Inc.	504	596
College of the North Atlantic	459	563
Sedler Community Employment Corporation	414	561
Harvey's Travel	525	533
Morrow & Morrow Law Office	750	-
Payments $500 Thousand and less to over 4,520 entities in 2009 (2008 – over 3,830 entities)	56,312	54,799
Accrual adjustments	118	60
Total	**368,014**	**372,171**

Source: Government's Financial Information System

Transportation and Communications

Transportation and communications expenditures include costs relating to such items as: postage, freight, ambulance and air services, telecommunication services and travel for ministers, government employees and others. As indicated in Figure 1, payments for transportation and communications totalled $48 million for the year ended 31 March 2009 ($45 million 31 March 2008). Figure 13 shows, by department, payments made for transportation and communications for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008.

Figure 13

Transportation and Communications Expenditures
By Department
Years Ended 31 March
($000's)

Transportation and Communications By Department		
Department	**2008**	**2009**
Department of Transportation and Works	8,336	8,883
Department of Natural Resources	6,256	6,961
Department of Environment and Conservation	4,274	5,872
Department of Justice	4,735	5,295
Executive Council	3,729	3,899
Department of Education	3,462	3,615
Department of Human Resources, Labour and Employment	2,513	2,937
Department of Government Services	2,484	2,659
Department of Tourism, Culture and Recreation	1,442	1,575
Department of Health and Community Services	1,446	1,408
Department of Innovation, Trade and Rural Development	1,157	1,173
Department of Fisheries and Aquaculture	1,139	1,054
Department of Municipal Affairs	877	950
Department of Finance	717	818
Legislature	1,255	602
Department of Labrador and Aboriginal Affairs	488	504
Department of Business	276	387
Public Service Commission	127	161
Accrual adjustments	(277)	(657)
Total	**44,436**	**48,096**

Source: Government's Financial Information System

We also summarized the payments for transportation and communications to show all entities which received payments in excess of $100,000 for the year ended 31 March 2009 with comparative figures for the year ended 31 March 2008. These entities are listed in Figure 14.

Figure 14

Transportation and Communications Expenditures
Payments in Excess of $100,000
Years Ended 31 March
($000's)

Entities Which Received in Excess of $100 Thousand		
Entity	**2008**	**2009**
Universal Helicopters Newfoundland Ltd.	4,257	4,894
Bell Aliant	4,665	4,654
Rogers Business Solutions	2,353	2,892
Canada Post Corporation	2,374	2,358
Canadian Helicopters Ltd.	1,164	1,614
Bell Mobility	57	1,554
Postage by Phone	1,575	1,543
Labrador Marine Inc.	1,040	882
Supermarine Aircraft Inc.	-	738
Eastlink	-	604
Harvey's Travel Ltd.	538	586
Provincial Airlines Limited.	496	476
Newfoundland Helicopters Ltd.	601	474
Bell Island Radio Equipment Lease	397	430
City of St. John's	338	430
Canadian Aerospace Corporation	231	427
Newfoundland and Labrador Hydro	438	357
Rogers Telecom	712	276
Legrow's Travel	245	271
Helicopter Transport Services	-	258
Air Labrador	153	173
Aliant Mobility	1,372	159
Sameday Right Way	126	130
Millennium Express	153	118
Strait Air 2000 Ltd.	85	117
Household Movers and Shippers Ltd.	172	113
Mokami Travel Service Limited	107	97

Entities Which Received in Excess of $100 Thousand		
Entity	**2008**	**2009**
Globalstar Canada Satelite Co.	102	82
Receiver General for Canada	107	77
Persona Communications	394	41
Forest Protection Limited	359	-
Payments $1 million and less to over 8,500 entities in 2009 (2008 – over 7,740 entities)	20,102	21,928
Accrual adjustments	(277)	(657)
Total	**44,436**	**48,096**

Source: Government's Financial Information System

3.6 Answers to Frequently Asked Questions about the Public Accounts

What are the Public Accounts?

The Public Accounts contain the annual financial statements of the Province of Newfoundland and Labrador. They are a representation by Government, of the Province's financial condition as at the end of a fiscal year, and the results of its operations, the changes in its net debt and its cash flows for that year.

The *Financial Administration Act* requires that the Public Accounts show:

- the state of the public debt;
- the revenue and expenditure;
- all compromises, remissions, refunds and amounts written off; and
- those other accounts and statements that may under good accounting practice be required to show the financial position of the Province at the end of the fiscal year.

Why are they Prepared?

The *Financial Administration Act* requires that the Public Accounts be prepared and tabled in the House of Assembly. The Public Accounts provide an important link in an essential chain of public accountability. In an era where, in Canada and throughout the world, there is a heightened need for transparency and accountability, the preparation and audit of Government's financial statements is of increasing importance. These statements are the principal means by which Government reports to the House of Assembly and to all Newfoundlanders and Labradorians on its stewardship of public funds.

What are the Public Accounts "Volumes"?

The Public Accounts for the year ended 31 March 2009 were published in two volumes:

Volume I - Consolidated Summary Financial Statements

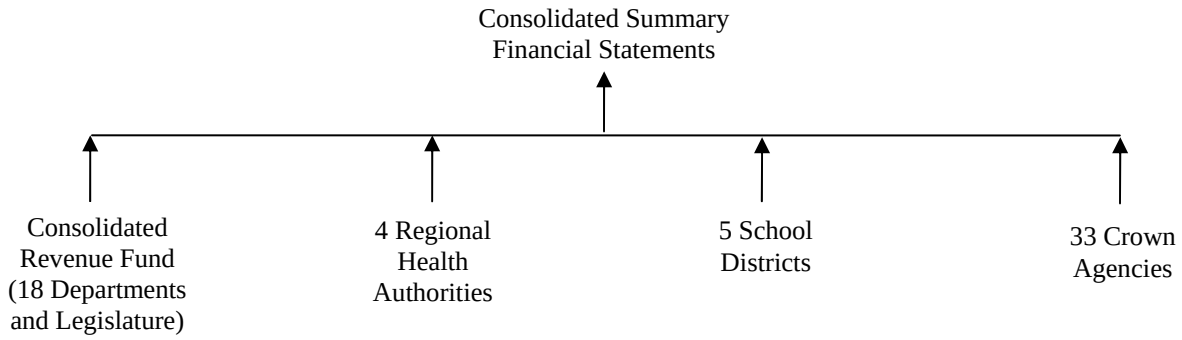
This Volume presents the Consolidated Summary Financial Statements of the Province of Newfoundland and Labrador on an accrual basis of accounting. Information contained in this Volume provides the most complete information about the operating results and financial position of the Province and combines the financial activities of the Consolidated Revenue Fund (which accounts for the financial activities of the 18 Government departments and the Legislature) and the various Crown corporations, boards and authorities which are controlled by

and therefore accountable to the Government of Newfoundland and Labrador. Government departments and Crown agencies are accountable for the administration of their financial affairs and resources through a Minister.

The types of entities included in these financial statements are outlined as follows:

Figure 1

Entities included in the Consolidated Summary Financial Statements
31 March 2009



As Figure 1 shows, the Consolidated Summary Financial Statements include the financial activities of the Consolidated Revenue Fund as well as 42 other entities (4 regional health authorities, 5 school districts and 33 Crown agencies). There are 18 other entities which are not included in the Consolidated Summary Financial Statements as their financial activities are included with either the Consolidated Revenue Fund or with parent entities already included in the 42 entities, or are not considered to be controlled by Government.

Volume II - Consolidated Revenue Fund Financial Statements

This Volume provides information about the operating results and financial position of the Consolidated Revenue Fund only, comprised of the 18 Government departments and the Legislature. These statements are also prepared on an accrual basis of accounting.

What Statements are Included and what do they Show?

Government's financial statements are intended to reflect a fundamental difference between financial reporting for a government and financial reporting for private sector businesses. Governments use public money to provide services through various programs, with no intent to make a profit. As such, a government's financial statements differ from those of business by focusing on net debt - not profit or loss. Simply put, net debt represents the amount Government will eventually have to raise to pay for incurring past liabilities, and is calculated as total liabilities less total financial assets.

Audit of the Province's Financial Statements

The Consolidated Summary Financial Statements are comprised of five main statements:

Statement of Financial Position

This statement shows the Province's financial assets, liabilities, net debt, non-financial assets and accumulated deficit.

Financial assets (such as cash, temporary investments and receivables) are different from non-financial assets (such as roads, schools and hospitals) in that they can be used to reduce liabilities. Liabilities include borrowings as well as liabilities relating to retirement benefits, including the unfunded pension liability. The difference between liabilities and financial assets is the Province's net debt. This is the amount which the government of the day leaves for future governments to either repay or refinance.

Non-financial assets will be used in providing programs and services and therefore are deducted from net debt in calculating the accumulated deficit. It is this accumulated deficit which reflects the difference between past expenses and revenues, i.e. the net accumulation of all annual surpluses and deficits.

Statement of Change in Net Debt

This statement reflects the change in net debt for the year, calculated as the annual surplus or deficit, any changes in the net book value of tangible capital assets and any changes in other non-financial assets.

Statement of Operations

This statement reflects the annual surplus or deficit, along with a comparison of budgeted and actual revenues and expenses. The surplus or deficit is calculated as the difference between revenues and expenses for the year and represents the extent to which Government was able to raise sufficient revenues to provide for the costs of programs and services, and servicing the debt.

Statement of Change in Accumulated Deficit

This statement reflects the change in accumulated deficit resulting from the surplus or deficit for the year.

Statement of Cash Flows

This statement reflects the change in cash (and cash equivalents such as temporary investments) and the source and use of cash through operations, financing and investing activities. It also reflects acquisitions and disposals of capital assets.

In addition to the five main statements, there are also several schedules and notes which are an integral part of the statements, and which provide additional disclosure and explanation regarding significant balances, transactions and events during the year.

What Accounting Policies does Government Follow?

The Consolidated Summary Financial Statements are prepared on the accrual basis of accounting in accordance with the accounting standards established for governments by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA), and as outlined in the significant accounting policies of the Province. Revenues are recorded when earned with expenses being recorded when incurred, in accordance with the applicable significant accounting policies.

Since PSAB's recommendations relating to financial reporting by governments are generally accepted within Canada, section 59 of the *Financial Administration Act* requires compliance with these recommendations to properly present the financial position, results of operations and changes in the financial position of the Province at the end of the fiscal year.

The accounting policies used by Government in preparing its financial statements are included in Note 1 to the statements and deal with such things as the method of consolidation and how assets, liabilities, revenues and expenses are recognized. The Province fully complies with PSAB recommendations and standards.

When preparing its financial statements, Government makes significant estimates, as not all information is available or determinable at the time of finalizing the statements. In these cases, estimates are based on the best information available at the time the statements are prepared. Examples of where estimates are used include the accrual of retirement benefits, the amortization of foreign exchange gains or losses, and the allowance for guaranteed debt. As well, estimates have been used in recording some tangible capital assets given that only limited information is available on some older assets. These estimates are audited and are provided for under generally accepted accounting principles.

Who Audits the Public Accounts?

The Auditor General is responsible for auditing the Public Accounts. Section 11 of the *Auditor General Act* requires that the Auditor General express an opinion as to whether the financial statements included in the Public Accounts present fairly the financial position, results of operations and changes in the financial position of the Province in accordance with Government's disclosed accounting policies and on a basis consistent with that of the preceding year, together with any reservations the Auditor General may have.

Why are they Audited?

The House of Assembly is responsible for overseeing the activities of Government and holding Government accountable for its handling of public resources. To assist this process, Government provides information about how it used public resources entrusted to it. One of the main ways Government does this is through the annual preparation, and tabling in the House of Assembly, of the Public Accounts of the Province.

What assurance do Members of the House of Assembly have that the information provided in the Public Accounts is appropriate, credible and complete? How can Members know that the information they receive accurately reflects the results of the activities of Government?

The answer is that the House of Assembly uses the services of the Auditor General to assist it in carrying out its oversight responsibilities.

Consequently, the Auditor General's fundamental role in auditing the Public Accounts is to bring an independent audit and reporting process to bear upon the manner in which the financial statements are prepared and presented.

An audit provides reasonable, but not absolute, assurance that the Province's financial statements are free of material misstatement. Material misstatement refers to an item or group of items that if omitted or misstated, would alter the decisions of reasonably knowledgeable financial statement users. The tolerable level of error or misstatement is a matter of judgment.

We obtain reasonable assurance on the financial statement figures because it would not be cost effective to obtain absolute assurance - we cannot audit every transaction. By applying audit procedures to test the accuracy or reasonableness of the figures appearing in the financial statements, we achieve our desired level of assurance. We use audit procedures such as tracing samples of transactions to supporting documents, testing the effectiveness of certain internal controls, confirming year-end balances with third parties and reviewing the reasonableness of estimates.

We also obtain assurance on the financial information of Crown agencies which are consolidated in the Province's financial statements, by reviewing the agencies' audited financial statements and, in the case of agencies which are not audited by the Auditor General, by obtaining and reviewing information from the auditors of the agencies.

3.7 Glossary

Accrual basis	A method of accounting whereby revenues are recorded when earned and expenses are recorded when incurred.
Accumulated surplus/deficit	This equals the net accumulation of all annual surpluses and deficits experienced by the Province.
Annual surplus/deficit	The difference between a government's annual revenues and expenses.
Atlantic Accord (2005) Agreement	During 2005-06, enabling legislation was passed by the Federal Government for the Agreement which provides 100% claw back protection for offshore revenues for the eight year period from 2004-05 to 2011-12. Following the passing of the Agreement, the Province received a $2.0 billion advance payment in July 2005.
CICA	The Canadian Institute of Chartered Accountants.
Consolidated Revenue Fund	All revenues over which the Legislature has power of appropriation form one Consolidated Revenue Fund. This currently includes the financial operations of the 18 Government departments and the Legislature.
Consolidated Summary Financial Statements	Summary financial statements which consolidate the financial statements of the Consolidated Revenue Fund with the financial statements of various Crown Corporations, Boards and Authorities which are controlled by the Government and which form part of the Province's reporting entity.
Debt expenses	Also known as the cost of borrowing, or debt servicing costs, this is the interest cost incurred by a government on its borrowings and liabilities associated with retirement benefits.
Environmental liability	An estimate of the cost of remediation that the Province will have to incur in the future.
Federal transfers	Funds received by a province from the Federal Government, such as the Canada Health and Social Transfer (CHST) and Equalization payments.

Financial assets	Assets of a government (such as cash, investments, loans and accounts receivable) that can be converted to cash in order to pay government's liabilities or finance its future operations.
Generally accepted auditing standards (GAAS)	This refers to the auditing standards that the Office of the Auditor General follows in order to be consistent in its auditing practices with similar organizations and to comply with the standards as proclaimed by the CICA. The authority for GAAS is the CICA.
Gross domestic product (GDP)	The money value of goods and services produced within a geographical boundary. It can be reported without adjusting for inflation (known as market value, current or nominal GDP) or it may be discounted for the effects of inflation (real GDP). *In this report, GDP information is obtained from the Department of Finance, and is not adjusted for inflation.*
Interest bite	The extent to which a government must use revenue to pay interest costs, rather than to provide new or expanded programs and services, reduce taxation levels or repay debt.
Interest cost	Interest on the Province's debt (e.g. borrowings, unfunded pension liability), as well as other debt-related expenses.
Net borrowings	Total borrowings (debentures, treasury bills, etc.) less sinking funds. Also referred to as Provincial debt.
Net debt	Government's liabilities less its financial assets. This is the residual liability amount that will have to be paid or financed by future taxpayers.
Non-financial assets	Assets consumed in the delivery of a government services, but not intended to reduce existing or future liabilities. Non-financial assets are primarily comprised of tangible capital assets.
PSAB	Public Sector Accounting Board of the CICA. The Board issues standards and guidance with respect to matters of accounting and financial reporting in the public sector.

Public Accounts	Annual financial accountability document of the Province. It includes Volume I - Consolidated Summary Financial Statements and Volume II - Consolidated Revenue Fund Financial Statements.
Public debt	Borrowings of a government. Debt generally consists of debentures, notes payable, capital leases and mortgages.
Tangible capital assets	Non-financial assets which are held for use in the production or supply of goods and services and have useful economic lives extending beyond an accounting period. Examples include buildings, roads, infrastructure, marine vessels and heavy equipment and machinery.