



# REPORT OF THE AUDITOR GENERAL

To the House of Assembly



On Reviews of Departments and Crown Agencies

For the Year Ended  
31 March 2010

# Office of the Auditor General Newfoundland and Labrador



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

## VISION

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

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26 January 2011

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 for the year ended 31 March 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John L. Noseworthy', with a long, sweeping flourish extending upwards and to the right.

**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.

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. In addition to this Report, I also point out that my comments relating to the audit of the Province's financial statements for the year ended 31 March 2010 were 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 for the Year Ended 31 March 2010*.

Chapter 2 of this Report provides findings and recommendations resulting from my reviews of Government departments and Crown agencies for the year ended 31 March 2010. The Report is comprised of 15 items covering a variety of matters and is provided to the Members of the House of Assembly for their consideration. 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.

Chapter 3 of this Report includes a summary of findings related to my review of information obtained from various Government departments and Crown agencies on progress relating to past recommendations. In recognition of the trend across Canada to be environmentally conscious and issue reports electronically, details on the findings related to individual reports are only available on our website at [www.ag.gov.nl.ca/ag/priorupdates.htm](http://www.ag.gov.nl.ca/ag/priorupdates.htm).

The following is an overview of the findings related to each of the 15 items and readers are encouraged to go to each section of the Report to obtain further details.

### 2.1 - Re-employment of Pensioners

During the 2009 calendar year, 443 retired teachers received pension benefits totalling \$15.6 million, were rehired and earned salaries totalling \$5.2 million. We examined a sample of 138 and found that, contrary to the *Teachers' Pension Act* and/or Government policy, none had the required approval from the Minister of Finance, 60 were rehired for in excess of 65 days without having their pension benefits suspended, 6 were employed for three years through the use of multiple applications to the Minister of Education, and there were 4 instances where retired teachers were hired even though numerous non-retired teachers had applied.

During the 2009 calendar year, 60 Government employees received pension benefits totalling \$2.1 million, were rehired and earned salaries totalling \$1.3 million. There were 13 instances where the required Cabinet approval was not obtained and there were 3 instances where the employee was in receipt of a disability pension.

There was no evidence that the rehiring of pensioners was monitored for compliance with established policy.

### 2.2 - Protective Intervention Program (PIP) – Long-Term Protection (LTP)

As a result of issues with the delivery and monitoring of the LTP component of the PIP there was an increased risk that harm may occur to children. We examined a total of 46 case files from the four Regional Health Authorities (RHAs) and found that 90% of the Risk Assessment Instruments relating to the maltreatment of children and 94% of the Family Centered Action Plans designed to assist in the mitigation of identified risks were not completed as required by policy at the Department of Child, Youth and Family Services (the Department).

The 46 case files required 464 Risk Assessment Instruments (RAI) and 464 Family Centered Action Plans (FCAP); however, 416 (90%) of the RAIs and 437 (94%) of FCAPs were not completed as follows:

RHA	Required	RAIs Not Completed	FCAPs Not Completed
Eastern	363	325	342
Central	44	39	40
Western	30	30	29
Labrador-Grenfell	27	22	26
<b>Total</b>	<b>464</b>	<b>416</b>	<b>437</b>
	<b>100%</b>	<b>90%</b>	<b>94%</b>

## Reflections of the Auditor General

We found 17 case files where not one RAI was completed even though 164 were required and 28 case files where not one FCAP was completed even though 292 were required as follows:

RHA	Files with no RAI completed	Required	Files with no FCAP completed	Required
Eastern	9	109	18	222
Central	1	9	3	23
Western	4	30	3	28
Labrador-Grenfell	3	16	4	19
<b>Total</b>	<b>17</b>	<b>164</b>	<b>28</b>	<b>292</b>

There were concerns about the Labrador-Grenfell RHA's ability to comply with the Provincial standards for LTP because it could not implement the Department's Risk Management System in all locations as a result of difficulties in recruiting and retaining social workers. There were concerns with the lack of monitoring and evaluation of the PIP.

### 2.3 - Nova Central School District – Monitoring of Financial Operations

Our review identified a number of issues with regard to the District's non-compliance with the *Public Tender Act* and lack of monitoring and control of its capital assets and vehicle fleet. We also identified issues with compensation and recruitment practices and expenditures related to travel claims, cell phones and other expenditures.

We identified 14 purchases totalling approximately \$627,000 where the District did not call a public tender as required. In addition, there was a purchase of \$56,370 for mechanical tools where the District did not award the tender to the lowest bidder and there was no documentation to support why the lower bids were not accepted; a purchase of \$59,015 for music equipment which had been tendered for a specific brand and model number; and a purchase of approximately \$40,000 for a wheelchair lift where, although the District completed and filed a Form B as an emergency purchase, in our opinion, this was not an emergency situation.

There was no capital asset ledger maintained, furniture and equipment was not tagged for monitoring and control purposes and there was no policies and procedures manual to guide staff in the monitoring and safeguarding of capital assets. The District did not conduct periodic inventory counts to confirm/reconcile its furniture and equipment inventory. We determined that two of eight computers we selected for examination from the District's listing were not physically located at head office. Apparently one computer was at an employee's home while the other computer was in an employee's vehicle. Although we asked the employee to retrieve the computer from the vehicle, the employee did not comply.

The District did not monitor cost and usage on any of its 208 vehicles. Although the District has 111 fuel credit cards, they were not necessarily assigned to a particular vehicle in order to allow monitoring of costs. In addition, during our audit, we determined that the District could not locate 8 of the 111 fuel credit cards. We found 26 instances of expenditures totalling \$860 inappropriately charged to the fuel credit cards.

Sixteen of the 28 District service vehicles were kept at employees' homes after working hours and on weekends. However, there was no documentation to demonstrate that these 16 vehicles should be kept at personal homes, 4 of the 16 vehicles were located in communities where a District depot was also located and 2 of the 16 vehicles were used by management employees who drove 44 kilometres return and 70 kilometres return each day from their home to their headquarters without the required authorization of a department head.

The District was not adequately recording, monitoring and reporting leave for its management employees. The process for hiring summer maintenance employees was not documented and the District did not maintain any competition files. We identified an instance where, in July 2007, a spouse of a senior maintenance manager was hired as a labourer under the summer maintenance program and no competition was held for the position.

Contrary to the *Schools Act, 1997*, the District did not obtain approval of the Minister of Education before entering into long-term financing leases totalling approximately \$410,000 relating to the acquisition of equipment and vehicles.

### **2.4 - Contaminated Sites**

In 2002, we determined that Government was not doing a good job with regard to identifying and remediating contaminated sites in the Province. We now find that, eight years later, Government is still not doing a good job with regard to identifying and remediating contaminated sites in the Province. Government does not have a comprehensive long-term plan and timeline in place to systematically remediate contaminated sites, the database is neither complete nor accurate, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation and the Department of Environment and Conservation is not adequately monitoring the activities of other departments and agencies in relation to contaminated sites. Furthermore, as a result of the inadequate contaminated sites database, the Office of the Comptroller General is not being provided with complete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements.

### 2.5 - Gasoline Tax

Our review indicated that the Department of Finance (the Department) was not proactive in identifying unregistered wholesalers or retailers. The Department did not adequately review wholesaler or retailer returns to determine compliance with the *Revenue Administration Act* (the *Act*) and performed a very limited number of audits. Furthermore, the extent of audit work performed by staff at the Tax Administration Division was not sufficient. Staff were not provided with any standard audit programs. Exception reports produced by the Department's database were not adequately followed-up.

Although there were instances where tax-exempt diesel fuel was used for an inappropriate purpose, the Department did not conduct sufficient audit work or follow-up on exceptions identified in monthly reports or results of fuel testing.

### 2.6 - Fisheries Compliance and Enforcement

The Department of Fisheries and Aquaculture is not carrying out inspections in a manner that would maximize fish quality and food safety. We found a number of issues with regard to the inadequate planning and scheduling of inspection activity, with Inspectors not following the required inspection procedures, not completing inspection forms and not issuing warnings and tickets when instances of non-compliance were identified. In addition, the inspection database was significantly inadequate, inaccurate and incomplete. As a result of the lack of complete and accurate information, the Department cannot adequately plan, schedule and monitor inspection activity.

Our review indicated that regional offices did not prepare annual inspection work plans and inspection activity was not scheduled. Furthermore, Regional Directors have little to no involvement in the planning or scheduling of inspections. Of the 3,575 inspections recorded in the inspection database during 2010, 1,512 (42%) were instances where Inspectors were travelling to landing sites and processing facilities and an inspection was not completed because there were no fish to inspect. Furthermore, 785 (52% of 1,512) of the failed inspections were recorded by five Inspectors.

Inspections of fish at landing sites were not being carried out in a representative and risk-based manner and numerous landing sites with significant volumes of fish landings were not inspected at all. No inspections were performed at 310 (73%) of the 425 identified fish landing sites where a total of 57.2 million kilograms of fish (29% of the 199.9 million kilograms of total landings) were landed. We found that 192 (or 25% of the 770) of total inspections occurred at 16 landing sites where only 7.0 million kilograms or 4% of total fish landings occurred.

Inspections of fish at landing sites and processing facilities were not being carried out in a representative or risk-based manner with regards to the various species. Although Shrimp landings, which totalled 56.7 million kilograms, had 357 inspections, Cod landings, which totalled only 10.2 million kilograms, had 367 inspections. The Branch inspected 6.3 million kilograms or approximately 11.1% of the Shrimp landings totalling 56.7 million kilograms, while just 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms were inspected – even though there was a greater food safety risk associated with Crab.

None of the 437 inspections carried out at the Port aux Basques Ferry Terminal were recorded in the inspection database. In 351 or 80% of the 437 inspections, the Inspector did not examine the fish product inside the trailers to determine whether the processor was licensed to export the fish or whether the fish met the minimum processing and labeling requirements. Inspections of trailers at the Port aux Basques Ferry Terminal were not carried out in a representative manner in that, no inspections were carried out during 263 days of the 334 days between 1 January 2010 and 30 November 2010. Furthermore, trailers arriving and departing the Province outside of the Branch's normal business hours (i.e. 7 hours per day, 5 days a week) were never inspected.

### 2.7 - Real Estate Regulation

Our review identified a number of concerns with respect to real estate regulation within the Financial Services Regulation Division within the Consumer Affairs Branch of the Department of Government Services (the Department). In particular, we identified that: financial reports from real estate agents were not being monitored or analyzed; on-site examinations of real estate agent records were not being performed; and cancelled real estate licences were not being returned to the Department by the licensee as required.

We also found that with regards to the entire Financial Services Regulation Division, complaints were not adequately monitored, there were no performance measures developed (with the exception of financial services activities related to securities), policies and procedures were not adequate and Department officials could not provide updated position descriptions for all Divisional staff resulting from a reorganization in 2004.

### 2.8 - Residential Tenancies

Our review indicated that the Department of Government Services was not doing an adequate job with respect to dealing with claims filed by landlords and tenants. In particular, we identified that: the computerized database system was inadequate; there was no policy in place as to the length of time it should take to resolve a claim; orders were being issued after the 30-day standard; there was no evidence of management review before orders were issued; and there were issues with files. We also found a non-compliance with the *Management of Information Act* regarding file storage, identified that performance measures were not developed and were informed that staff safety was compromised because aggressive clients have to walk through the staff work area to access one of the hearing rooms.

### 2.9 - Diabetes in Newfoundland and Labrador

The Province has significant issues with regards to the prevalence of chronic disease risk factors, prevalence of diabetes and increasing health care costs related to diabetes. At 9.3%, the Province has the highest prevalence of diabetes (for all ages) of any jurisdiction in Canada. The Province also has the highest prevalence of unhealthy diet of any jurisdiction in Canada, the second highest prevalence of obesity and physical inactivity of any jurisdiction in Canada and incurred estimated health care costs of \$254 million in 2010 related to diabetes and will incur estimated costs of \$322 million by 2020, an increase of 27%.

Information from salaried physicians (estimated at 33% of all physicians in the Province) relating to diabetes diagnosis and treatment is not tracked. This is further exacerbated because the vast majority of the aboriginal population is serviced by salaried physicians and the aboriginal population is known to have a higher prevalence of diabetes than the non-aboriginal population. As a result, the prevalence and cost information is understated.

The Department of Health and Community Services (the Department) is not doing a good job in fulfilling its leadership role in preventing and managing chronic diseases including diabetes as evidenced by the following:

- The Department does not have either an overall Chronic Disease Prevention and Management Strategy or a strategy for any other chronic disease which would include goals and measurable performance indicators.
- There is no Province-wide diabetes registry to capture patient data such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results. As a result, the Department does not have complete statistics related to diabetes which would be necessary in order to adequately manage the disease and its resulting health complications.
- The Department is no longer coordinating primary health care teams. During 2000 to 2006, Federal funding was used to coordinate the creation of networks of physicians, nurse practitioners, public health officials, social workers and other health care providers to come together as primary health care teams (9 throughout the Province) and provide a continuum of services. It was coordinated through the Primary Health Care Office at the Department. However, when the Federal funding ended in 2006, the Province did not continue to fund the Office and as a result, the Office closed and the Department ceased its coordinating role. As a result of the lack of coordination by the Department, the Regional Health Authorities (RHAs) are concerned about the lack of consistency throughout the Province in the treatment and management of chronic diseases such as diabetes.
- With the elimination of the Department's Primary Health Care Office, the Department has not continued to provide support for the maintenance of the diabetes flow sheet which was designed to document results of patient visits.

- The Department has stopped providing funding for the Provincial Chronic Disease Collaborative Database at the Eastern RHA which was designed to collect and report information documented in diabetes flow sheets.

### 2.10 - Road Ambulance Services

We determined that road ambulances operating in the Province may not be safe, attendants may not have the required level of training and contract provisions with the operators are not being adequately monitored. As a result, patient care could be compromised and there may be a risk to public safety.

We examined 36 ambulance files and found:

- 8 instances where not all required semi-annual mechanical inspection forms were on file;
- 17 instances where not all required semi-annual ambulance inspection forms were on file; and
- 13 instances where, although the ambulance had been designated by the Motor Registration Division (MRD) of the Department of Government Services as inactive, claims were submitted and payments were made totalling \$156,785 relating to inactive periods. An inactive designation at MRD means that the ambulance is not licensed and is not authorized to be driven.

Thresholds (i.e. age and/or kilometres) established by the Department of Health and Community Services (the Department) are significantly higher than thresholds established for other provinces. In Newfoundland and Labrador, ambulances are required to be taken out of service after they reach either 10 years in service or 500,000 kilometres. Most provinces use a range of between 200,000 to 300,000 kilometres or between 4 and 8 years. In Quebec, ambulances are required to be taken out of service when they reach either 4 years in service or 200,000 kilometres.

In 2010, there were a total of 63,592 transports of which 5,942 (9.3%) were transports where attendants did not have the level of training required by Departmental policy. “Best efforts” relates to a concept designed by the Department which allows operators a reasonable amount of time to either have attendants trained or hire attendants with the required training. However, there was no monitoring of whether operators have made any progress towards obtaining attendants with the required training.

Although contracts allow for a Regional Health Authority (RHA) to perform on-site visits and conduct evaluations, inspections and assessments of ambulance operators and their equipment and premises, our review of the Eastern RHA indicated they had never performed this work. Furthermore, the Eastern RHA did not always determine whether the ambulance operators were in compliance with all provisions of the Ambulance Service Agreement.

We also identified weaknesses in the administration of the Road Ambulance Program. Officials at the Eastern RHA indicated that the Department sometimes directs the Eastern RHA to override established policy and in some instances overrides claims from operators which were rejected by adjudicators at the RHA. For example:

- the RHA became aware that an attendant had knowingly made false claims on the certificate application and informed the Department of their decision to not register the attendant; however, in spite of this information, the Department directed the RHA to register the attendant.
- the RHA rejected claims from an operator totalling \$17,063 for service provided during the period 10 November 2008 to 19 January 2009 because of non-compliance with established policies and procedures; however, the operator was paid \$8,403 for ambulance service even though, contrary to Departmental policy, the ambulance was not registered with the Eastern RHA.

### 2.11 - Review of Broadband Within Government

Five years after the *Setting the Context Report* was issued, the Department of Innovation, Trade and Rural Development (the Department) has still not prepared the Provincial broadband strategy that was the overarching recommendation contained in the Report. Although Departmental officials indicated that the strategy was being developed, they could not demonstrate this. Our review of the Government Broadband Initiative (GBI) indicated that no progress has been made with regards to operationalizing Government's fibre optic strands i.e. they are still "dark fibre" two years after the expected completion in 2008. The Department estimates that the expected cost to operationalize the fibre has increased from \$20 million to \$26 million. Furthermore, although during our initial review Government had expected to fully develop Government's telecommunications infrastructure over a 10-year period with a cost of approximately \$200 million (excluding Labrador), we found that there is no planned timeframe and estimated completion costs for a single provider solution had increased to \$563 million (including \$120 million relating to Labrador).

The GBI concept has changed substantially, from the original objective of Government requiring the development of a private network for Provincial Government, to this no longer being a prerequisite requirement. In 2007, Government expected that it would use its own telecommunications infrastructure for a Province-wide area network for all of Government and its entities. With regards to the defrayment of development costs by savings related to the use of Government's own telecommunications infrastructure, officials from the Department were not able to make this determination because it is unknown whether the Government owned fibre optic strands will be utilized.

## Reflections of the Auditor General

We found that the Department did not have a formal project plan at the inception of the GBI nor did it develop one after the original concept changed. This project plan would include such things as objectives, timeframes and estimated costs for completion. We also note that the GBI TENT (Technical Evaluation and Negotiation Team) was disbanded in February 2010, subsequent to the cancellation of the RFP by Cabinet. The decision to disband the TENT was made by the Department.

In August 2009 the Department was directed by Cabinet to conduct a survey to establish a baseline of the Province's broadband infrastructure and telecommunications services, including costs. Our review indicated that:

- no final project costs have been determined as the Department has now been directed to consult with the private sector to determine an acceptable approach for the development of the GBI, therefore there is no basis for comparison; and
- the Department has not received all required cost information from public sector entities. Four entities have not provided the requested information (Nalcor Energy, Central Regional Integrated Health Authority, the Newfoundland and Labrador Research and Development Corporation and the Newfoundland and Labrador Legal Aid Commission).

### 2.12 - Investments

Contrary to the requirements of the Commercialization Program at the Department of Innovation, Trade and Rural Development (the Department), the owner of two medical research entities did not contribute any of the required \$855,000 equity contributions (Entity 1 - \$655,000; Entity 2 - \$200,000). In fact, the only contribution that was made to either entity was a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008, ten months after Entity 1 received its \$500,000 Government investment. Contrary to the requirements of the terms and conditions of funding, the entities did not obtain the required Departmental approval prior to incurring additional debt, pledging assets to obtain a mortgage or transferring funds between related parties.

We found instances where the Department did not complete proper due diligence relating to the approval and assessment process, disbursement of funding and monitoring e.g. contrary to Treasury Board policy, cross departmental checking for amounts owing to Government was not fully completed; documentation was not adequate to support any of the \$5.2 million in estimated project costs (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million); and the Department did not determine whether the owner of the companies received remuneration in excess of the \$250,000 annual limit (Entity 1 - \$150,000; Entity 2 - \$100,000).

The Department was not adequately monitoring the entities to determine whether the entities were in compliance with the terms and conditions of funding. In particular, the Department did not obtain the necessary documentation from either of the two entities in order to determine compliance.

### 2.13 - Support Enforcement Program

Our review indicated that security arrangements for access to the Support Enforcement program database by employees at the Department of Human Resources, Labour and Employment (HRLE) were not adequate. We also found inaccuracies in the Department of Justice, Support Enforcement Division's (the Division) database information. Furthermore, contrary to Office of the Chief Information Officer (OCIO) guidelines, the Division's application software and database information were contained on a single server.

Three HRLE employee accounts were accessed in excess of 250 times each, even though the 3 employees were not in receipt of income support. One account was accessed 797 times, another was accessed 456 times, while the third was accessed 256 times. The Division could not identify which HRLE employees accessed what database accounts because, although the Division maintained an audit log, it had allowed one user account to be used by all HRLE staff. In fact, this one account was used for 50,558 of the 65,808 times that HRLE employees accessed the Division's database over the period 19 March 2004 to 13 November 2009.

### 2.14 - Forest Management

Our review found issues with regard to how the Department of Natural Resources (the Department) was planning, monitoring and reporting on its forest management activities. Not all required annual operating plans and annual returns were on file; furthermore, the Department did not have an adequate system to monitor whether all required annual reports were received. In addition, the Department was not verifying actual harvest levels. There were also no established measurable targets for all indicators in the 10-Year Provincial Forest Management Strategy (the Strategy) and no annual report was prepared for the House of Assembly on the progress towards the implementation of its Strategy. Contrary to its 2003 Strategy, the Department neither prepared ecosystem-based planning guidelines nor reviewed the 1998 environmental protection guidelines.

We also identified that subsidies to the Corner Brook Pulp and Paper Company Limited totalling \$26.3 million, approved from 1 April 2009 to June 2010, were not adequately supported.

Furthermore, the Department was not adequately safeguarding its equipment such as digital cameras, GPS units and binoculars. Some equipment could not be located while other equipment was determined to be at the homes of employees.

### 2.15 - Vehicle Fleet Management

Our review identified a number of significant issues relating to the acquisition, operation and monitoring of Government's light vehicles. For example, although light vehicles were eligible to be repaired under warranty, Government sometimes opted to pay for repairs at local service stations. In addition, the Department of Transportation and Works (the Department) did not know how many vehicles were authorized to be kept at employees' residences, not all recreational vehicles could be accounted for, the number of light vehicles in the fleet had increased and there had been a shift towards more 4WD vehicles and upscale highway vehicles (cars, pickups and SUVs) for job positions. Furthermore, the Department's information system does not provide the necessary information to adequately monitor Government's light vehicles.

We also found issues relating to Government rented light vehicles such as vehicle rental costs near the cost of purchasing a new vehicle and vehicles rented for periods in excess of Government policy.

In 2002, Government owned and operated 156 - 4WD pickups and 405 - 2WD pickups while as at 19 March 2010, there were 367 - 4WD pickups (135.3% increase) and 314 - 2WD pickups (22.5% decrease). Highway vehicles are becoming larger and more powerful for job positions in which smaller highway vehicles used to be sufficient.

Contrary to the recommendation in the report on the Light Vehicle Fleet Review (the 2006 Report) to reduce the size of the fleet by 18 highway vehicles from 942 in 2006 to 924, we found that the fleet size increased by 91 highway vehicles from 942 in 2006 to 1,033 as at 19 March 2010.

According to information contained in the Equipment Management System and contrary to Government policy, 219 (21.2%) highway vehicles were operated below the 20,000 kilometre annual usage rate required to justify the purchase and continued use of a highway vehicle.

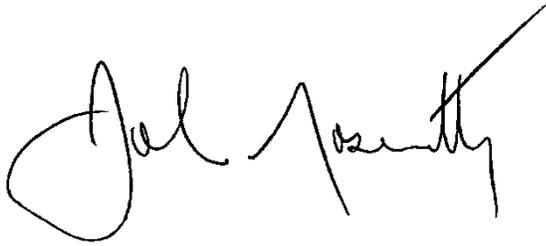
An official at the Department indicated that some Government departments appear to purchase light vehicles outside the timeframe of the standing offer arrangement (between August and December each year) in order to acquire upscale highway vehicles.

The Equipment Management System (EMS) implemented by the Department to monitor Government's light vehicle fleet does not provide the information required to properly monitor and manage light vehicles and related costs. Officials estimate that: less than 10% of all light vehicle repairs, other than at depots, were recorded; information on fuel charges was not recorded; and there were data input errors which resulted in such things as misclassifications of light vehicles, incorrect locations and incorrect kilometre readings.

As at 19 March 2010, the EMS identified that 56 (12.0%) of the 465 recreational vehicles were missing. We also found that 49 of the 56 missing recreational vehicles were assigned to the Department of Natural Resources.

## Reflections of the Auditor General

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.

A handwritten signature in black ink, appearing to read "John L. Noseworthy". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

**JOHN L. NOSEWORTHY, CA**  
**Auditor General**

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## Reflections of the Auditor General

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**CHAPTER  
2  
COMMENTS ON AUDITS AND  
ADDITIONAL EXAMINATIONS**

**PART 2.1**

**EXECUTIVE COUNCIL**

**RE-EMPLOYMENT OF PENSIONERS**

### Executive Summary

Government pays pension benefits through the Province of Newfoundland and Labrador Pooled Pension Fund (the Fund) to retired public servants, teachers, uniformed services, judges and members of the House of Assembly. For the 2009 calendar year, the Fund paid pensions to 23,074 pensioners totalling \$469 million.

Government has established policies with regards to rehiring pensioners which all Government funded entities are required to comply with. If pensioned teachers are to be rehired, the hiring has to be in accordance with the *Teachers' Pensions Act*, the Teachers' Collective Agreement and Government policy. If any other pensioners are to be rehired, the hiring has to be in accordance with Government policy, applicable collective agreements and the *Public Service Commission Act*. Details of the rehiring of pensioners' policies are as follows:

#### 1. Rehiring of Teachers

##### *The Teachers' Pensions Act*

With approval from the Minister of Finance, pensioned teachers can teach for 65 days each school year and still be entitled to their pension.

Without approval from the Minister of Finance or if a teacher teaches beyond 65 days in a school year, the pension is required to be suspended during any time the teacher is paid to teach. In these cases, the teacher is required to contribute to the Teachers' Pension Plan.

##### *Government Policy*

#### (a) Cabinet Direction

Cabinet direction requires that a preference be given to hiring persons other than those in receipt of a Government pension unless there are no other persons qualified to fill the position. In these cases, pensioners are entitled to their full salary and full pension; however, they are not entitled to contribute to the pension plan. Exceptions to the policy are required to be approved by Cabinet.

#### (b) Department of Education Guidelines

The position must be advertised in accordance with the Teachers' Collective Agreement.

## Re-employment of Pensioners

There must be no non-retired teachers available who meet the basic criteria for selection under the Teachers' Collective Agreement.

The retired teachers must have received severance pay, if eligible. If no severance pay had been received then the teacher can only be employed at a school located in an isolated community and not be employed by the same school district from which they retired. In these cases, retired teachers must seek approval from the Minister of Finance to be exempted from the requirements of the *Teachers' Pensions Act*, i.e. not required to contribute to the Teachers' Pension Plan and receive their pension benefits in addition to their salary.

### 2. Rehiring of Pensioners Other than Teachers

#### *Cabinet Direction*

Cabinet direction requires that a preference be given to hiring persons other than those in receipt of a Government pension unless there are no other persons qualified to fill the position. In these cases, pensioners are entitled to their full salary and full pension; however, they are not entitled to contribute to the pension plan. Exceptions to the policy are required to be approved by Cabinet.

#### *Public Service Commission Act*

In order to rehire pensioners, the requirements of the *Act* have to be followed, e.g. properly advertised, fair and open competition, and reference checks.

### Findings From Our Review

Our review identified a number of instances of non-compliance with the *Teachers' Pensions Act* and Government policy regarding the rehiring of pensioners. Details of our findings are outlined as follows:

#### *Teachers*

During the 2009 calendar year, 443 (2008 - 422) teachers received pension benefits and were also paid a salary. Pension benefits for these teachers totalled \$15.6 million (2008 - \$14.5 million) and salaries totalled \$5.2 million (2008 - \$4.3 million). During the year, 25 of these teachers received salaries of \$50,000 or more (highest was \$106,576), while in the 2008 calendar year, 17 teachers received salaries of \$50,000 or more (highest was \$90,748).

## Re-employment of Pensioners

We found that, contrary to Cabinet direction, the Department of Education's guidelines did not require and, neither the Department nor the school districts obtained, Cabinet approval for the rehiring of pensioners.

We reviewed 138 applications submitted by school districts to the Minister of Education regarding the rehiring of pensioners for full-time teaching positions. We identified the following issues:

- Contrary to the *Teachers' Pensions Act*, none of the 138 applications were approved by the Minister of Finance; instead, they were approved by the Minister of Education.
- Contrary to the *Teachers' Pensions Act*, 60 teachers were rehired for in excess of 65 days without having their pension benefits suspended. For the period September 2007 to December 2009, these 60 teachers received salaries totalling \$4.3 million (ranging from \$5,956 to \$200,269), while receiving pension benefits totalling \$2.2 million (ranging from \$3,434 to \$93,408). One teacher received a total of \$281,838 comprised of a salary of \$188,430 and pension benefits of \$93,408 for the 28-month period.
- Six retired teachers were employed for 3 years through the use of multiple applications to the Minister by school districts (5 teachers at the Nova Central School District and 1 at conseil scolaire francophone). Over the three-year period these 6 teachers received salaries totalling \$1.2 million (ranging from \$160,950 to \$232,520), while receiving pension benefits totalling \$474,581 (ranging from \$58,826 to \$95,396). One teacher received a total of \$308,889 comprised of a salary of \$222,835 and pension benefits of \$86,054. Filling positions through the rehiring of the same retired teacher may indicate issues regarding the school districts' succession planning for these positions.
- Retired teachers were hired for 4 positions (3 at the Nova Central School District and 1 at the Eastern School District) even though there were non-retired teachers who had applied. There were at least 73 applications from non-retired teachers (24 applications for a special education position, 18 applications for a French teacher position, 17 applications for a principal position, and 14 applications for an educational psychologist position). The inability to fill positions with this much interest may indicate issues with the school districts' hiring policies and procedures.

## Re-employment of Pensioners

### *Government Departments*

We compared a database of pensioners who had been receiving a Government pension for at least a year to the general service payroll to identify pensioners who were also in receipt of a salary. Our review identified that, for the 2009 calendar year, 60 pensioners (2008 - 47) were also in receipt of a salary. Pension benefits totalled \$2.1 million (2008 - \$1.5 million) and salaries totalled \$1.3 million (2008 - \$0.8 million). During 2009, 16 pensioners received salaries of \$25,000 or more (highest was \$162,708), while in the 2008 calendar year, 14 pensioners received salaries of \$25,000 or more (highest was \$115,692).

We identified the following issues:

- Contrary to Cabinet direction, Cabinet approval was not obtained for 13 of the 60 rehired pensioners. Of the 13, 8 were at the Department of Tourism, Culture and Recreation, 4 were at the Department of Health and Community Services and 1 was at the Department of Natural Resources.
- 3 rehired pensioners received disability pensions totalling \$52,421 (2008 - \$52,421) and salaries totalling \$50,133 (2008 - \$37,217).

### *Monitoring*

We would expect Government to monitor compliance with legislation, Cabinet direction and policies regarding the rehiring of pensioners. However, there was no evidence provided which would indicate that any monitoring was being conducted. In fact, when we requested that each department provide us with a list of employees who were also receiving a Government pension, departments did not identify all rehired pensioners. For example, for the 2009 calendar year, of the 60 rehired pensioners, departments only identified 33 rehired pensioners.

## Background

### Introduction

The largest expenditure of the Province is the salaries and benefits it pays to its employees. In addition to these costs, it also contributes to the Province of Newfoundland and Labrador Pooled Pension Fund (the Fund) which pays pensions to retired public servants, teachers, uniformed services, judges and members of the House of Assembly, through the Public Service Pension Plan, the Uniformed Services Pension Plan, the Teachers' Pension Plan, the Members of the House of Assembly Pension Plan and the Provincial Judges' Pension Plan. For the 2009 calendar year, the Fund paid pensions totalling \$469 million. Figure 1 shows information on the pensions for calendar years 2007 through to 2009.

**Figure 1**

**Province of Newfoundland and Labrador  
Pensioners and Pensions  
Calendar Years 2007 through to 2009**

Year	Pensioners	Pensions
2007	21,359	\$420,638,000
2008	22,241	\$444,736,000
2009	23,074	\$468,695,000

Source: Newfoundland and Labrador Pooled Pension Fund Annual Reports

### Government policy

In 1993 the Province established a policy that restricted the rehiring of pensioners to positions where there were no other qualified candidates. This policy was as follows:

*“Cabinet directed that, as a matter of policy applicable to government departments, and all government agencies and Crown corporations, a preference be given in hiring to persons other than those in receipt of a pension under the Public Service Pension Plan, the Uniformed Services Pension Plan, the Teachers' Pension Plan, and the Members of the House of Assembly Pension Plan, unless there are no other persons qualified to fill the position, with exceptions to this policy to be subject to Cabinet approval.”*

## Re-employment of Pensioners

On 12 January 1995, Cabinet directed Treasury Board to examine the policy of rehiring individuals in receipt of a Government pension. On 13 January 1995, Treasury Board ordered that an amendment to legislation be drafted to provide for the suspension of pensions upon reemployment and that all limitations on the reemployment of pensioners be lifted; in other words individuals would not be permitted to collect a salary and a pension at the same time. In January 1998, the Office of the Legislative Council was directed to draft amendments to the pension acts to provide for the suspension of pension benefits when pensioners were rehired during the periods of post-retirement in the public sector; however, no legislature amendments were made.

### Previous Report of the Auditor General

In 1997, our Office performed a review of Government's pension plans. Our review identified that departments and agencies were not complying with Government policy in that:

- 149 employees received both a salary and a pension in 1996. Salaries ranged from \$25 to \$43,234 while pensions ranged from \$2,108 to \$60,926. Of the 149 employees, only 2 employees had received Cabinet approval as required by Government policy.
- While many of the amounts paid were small, Government's policy did not provide any exemption based on the dollar value of the pension or salary being paid.

## Audit Objectives and Scope

### Audit objectives

The objectives for this review were to determine whether:

- departments and school districts complied with legislation and Government policy regarding the hiring of pensioners; and
- systems were established to identify and monitor compliance with Government policy.

### Audit scope

Our review was completed in April 2010 and included an examination of various reports, documents and discussions with departmental officials.

### Detailed Observations

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#### Overview

In 1993 the Province established a policy applicable to Government departments, agencies, and Crown corporations that restricted the rehiring of pensioners to positions where there were no other qualified candidates. Exceptions to the policy were to be approved by Cabinet. There was no requirement to discontinue payments to pensioners once rehired; however, no pension contributions could be made once rehired.

For teachers the policy differed in that the *Teacher's Pensions Act* required pension payments be discontinued once a pensioner was rehired as a teacher. A teacher cannot receive a pension (except survivor pension) under the pension plan while he or she is employed as a teacher. However, a pensioner with the approval of the Minister (of Finance), may be re-employed for a period not exceeding 65 days in a teaching year and not be considered a teacher for the purpose of the *Act* and therefore receive both a pension and a salary.

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#### Teachers revised policy

On 7 December 2001, the Minister of Education announced a new policy targeting retired teachers to fill vacant positions in rural areas where no other teacher was available. Under this policy, which took effect in January 2002, retired teachers could continue receiving their pension benefits in addition to their salary. Retired teachers would only be hired for a term contract which would terminate by the end of the school year. The Department developed guidelines which required the following:

- The position must be advertised in accordance with Article 8 of the Teachers' Collective Agreement.
  - There must be no non-retired teachers available who meet the basic criteria for selecting the teachers defined in Article 6 of the Teachers' Collective Agreement.
  - The retired teachers must have received severance pay, if eligible. If no severance pay had been received then the teacher can only be employed at a school located in an isolated community and not be employed by the same school district from which they retired.
-

## Re-employment of Pensioners

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

1. Employed as a Teacher and Receiving a Pension
2. Employed by Government and Receiving a Pension
3. Systems for Monitoring Compliance

### 1. Employed as a Teacher and Receiving a Pension

**Overview** We compared a list of pensioners who had been receiving a Government pension for at least a year to the teachers' payrolls to determine the number of pensioners who were re-employed. Our review indicated that, during the 2009 calendar year, 443 (2008 - 422) teachers received pension benefits and also were paid a salary. Pension benefits totalled \$15.6 million (2008 - \$14.5 million) and salaries totalled \$5.2 million (2008 - \$4.3 million). As Figure 2 shows, during 2009, 25 teachers received salaries of \$50,000 or more (highest was \$106,576), while in the 2008 calendar year, 17 teachers received salaries of \$50,000 or more (highest was \$90,748).

**Figure 2**

#### Summary of Pensioners Who Received a Teacher's Salary Years Ended 31 December

Salary Range	2008			2009		
	Number	Salary	Pension	Number	Salary	Pension
\$100,001 +	-	-	-	1	\$ 106,576	\$ 52,130
\$50,001 to \$100,000	17	\$1,119,168	\$ 660,576	24	1,620,620	1,074,228
\$25,001 to \$50,000	19	633,386	743,919	20	704,793	796,216
\$10,001 to \$25,000	91	1,409,927	3,220,950	109	1,744,967	3,919,402
\$0 to \$10,000	295	1,100,377	9,900,241	289	1,026,719	9,793,038
<b>Total</b>	<b>422</b>	<b>\$4,268,858</b>	<b>\$14,525,686</b>	<b>443</b>	<b>\$5,203,675</b>	<b>\$15,635,014</b>

Source: Province's pension and teachers' payroll databases

As Figure 2 shows, we found that:

- 422 pensioners received a teachers' salary and a pension in 2008. They earned \$4.3 million while they received \$14.5 million in pension benefits. Annual salaries ranged from \$21 to \$90,748.

## Re-employment of Pensioners

- 443 pensioners received a teachers' salary and a pension in 2009. They earned \$5.2 million while they received \$15.6 million in pension benefits. Annual salaries ranged from \$34 to \$106,576.

Furthermore, 15 of the 443 teachers received a salary in excess of \$60,000 and a pension in 2009. Figure 3 provides details on these 15 positions.

**Figure 3**

**Pensioners Who Received a Teacher's Salary  
(\$60,000 or More) and a Pension  
Year Ended 31 December 2009**

School Board	School, Community	Salary (\$)	Pension (\$)
Department of Education	School for the Deaf, St. John's	106,576	52,130
Nova Central	MSB Regional Academy, Middle Arm	95,056	43,988
Nova Central	New World Island Academy, Summerford	93,423	29,472
Nova Central	Riverwood Academy, Wing's Point	86,011	43,027
Nova Central	Phoenix Academy, Carmanville	85,118	47,698
Nova Central	King Academy, Harbour Breton	81,726	44,220
Nova Central	Phoenix Academy, Carmanville	69,830	39,627
Nova Central	Not identified	80,059	54,016
Nova Central	Lewisporte Academy, Lewisporte	79,324	30,693
Nova Central	Not identified	62,029	40,000
Nova Central	Dorset Collegiate, Pilley's Island	61,799	41,289
Western	St. James All Grade, Lark Harbour	72,684	46,542
Western	Grandy's River Collegiate, Burnt Islands	60,006	63,187
Eastern	Educational Psychologist	61,350	47,975
Conseil scolaire francophone	Ecole Ste-Anne, Mainland	71,959	33,164

Source: Province's pension and teachers' payroll databases

**Guidelines not in accordance with Cabinet direction**

We found that, contrary to Cabinet direction, the Department of Education's guidelines did not require, and neither the Department nor the school districts obtained, Cabinet approval for the rehiring of pensioners.

## Re-employment of Pensioners

Our review of 138 applications submitted by school districts to the Minister of Education regarding the rehiring of pensioners for full-time teaching positions for the period September 2007 to December 2009 identified the following issues:

### Rehiring of teachers was not approved by the Minister of Finance

- Contrary to the *Teachers' Pensions Act*, none of the 138 applications were approved by the Minister of Finance; instead, they were approved by the Minister of Education. The *Teachers' Pensions Act* is administered by the Department of Finance and it requires that the Minister of Finance grant the directive for a teacher to be exempted under Section 4(b) of the *Teachers' Pensions Act* from having the pensions of teachers terminated upon being rehired.

### Teachers rehired in excess of the 65 day limit

- Contrary to the *Teachers' Pensions Act*, 60 teachers were rehired for in excess of 65 days without having their pension benefits suspended. For the period September 2007 to December 2009, these 60 teachers received salaries totalling \$4.3 million (ranging from \$5,956 to \$200,269), while receiving pension benefits totalling \$2.2 million (ranging from \$3,434 to \$93,408). One teacher received a total of \$281,838 comprised of a salary of \$188,430 and pension benefits of \$93,408 for the 28-month period. Figure 4 summarizes the salaries and pensions paid to teachers by school district.

**Figure 4**

### Rehiring of Retired Teachers for Periods in Excess of 65 Days For the Period September 2007 through to December 2009

District	Number	Salary	Pension
Nova Central	24	\$2,072,829	\$ 936,627
Western	20	1,178,628	677,346
Conseil Scolaire Francophone	4	290,008	152,052
Eastern	7	428,866	207,215
Labrador	4	188,184	126,806
Department of Education	1	190,670	86,884
<b>Total</b>	<b>60</b>	<b>\$4,349,185</b>	<b>\$2,186,930</b>

Source: Province's pension and teachers' payroll databases, and Department of Education information

## Re-employment of Pensioners

### Retired teachers occupying positions for multiple years

- Six retired teachers were employed for 3 years through the use of multiple applications by school districts (5 teachers were at Nova Central and 1 was at conseil sociale francophone). These 6 teachers received salaries totalling \$1.2 million (ranging from \$160,950 to \$232,520), while receiving pension benefits totalling \$474,581 (ranging from \$58,826 to \$95,396). One teacher received a total of \$308,889 comprised of a salary of \$222,835 and pension benefits of \$86,054 over the three-year period. Filling positions through the rehiring of the same retired teacher may indicate issues regarding the school district's succession planning for these positions.

### Positions with significant interest being filled by retired teachers

- Retired teachers were hired for 4 positions even though there were at least 73 applications for the positions from non-retired teachers (24 applications for a special education position, 18 applications for a french teacher position, 17 applications for a principal position, and 14 applications for an educational psychologist position). The inability to fill positions with this much interest may indicate issues with the school districts' hiring policies and procedures. Circumstances around these positions were as follows:
  - The Nova Central School District received 24 applications for a special education position at Dorset Collegiate. Of these applicants, 14 either did not meet the qualifications or were found to be unsuitable and 10 either declined the position or accepted employment elsewhere. The position for the 2008-09 school year was given to a retired teacher who was not one of the 24 applicants.
  - The Nova Central School District received 18 applications for a french teacher position at Bay d'Espoir Academy. Of these applicants, 10 either did not meet the qualifications or were found to be unsuitable and 8 either declined the position or accepted employment elsewhere. The position for the 2009-10 school year was given to a retired teacher.
  - The Nova Central School District received 17 applications for the principal position at Indian River High. Of these applicants, 11 either did not meet the qualifications or were found to be unsuitable, 1 was awarded the vice-principal's position and 5 were unexplained. The position for the 2008-09 school year was given to a retired teacher. We also note that the Minister of Education did question the rejection of one of the candidates.

## Re-employment of Pensioners

- The Eastern School District received 14 applications for an educational psychologist position at its Western Regional Office. Of these applicants, 11 were unqualified; 2 either declined the position or withdrew; and 1 was not interviewed because of a reference check. The position for the 2008-09 school year was given to a retired teacher.

## 2. Employed by Government and Receiving a Pension

### Overview

We compared a database of pensioners who had been receiving a Government pension for at least a year to the general service payroll to identify pensioners who were also in receipt of a salary. Our review identified that, for the calendar year 2009, 60 pensioners (2008 - 47) were also in receipt of a salary. Pension benefits totalled \$2.1 million (2008 - \$1.5 million) and salaries totalled \$1.3 million (2008 - \$0.8 million). During 2009, 16 pensioners received salaries of \$25,000 or more (highest was \$162,708), while in the 2008 calendar year, 14 pensioners received salaries of \$25,000 or more (highest was \$115,692). Figure 5 provides a summary of the salary ranges paid to pensioners who were on the general service payroll for calendar years 2008 and 2009.

**Figure 5**

### Summary of Pensioners Who Received a Salary Years Ended 31 December

Salary Range	2008			2009		
	Number	Salary	Pension	Number	Salary	Pension
\$100,001 +	1	\$115,692	\$ 109,064	2	\$ 271,733	\$ 156,739
\$50,001 to \$100,000	1	52,243	17,593	4	260,842	194,635
\$25,001 to \$50,000	12	424,540	325,551	10	391,433	341,287
\$10,001 to \$25,000	7	122,823	215,419	13	183,885	459,841
\$0 to \$10,000	26	111,469	842,552	31	152,080	926,688
<b>Total</b>	<b>47</b>	<b>\$826,767</b>	<b>\$1,510,179</b>	<b>60</b>	<b>\$1,259,973</b>	<b>\$2,079,190</b>

Source: The Province's pensions and payroll databases

## Re-employment of Pensioners

### Rehiring pensioners not approved by Cabinet

- Contrary to Cabinet direction, Cabinet approval was not obtained for 13 of the 60 rehired pensioners in 2009. Of the 13, 8 were at the Department of Tourism, Culture and Recreation, 4 were at the Department of Health and Community Services, and 1 was at the Department of Natural Resources.
  - Contrary to Cabinet direction, Cabinet approval was not obtained for 15 of the 47 rehired pensioners in 2008. Of the 15, 8 were at the Department of Tourism, Culture and Recreation, 2 were at the Department of Justice, 3 were at the Department of Health and Community Services, 1 was at the Department of Natural Resources, and 1 was at the Department of Fisheries and Aquaculture.
- 

### Hard to fill positions

- For 2009, departments indicated that 32 of the 60 (2008 - 20 of the 47) rehired pensioners were for hard to fill positions and, as such, were the only qualified candidates. There is no requirement for departments to document the decision to rehire a pensioner as being the only qualified candidate. However, our review indicated that the information provided by the departments did not always support their contention that the rehired pensioners were the only qualified candidates.
- 

### Political appointments

- For 2009, departments indicated that 10 of the 60 (2008 - 7 of the 47) rehired pensioners were political appointments such as secretaries to a member of the House of Assembly or research assistants and, as such, Cabinet approval would not be expected.
- 

### Approval

- For 2009, 3 of the 60 (2008 - 3 of the 47) rehired pensioners were approved by Cabinet or were statutory appointments and 2 (2008 - 2) rehired pensioners were rehired prior to Cabinet direction.
- 

### Largest salaries

- For 2009, 16 of the 60 rehired pensioners received a salary in excess of \$25,000. Figure 6 provides details on these 16 positions.

## Re-employment of Pensioners

Figure 6

**Pensioners Who Received a Government Salary  
(\$25,000 or More) and a Pension  
Year Ended 31 December 2009**

Department	Position	Salary	Pension
Health and Community Services	Contractual	\$162,708	\$109,064
Executive Council	Child and Youth Advocate	109,025	47,676
Health and Community Services	Contractual	79,485	61,811
Health and Community Services	Contractual	63,388	61,412
Health and Community Services	Executive Assistant	59,293	53,818
Transportation and Works	Ferry Captain II	58,676	17,593
Justice	Youth Care Counsellor	46,783	10,110
Executive Council	Research Assistant	45,899	77,714
Health and Community Services	Contractual	44,650	46,705
Natural Resources	Secretary to Minister	43,905	44,995
Justice	Secretary to Minister	42,313	16,260
Education	Secretary to Private MHA	39,833	35,609
Executive Council	Voter Registry Coordinator	39,817	29,267
Government Services	Environmental Health Officer	31,832	32,699
Transportation and Works	Marine Engineer (Third Class)	29,889	3,257
Education	Contractual	26,512	44,671
<b>Total</b>		<b>\$924,008</b>	<b>\$692,661</b>

Source: The Province's pensions and payroll databases

**Pensioners who received a Government salary while receiving a disability pension**

We also analyzed payments to pensioners who received a Government salary to determine what type of pension they were receiving. Our review identified that 3 pensioners received a disability pension and a salary or other remuneration for services rendered as follows:

- One pensioner was appointed to a board and received remuneration totalling \$42,590 in 2009 (2008 - \$32,110) while drawing a disability pension of \$11,460 per year.
- One pensioner was hired as a summer student in 2008 and was paid \$4,499 while drawing a disability pension of \$18,473 per year. We note that this pensioner was 48 years old at the time and the period of employment did not cover the summer months.

## Re-employment of Pensioners

- One pensioner was paid \$7,543 in 2009 (2008 - \$608) through the general service payroll as a contractual employee while drawing a disability pension of \$22,488 per year.

### 3. Systems for Monitoring Compliance

#### Overview

We would expect the Department of Finance and Executive Council to periodically compare its employee payrolls to the pension payroll to determine if Government departments were complying with the policy regarding the rehiring of pensioners. Our review of Government's monitoring activities identified the following:

#### Lack of adequate monitoring of pension payroll

- There was no direct comparison of employee and pension payrolls. Discussions with officials disclosed that the Pensions Division at the Department of Finance did prepare a report comparing pension deductions to the pension payroll; however, this report would not detect re-employed pensioners who were not paying into one of the Province's pension plans. The Pensions Division did remove any identified pensioners from the pension payroll.
- The Pensions Division's internal auditor did not conduct audits of Government departments to determine if pensioners had been re-employed by Government.

#### Departments not adequately monitoring rehiring of pensioners

- Government departments were not adequately monitoring employees who were also receiving a pension. For example, we requested that each department provide us with a list of employees who were also receiving a Government pension. For the calendar year 2009, 60 pensioners were found to be on the general service payroll. Of these 60, only 33 were reported to us by Government departments as receiving both a salary and a pension. Figure 7 provides a summary of the reporting by these departments.

## Re-employment of Pensioners

Figure 7

### Departments' Monitoring of Pensioners on Payroll For the Year Ended 31 December 2009

Department	Reported	Not Reported	Total
Education	6	1	7
Executive Council	2	-	2
Government Services	5	-	5
Health and Community Services	6	1	7
Human Resources, Labour and Employment	2	-	2
Justice	3	1	4
Legislature	1	11	12
Natural Resources	3	1	4
Tourism, Culture and Recreation	2	10	12
Transportation and Works	3	2	5
<b>Total</b>	<b>33</b>	<b>27</b>	<b>60</b>

### Recommendations

Government should:

- monitor compliance with its policy by comparing Government payrolls with pension information to identify if pensioners are being re-employed;
- investigate hiring of pensioners found not to be in compliance with legislation or policy;
- comply with the *Teachers' Pensions Act* by having the rehiring of teachers approved by the Minister of Finance and discontinue pension payments where applicable; and
- request that the Department of Education review the hiring practices at school districts to ensure that they comply with current Government policy with regards to the rehiring of retired teachers.

### Executive Council's Response

*As indicated in the Auditor General's report, the 1993 Provincial Government's policy requires government departments and agencies to give hiring preference to persons not in receipt of a government pension, unless there are no other persons qualified to fill the position, with exceptions to this policy to be subject to approval from Cabinet.*

*It is worthy of note that in 2007 the House of Assembly passed amendments to the Pension Benefits Act and the Public Service Pensions Act reflective of government's decision to eliminate mandatory retirement. The legislative amendments specifically address hiring pensioners. In fact, the legislative amendments mean that since 2007, pensioners can not only be re-hired after retirement, they can be re-hired into pensionable positions, suspend their receipt of pension benefits for the duration of their employment in the pensionable position (until Dec. 31st of the year in which they turn 71 years of age or until they retire) and continue accruing pension credits until they again choose to retire. Alternatively, pensioners can be re-hired on contract in a non-pensionable position under which they do not make contributions to the public service pension plan or accrue further pension benefits. In this circumstance, the re-hired pensioner would receive a salary from their contractual employment while simultaneously receiving their pension benefits.*

*In keeping with the legislative amendments in 2007, the PSS has been directed to review the policy regarding the rehiring of Provincial Government pensioners and to bring forward recommendations. The current policy was implemented in 1993, a time when the economic and demographic realities of the province were quite different from those of today. The following have been identified as important factors to be considered in conducting this review:*

- the emergence of a more competitive labour market in the province;*
- challenges with the recruitment and retention of employees in certain geographical areas and in specific fields of work; and*
- increased potential for human rights claims of discrimination on the basis of age.*

## Re-employment of Pensioners

*Notwithstanding any changes to the 1993 policy, the Public Service Secretariat (PSS), in consultation with the Department of Finance, will continue to reiterate to departments and central agencies the direction outlined in the policy regarding the rehiring of pensioners. In addition, the PSS will partner with the Department of Finance to establish processes and procedures to more effectively monitor compliance with the policy.*

## Department of Education's Response

### **1. Employed as a Teacher and Receiving a Pension**

#### **Overview**

*The department notes that the Auditor General references 443 teachers receiving pension benefits and a paid salary for the 2009 calendar year (2008 - 422). Reporting for a calendar year will capture teachers from two different school years (i.e., January to June from one school year, and September to December for the next). For example, if a teacher was hired for the 2008/09 school year (i.e., September 2008 to June 2009), s/he would be counted for both the 2008 and 2009 calendar years.*

*The Teachers' Pension Act references a school year as opposed to a calendar year and this is how the department captures its information. As such, the number of teachers receiving pension benefits and a paid salary for the 2007/08, 2008/09, and 2009/10 school years are 398, 399, and 404 respectively. These numbers can be further broken down as follows:*

**Table 1 – Retired Teachers with term contracts**

	2007/08	2008/09	2009/10
Teachers (number)	46	57	44
Mean contract length (days)	102.4	108.6	111.5
Minimum contract length (days)	18.0	20.0	10.0
Maximum contract length (days)	195.0	195.0	195.0
# full year contracts (i.e., 195 days)	7	10	13
# contracts $\geq$ ½ year (i.e., 97.5 days)	22	28	24

## Re-employment of Pensioners

*Of the above noted teachers, some of these, with contracts less than a full year, also substituted. Information on these teachers is found in Table 2. Note: the teachers in Table 2 are included in Table 1 as well.*

**Table 2 - Retired Teachers with replacement contracts who also substituted**

	2007/08	2008/09	2009/10
Teachers (number)	20	22	17
Mean contract length (days)	69.7	53.4	64.7
Mean substitute time (days)	22.9	23.1	22.4

**Table 3 - Retired Teachers who only substituted**

	2007/08	2008/09	2009/10
Teachers (number)	352	342	360
Mean substitute time (days)	20.4	21.4	22.3
Minimum substitute time (days)	0.34	0.40	0.30
Maximum substitute time (days)	65.0	65.0	65.0
% teachers with $\leq$ 10 days	40.1	39.5	36.4
% teachers with $\leq$ 20 days	59.9	59.6	56.7
% teachers with $>$ 50 days	8.8	12.3	12.8
% teachers with $>$ 60 days	5.7	7.6	7.8

*In all the above cases, approval was granted by the Minister of Education.*

*The department would like to note that the vast majority of the above referenced retired teachers (88%, 86% and 89% in each of the three school years respectively) were hired only as substitutes and worked 65 days or less.*

### **Guidelines not in accordance with Cabinet Direction**

*The department acknowledges the findings of the Auditor General and will seek appropriate authority for its policy which was designed first and foremost to help those schools in rural areas which had trouble recruiting teachers.*

### ***Rehiring of teachers was not approved by the Minister of Finance***

*The department acknowledges that under the legislation the Minister of Finance has to approve exemptions from the Teachers' Pension Act. The department will ensure compliance with this legislation while seeking an appropriate alternative in consultation with legal counsel and the Department of Finance.*

### ***Teachers rehired in excess of the 65 day limit***

*The department acknowledges that under the legislation the Minister of Finance has to approve exemptions from the Teachers' Pension Act. The department will ensure compliance with this legislation while seeking an appropriate alternative in consultation with legal counsel and the Department of Finance.*

### ***Retired teachers occupying positions for multiple years***

*The department acknowledges the Auditor General's findings and notes the following regarding the six positions:*

#### *Educational Psychologist (Nova Central)*

- In each of the three years the position was advertised at least three times. In all cases, the retired teacher was the only qualified applicant for the position. (In one of the years, an applicant took a position with another school district.)*

#### *Guidance Counsellor (Nova Central)*

- This position was advertised in each of the three years (four times in two of the years). In each case the retired teacher was the only qualified applicant for the position. In all cases there were unqualified applicants. One year an un-retired applicant was offered the position and declined. In two of the years in question, several applicants took positions elsewhere and were therefore not available.*

#### *Educational Psychologist (Nova Central)*

- In each of the three years the position was advertised at least three times. In all cases, the retired teacher was the only qualified applicant for the position. In one year an applicant took a position with another school district.*

## Re-employment of Pensioners

### *Guidance Counsellor (Nova Central)*

- *The first year the position at Carmanville/Phoenix Academy was advertised twice. A non-retired teacher was offered the position but declined. The only applicant, other than the retired teacher, was not qualified. The retired teacher was offered the position but for only one term (i.e., September to December) while the district continued to advertise. Then in January, the same retired teacher was placed in another guidance counsellor position at St. Brendan's/Jane Collins/ St. Garbriel's which had been advertised four times with no qualified (non-retired) applicants expressing interest.*

*In next school year this retired teacher was the only qualified applicant again for the Carmanville/Phoenix Academy position and filled same for the entire school year.*

*In year three, the individual was the only qualified teacher to again apply for the St. Brendan's/Jane Collins/ St. Garbriel's position and was placed in same for the third year. Note that each time these two positions were advertised all applicants, other than the retired teacher, were either unqualified or chose to accept other positions.*

### *Guidance Counsellor/Program Specialist (Nova Central)*

- *In the first year the guidance counsellor position was advertised four times with no qualified applicants. In the second and third years the retired teacher was in a Program Specialist's position. For the second year, the Program Specialist's position was advertised twice with one applicant declining and no other qualified applicant besides the retired teacher. The position was advertised three times in the third year with no qualified candidates.*

### *Classroom teacher (Conseil scolaire francophone provincial)*

- *For the first two years the position was a high school math/science position and was advertised four and three times respectively. In both years the position was offered to a non-retired teacher who declined. One year a teacher took another job within the school district. In the second year there was one unqualified candidate. The position for the third year was a grade 5/6 teacher. This was advertised three times with two applicants accepting positions elsewhere and three applicants not qualified.*

## Re-employment of Pensioners

*Regarding the Auditor General's remarks on succession planning, the department notes that school districts must follow the compensation policies and procedures of government as per the Schools Act, 1997. The department has communicated the Public Service Secretariat's new policy on Labour Market Adjustments to the school districts however, the skills sets for the six positions are specific. It is anticipated that the recruitment and retention of qualified individuals to fill positions in rural areas of the province will remain a challenge. The Conseil scolaire francophone provincial has the added challenge of recruiting professionals with both the required academic and linguistic backgrounds.*

### ***Positions with significant interest being filled by retired teachers***

*The department acknowledges the findings of the Auditor General which indicate that, while there were a high number of applicants for the noted positions, non-retired applicants deemed qualified by the selection board did not accept the position and all other non-retired applicants were deemed not qualified by the board. The four noted positions required individuals with both appropriate skills sets and experience to perform the duties associated with each.*

### ***2. Employed by Government and Receiving a Pension***

*To be addressed by the Executive Council*

### ***3. Systems for Monitoring Compliance***

*To be addressed by the Executive Council*

### ***Recommendations***

- To be addressed by the Executive Council*
- To be addressed by the Executive Council*
- As noted previously, the department will ensure compliance with this legislation while seeking an appropriate alternative in consultation with legal counsel and the Department of Finance.*

## Re-employment of Pensioners

- *Appropriate action will be taken to ensure that hiring practices comply with government policy and that school district are informed of current policy regarding the hiring of retired teachers as follows:*
  - *Where application is being made by a school board to hire a retired teacher for a position:*
    - *it will be necessary to advertise the position at least three times with at least one of these involving advertising outside the province. In cases of where urgent/unforeseen circumstances emerge, the position will be advertised at least once, and*
    - *a new application form will be used to capture more information on the non-retired candidates that were deemed not qualified for the position in question.*
  - *When hiring retired teachers as substitutes, the school administration will have to document the circumstances and the process followed (e.g., position, qualifications required, time administration was notified, substitutes called other than the retired teacher).*
  - *Every 6 – 8 weeks a report will be sent to school board CEOs/Directors of Education indicating the number of days which each school in their district has employed a retired teacher as a substitute. This information for the 2009/10 and 2010/11 school years have been sent to the CEOs/Directors of Education for each school board.*

**Re-employment of Pensioners**

**PART 2.2**

**DEPARTMENT OF CHILD, YOUTH AND FAMILY SERVICES**

**PROTECTIVE INTERVENTION PROGRAM - LONG-TERM PROTECTION**

### Executive Summary

There are four service components of the *Child, Youth and Family Services Act* (the *Act*) - Family Services, Youth Services, In Care (Foster Care) and the Protective Intervention Program (PIP). 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). There are two components to the PIP: the Intake and Investigation component which we reviewed and reported on in 2009 and the Long-Term Protection (LTP) component which is the focus of this current review.

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 (the Department). This new Department assumed responsibility for the oversight of the PIP from the Department of Health and Community Services. 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. The Department of Child, Youth and Family Services indicated that there will be a transition of client services and staff from the RHAs to the Department during 2010-11.

Section 14 of the *Act* defines what would constitute maltreatment of a child and would include such things as physical abuse, sexual abuse, emotional harm, living in domestic violence and inadequate parental supervision. It would also include the failure of the parent(s) to protect a child from the non-accidental infliction of injury or harm by another person.

The primary purpose of the LTP is to have a social worker work with the family of the child(ren) to achieve goals established for the family to ensure the safety of the child(ren) within the family environment. There are two key clinical processes that occur as part of LTP: the completion of the Risk Assessment (and the related Risk Assessment Instrument) and the Family Centered Action Plan (FCAP). The purpose of the Risk Assessment and the FCAP is to ensure that intervention provided by the social worker reduces the risk of maltreatment to the child(ren).

As a result of issues with the delivery and monitoring of the LTP component of the PIP we determined that there was an increased risk that harm may occur to children. In particular, for the 46 case files that we reviewed, 90% of the Risk Assessment Instruments relating to the maltreatment of children and 94% of the FCAPs designed to assist in the mitigation of identified risks were not completed as required by Departmental policy. In particular:

### **Risk Assessment Instruments not completed**

A Risk Assessment is primarily a clinical assessment process that a social worker completes in order to determine the future risk of maltreatment to a child(ren). As a result, a Risk Assessment is an integral part of the PIP and is required to be completed a minimum of once every 90 days. Without a Risk Assessment, there is an increased risk that maltreatment of a child(ren) could occur. The results of a Risk Assessment are documented using a Risk Assessment Instrument.

Our review of a sample of 46 case files indicated that, during the period 1 January 2005 to 31 December 2009, a total of 464 Risk Assessment Instruments were required to be completed relating to these 46 case files. However, 416 (90%) were not completed - only 48 (10%) were completed.

Furthermore, a review of those 46 case files by Regional Health Authority (RHA) indicated that there were 17 case files where not even one Risk Assessment Instrument was completed. The details are as follows:

- Eastern - 9 of 31 samples had no Risk Assessment Instruments completed even though 109 were required.
- Central - 1 of 5 samples had no Risk Assessment Instruments completed even though 9 were required.
- Western - 4 of 5 samples had no Risk Assessment Instruments completed even though 30 were required.
- Labrador-Grenfell - 3 of 5 samples had no Risk Assessment Instruments completed even though 16 were required.

### **Family Centered Action Plans not completed**

Family Centered Action Plans (FCAP) are designed to outline a process of family interaction, with the aid of a social worker, to reduce the risk of maltreatment of a child(ren). As a result, an FCAP is an integral part of the PIP and is required to be completed a minimum of once every 90 days. Without an FCAP, there is an increased risk that maltreatment of a child(ren) could occur.

Our review of a sample of 46 case files indicated that, during the period 1 January 2005 to 31 December 2009, a total of 464 FCAPs were required to be completed relating to these 46 case files. However, 437 (94%) were not completed – only 27 (6%) were completed.

## Protective Intervention Program - Long-Term Protection

Furthermore, a review of those 46 case files by Regional Health Authority (RHA) indicated that there were 28 case files where not even one FCAP was completed. The details are as follows:

- Eastern - 18 of 31 samples had no FCAPs completed even though 222 were required.
- Central - 3 of 5 samples had no FCAPs completed even though 23 were required.
- Western - 3 of 5 samples had no FCAPs completed even though 28 were required.
- Labrador Grenfell - 4 of 5 samples had no FCAPs completed even though 19 were required.

### **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 for LTP established by the Department. 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**

Monitoring and evaluation is an important component of managerial oversight and is useful to determine whether the PIP, including the LTP component, is functioning within the established standards. There are a number of concerns with regards to the lack of monitoring and evaluation of the LTP as follows:

- Reports that would allow the Provincial Director and the RHAs to monitor whether the LTP standards are being achieved are currently not available from the Client and Referral Management System (CRMS).
- 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 LTP component of the PIP.

### Background

#### Overview

The Department of Child, Youth and Family Services (the Department) is responsible for the Protective Intervention Program (PIP) as outlined in the *Child, Youth and Family Services Act* (the *Act*). The PIP is one of four service components (the other three are: Family Services, Youth Services and In Care (Foster Care)) of the *Act*. 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). Section 14 of the *Act* defines what would constitute maltreatment of a child and would include such things as physical abuse, sexual abuse, emotional harm, living in domestic violence and inadequate parental supervision. It would also include the failure of the parent(s) to protect a child(ren) from the non-accidental infliction of injury or harm by another person.

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. 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.

## Protective Intervention Program - Long-Term Protection

The Department of Child, Youth and Family Services indicated that there will be a transition of client services and staff from the RHAs to the Department during 2010-11. When we commenced our review, the Department of Health and Community Services was responsible for the oversight of the PIP; while the Department of Child, Youth and Family Services was responsible for the oversight of the PIP when our review concluded. The authority to administer the PIP was held by the RHAs during the entire period of our review.

As required by the *Act*, the Departments of Health and Community Services and Child, Youth and Family Services operate 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.

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### 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 (RMS) for the PIP based on internationally accepted risk management standards. The RMS consists of legislative authority, standards, commentary, specified decision points, and procedures to guide decisions. Documentation of the results of Long-Term Protection (LTP) is primarily recorded in the client file on CRMS.

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### 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 under Section 15 of the *Act*. The RMS 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 (e.g.; teachers and medical professionals), 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.

When the initial referral is accepted, that alleges that child maltreatment is, or may be, occurring, the matter is investigated and a decision is made as to whether or not further protective intervention is required. This determination is an important protective intervention decision and is the first step of the RMS. If it is determined that further protective intervention is required, the case will be transferred to LTP.

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### Audit Objectives and Scope

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<b>Audit objectives</b>	<p>The objectives of our review of the Protective Intervention Program (PIP) - Long-Term Protection Program (LTP) component were to determine whether:</p> <ul style="list-style-type: none"><li>• policies and procedures existed and if so, that established standards were being met;</li><li>• the Regional Health Authorities and the Department were adequately monitoring the Long-Term Protection component of the PIP; and</li><li>• the <i>Child, Youth and Family Services Act</i> was being complied with.</li></ul>
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<b>Audit scope</b>	<p>We interviewed senior officials from the Department of Child, Youth and Family Services and the Regional Health Authorities (RHAs) about the Long-Term Protection component of the PIP.</p>
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We also selected a sample of 46 long-term protection samples from the four RHAs from 1 January 2005 to 31 December 2009. No samples were selected from the Innu zone of the Labrador-Grenfell Regional Health Authority as the Risk Management System (RMS) was not in place in this zone during the period of our review. Furthermore the current RMS was only fully implemented in the RHA as of 1 January 2008 and our sample period for this RHA was therefore from 1 January 2008 to 31 December 2009.

In the St. John's area of the Eastern RHA the current RMS was only fully implemented in the RHA as of 1 April 2005 and our sample period for any samples from this region of this RHA was therefore from 1 April 2005 to 31 December 2009.

We completed our review in December 2010.

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### Detailed Observations

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

1. Protective Intervention Program – Long-Term Protection - Samples
2. Protective Intervention Program – Long-Term Protection - Monitoring and Evaluation

### 1. Protective Intervention Program – Long-Term Protection – Samples

During our review we assessed the process associated with a random sample of 46 Long-Term Protection cases. Our findings are contained in the following sections:

- A. Long-Term Protection - Samples
- B. Risk Management System not fully implemented in the Labrador-Grenfell RHA

#### 1A. Long-Term Protection – Samples

##### Overview

In 2003, the Province began the implementation of a computerized Risk Management System (RMS) to ensure there was a comprehensive approach to the assessment of risk to children and to facilitate clinical decision making. Risk Management 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 (e.g. Safety Assessments and 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 RMS was first implemented in the Province in 2005. This process was phased in at various times by each of the RHAs. As of 31 December 2009, the date of our review, the RMS had not been fully implemented within the Innu zone of the Labrador-Grenfell RHA.

In order to test the Long-Term Protection component of the RMS we selected a random sample of 46 Long-Term Protection cases that were active at some point during the period 1 January 2005 to 31 December 2009. As Risk Management has not been fully implemented in the Labrador-Grenfell Regional Health Authority, our selection of LTP cases from that Authority was drawn only from regions within the RHA where Risk Management had been implemented. Specifically no samples were selected from the Innu zone of the Labrador Grenfell Regional Health Authority as Risk Management was not in place in that zone during the timeframe of our review.

Figure 1 shows an overview of the 46 samples selected by RHA.

## Protective Intervention Program - Long-Term Protection

**Figure 1**

**Protective Intervention Program  
Sample Distribution  
1 January 2005 to 31 December 2009**

Authority	Total	Average duration of LTP (in years)	Total Instances of In Care	In Care cases returned to LTP
Eastern	31	3.02	7	3
Western	5	1.63	2	1
Central	5	2.38	1	0
Labrador-Grenfell	5	1.45	2	0
<b>Total</b>	<b>46</b>	<b>2.63</b>	<b>12</b>	<b>4</b>

Note: Average duration of LTP refers to length of time in LTP during our sample period of 1 January 2005 to 31 December 2009.

Of the 46 samples, there were 12 (26%) cases where a child(ren) was placed in the care of the Director because of the risk of maltreatment being assessed at an unacceptable level. Of those 12 cases, 4 cases were in care for a temporary period and the child(ren) returned to LTP at the completion of the temporary in-care period.

**Determining if a child is in need of protective intervention**

The Department of Child, Youth and Family Services (formerly the Department of Health and Community Services) has the legislative authority to establish Province-wide policies, programs and standards. The Department has a policy manual to govern the LTP component of 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).

**Overview of Long-Term Protection process**

When a referral has been assessed and determined to require further protective intervention it is transferred to Long-Term Protection (LTP) status and the file is assigned to a social worker who will initiate a clinical process.

This clinical process encompasses:

- a **risk assessment** - to determine the level of risk to the child(ren) in the family;

## Protective Intervention Program - Long-Term Protection

- a **family centered action plan** (FCAP) - contains social work intervention to the family, the care of children and family assistance;
- **in-care** - should the risk to a child(ren) be determined to be at an unacceptable level the Director of Child Youth and Family Services (CYFS), in the applicable region, may obtain a Court order to remove the child(ren) from the environment; and
- a **closure summary** - if the level of risk is assessed and the child(ren) are no longer in need of long-term protection the case may be closed.

The primary purpose of LTP is to have a social worker work with the family and child(ren) to achieve goals established with the family to ensure the safety of the child(ren) within the family environment. LTP requires regular consultations and home visits to ensure the safety of the child(ren) and ensure that provisions set in place are being maintained by the family. In the most serious cases of failure to comply with the goals and plans established by the social worker and family, one or more of the child(ren) may be removed from the home if the risk to the child(ren) is significant enough and their safety cannot be assured.

There are two key clinical processes that occur as part of LTP, the completion of the Risk Assessment (which is documented using a Risk Assessment Instrument) and the Family Centered Action Plan (FCAP). The purpose of the Risk Assessment and the FCAP is to ensure that intervention provided by the social worker reduces the risk of maltreatment to the child. The Risk Assessment Instrument and the FCAP are to be completed in conjunction with one another to ensure that the family and the actions of the social worker are warranted.

Once a case is transferred to long-term intervention it can remain in this category for a lengthy period of time (which can be many years, until the last child in the family turns 16, the age at which the child becomes a youth under the *Act* and is subject to the Youth Services provisions of the *Act*). The goal of long-term intervention is to reduce the risk to the child so that the case can be closed.

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## Protective Intervention Program - Long-Term Protection

### Overview of the Risk Assessment process

Where a child(ren) is found to require Protective Intervention and are transferred to Long-Term Protection (LTP) a Risk Assessment is required to be completed. The completion of a Risk Assessment involves the completion of a detailed evaluation of the home environment and the factors that resulted in finding that LTP was required due to the possible future risk of maltreatment of a child. The Risk Assessment is primarily a clinical assessment process that a social worker completes in order to determine the possible future risk of maltreatment to a child(ren). The assessment of risk is a complex analysis of the interaction among risk-related factors, the family's own perceptions, an identification and examination of family's strengths, and any other significant case circumstances that may affect family functioning. The results of a Risk Assessment are documented using a Risk Assessment Instrument.

The Risk Assessment Instrument assists the social worker in assigning a level of risk to a child using predefined criteria. These criteria are also individually assessed with additional commentary provided to explain the rating. At the end of the Risk Assessment the Social Worker assesses an overall risk level per child. The resulting risk level can differ between children within the same family. There are currently five different risk levels that can be assigned to a child as a result of the risk assessment. The risk levels, in order of increasing risk, are as follows:

- Low / No Risk
- Moderately Low
- Medium
- Moderately High
- High

A Risk Assessment, and the related Risk Assessment Instrument, is required to be completed a minimum of every 90 days. Risk Assessments may be required more frequently if circumstances warrant (e.g. there has been a significant change in circumstances resulting in an increased risk of maltreatment).

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## Protective Intervention Program - Long-Term Protection

**Required risk assessment instruments not completed** Figure 2 provides a summary of the Risk Assessment Instruments (RAI) required and the RAIs completed for each RHA for our sample.

**Figure 2**

### Protective Intervention Program Risk Assessment Instrument Completion 1 January 2005 to 31 December 2009

Authority	Samples	RAIs Required	RAIs Completed	RAIs Not Completed
Eastern	31	363	38	325
Central	5	44	5	39
Western	5	30	0	30
Labrador-Grenfell	5	27	5	22
<b>Total</b>	<b>46</b>	<b>464</b>	<b>48</b>	<b>416</b>

Our review of a sample of 46 case files indicated that, during the period 1 January 2005 to 31 December 2009, a total of 464 Risk Assessment Instruments were required to be completed relating to these 46 case files. However, 416 (90%) were not completed - only 48 (10%) were completed. In particular:

- Eastern - only 38 (10.5%) of the 363 Risk Assessment Instruments required during the period of our review were completed.
- Central - only 5 (11.4%) of the 44 Risk Assessment Instruments required during the period of our review were completed.
- Western - none of the 30 Risk Assessment Instruments required during the period of our review were completed.
- Labrador-Grenfell - only 5 (18.5%) of the 27 Risk Assessment Instruments required during the period of our review were completed.

## Protective Intervention Program - Long-Term Protection

Furthermore, a review of those 46 case files by Regional Health Authority (RHA) indicated that there were 17 case files where not even one Risk Assessment Instrument was completed. The details are as follows:

- Eastern - 9 of 31 samples had no Risk Assessment Instruments completed even though 109 were required.
- Central - 1 of 5 samples had no Risk Assessment Instruments completed even though 9 were required.
- Western - 4 of 5 samples had no Risk Assessment Instruments completed even though 30 were required.
- Labrador-Grenfell - 3 of 5 samples had no Risk Assessment Instruments completed even though 16 were required.

Figure 3 outlines the number of Risk Assessment Instruments completed for the cases contained in our sample and separate risk assessment ratings (one for each individual child in a family) that were completed:

**Figure 3**

**Protective Intervention Program  
Assigned Risk Ratings per region  
1 January 2005 to 31 December 2009**

Authority	Number of Samples	Risk Assessment Instruments completed	Risk Assessment Rating					Totals
			Number of risk level assignments completed during period by risk level by individual child					
			L	M-L	M	M-H	H	
Eastern	31	38	19	17	24	18	2	80
Central	5	5	5	1	2	1	1	10
Western	5	0	N/A	N/A	N/A	N/A	N/A	N/A
Labrador-Grenfell	5	5	4	4	0	2	0	10
<b>Total</b>	<b>46</b>	<b>48</b>	<b>28</b>	<b>22</b>	<b>26</b>	<b>21</b>	<b>3</b>	<b>100</b>

Note: L- Low / No Risk.: M-L – Moderately Low Risk: M – Medium: M-H – Moderately High: H - High

## Protective Intervention Program - Long-Term Protection

Figure 3 indicates the following:

**Eastern:** Of the 31 samples a total of 80 separate risk assessment ratings (one for each individual child in a family) were completed. The risk level assignments were as follows:

- 19 (24%) were classified as low risk;
- 17 (21%) were classified as medium-low risk;
- 24 (30%) were classified as medium risk;
- 18 (23%) were classified as medium-high risk; and
- 2 (2%) were classified as high risk.

**Central:** Of the 5 samples a total of 10 separate risk assessment ratings (one for each individual child in a family) were completed. The risk level assignments were as follows:

- 5 (50%) were classified as low risk;
- 1 (10%) was classified as medium-low risk;
- 2 (20%) were classified as medium risk;
- 1 (10%) was classified as medium-high risk; and
- 1 (10%) was classified as high risk.

**Western:** There were no Risk Assessments completed.

**Labrador-Grenfell:** Of the 5 samples a total of 10 separate risk assessment ratings (one for each individual child in a family) were completed. The risk level assignments were as follows:

- 4 (40%) were classified as low risk;
- 4 (40%) were classified as medium-low risk;
- 0 were classified as medium risk;
- 2 (20%) were classified as medium-high risk; and
- 0 (0%) were classified as high risk.

## Protective Intervention Program - Long-Term Protection

### Importance of regular assessment of LTP

The level of risk assigned to an individual child(ren) in a family is determined through the Risk Assessment process that is completed by the social worker assigned to the case. The higher the risk level assessed; the greater the risk of maltreatment to the child(ren) involved. The policies governing the Long-Term Protection component of the PIP require that the cases be reassessed at a minimum, once every 90 days regardless of the risk level assigned to the case. This reassessment includes the completion of the Risk Assessment process (and the related Risk Assessment Instrument) and FCAPs.

The regular completion of Risk Assessment Instruments and FCAPs in accordance with established policy provides a formal means to enable a social worker to determine the risks of maltreatment to a child(ren), specify protective intervention measures to reduce the risk of maltreatment, and determine whether the specified measures have been effective in reducing the risk of maltreatment. If the specified measures have not been effective, regular completion of Risk Assessment Instruments and FCAPs would allow the social worker to make adjustments to the protective intervention measures to reduce the risk of maltreatment.

We did not find any evidence that the RHAs prioritized the completion of Risk Assessment Instruments and FCAPs based upon the assessed risk of maltreatment of child(ren). Furthermore, because of the absence of completed Risk Assessment Instruments it would be difficult for the RHAs to readily and accurately prioritize reassessments based on the risk of maltreatment.

Cases where the assessed risk of maltreatment is moderate or greater would be the most in need of regular monitoring. Such cases may even warrant Risk Assessment Instruments and FCAPs being completed on a more frequent basis than the minimum of every 90 days specified in the Policy Manual. In such cases, the situation in which the child(ren) find themselves may deteriorate quickly and regular, and possibly more frequent, assessment and intervention may help to reduce the risk of maltreatment occurring. In the most serious of these cases, it may even be necessary to remove the child(ren) from their home. Regular assessment and intervention of these cases would provide the necessary clinical documentation to support the actions that may be required to mitigate the risk of maltreatment, particularly the removal of the child(ren) from their home as this would involve the Court system.

## Protective Intervention Program - Long-Term Protection

Cases where the assessed risk level is low or no risk, especially on a continual basis, may indicate that the case could be considered for closure. The closure of cases where the risk of maltreatment has been sufficiently reduced would allow resources to be devoted to cases that continue to require ongoing LTP.

### Overview of the Family Centered Action Plan (FCAP)

Cases transferred to long-term protection require the completion of the Family Centered Action Plan (FCAP). The purpose of the FCAP is to identify the risk factors targeted for intervention, identify the desired outcomes, and link the risk assessment with the services or interventions to be provided to reduce the risk to the child. The level and focus of services are determined through working with the family and significant others.

The FCAP is a more goal oriented document and is prepared in conjunction with the family. The FCAP outlines:

- The risk factors present in the family that could or are resulting in maltreatment of a child.
- The desired outcome to each identified risk factor.
- The strengths by risk factor.
- The supportive services that could be provided to assist the family in reducing the risk of maltreatment.
- The steps to be taken by the family to reduce the risk of maltreatment.
- The individual(s) in the family who are responsible for taking the steps required to reduce the risk of maltreatment.
- The starting date, if applicable, of when the steps are to begin.
- The expected completion date, if applicable, of when the steps are to be completed.

The FCAP completion is determined by certain criteria:

- within 30 days of a referral being received and transferred to LTP; this step coincides with the completion of the Risk Assessment Instrument;

## Protective Intervention Program - Long-Term Protection

- the plan is of a 90 day duration and must be approved by the social workers' supervisor; and
- at the end of 90 days an assessment is completed to determine whether the level of risk to the child(ren) has reduced and the plans outlined in the FCAP have been followed.

The social worker must complete the FCAP with the family. The completion of an FCAP must include a face-to-face interview, if developmentally appropriate, with any child defined to be in need of protective intervention. If an interview is not possible, the social worker must observe each child defined to be in need of protective intervention.

The social worker must consult with their supervisor in the development of the FCAP. A copy of the FCAP must be provided to the family and should be signed by the parents. Also, where appropriate, the FCAP must be reviewed with any child deemed to be in need of protective intervention. If the child is 12 years of age or older they have to be provided with a copy of the FCAP.

If the level of risk (as determined through the completion of the Risk Assessment process and the related Risk Assessment Instrument) has not been significantly reduced and the steps outlined to achieve the stated goals have not been followed, a subsequent FCAP is prepared and a social worker is required to meet with the family and interview the child. This process is repeated every 90 days until:

- the level of risk is reduced to the point where the child is no longer in need of protective intervention and the case can close;
- it is deemed that support services can no longer mitigate risk factors within the family and the child needs to be removed and placed in the custody of a Director; or
- the youngest child in the family turns 16 (which is the statutory cut off for the PIP in the *Act*) and the child becomes eligible for the youth services provided under the *Act*.

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### Required FCAPs not completed

Figure 4 provides a summary of the FCAPs required and the FCAPs completed for each RHA in our sample.

## Protective Intervention Program - Long-Term Protection

**Figure 4**

**Protective Intervention Program  
FCAP Completion  
1 January 2005 to 31 December 2009**

Authority	Samples	FCAPs Required	FCAPs Completed	FCAPs not completed
Eastern	31	363	21	342
Central	5	44	4	40
Western	5	30	1	29
Labrador-Grenfell	5	27	1	26
<b>Total</b>	<b>46</b>	<b>464</b>	<b>27</b>	<b>437</b>

Our review of a sample of 46 case files indicated that, during the period 1 January 2005 to 31 December 2009, a total of 464 FCAPs were required to be completed relating to these 46 case files. However, 437 (94%) were not completed – only 27 (6%) were completed. In particular:

- Eastern - only 21 (5.8%) of the 363 FCAPs required during the period of our review were completed.
- Central - only 4 (9.1%) of the 44 FCAPs required during the period of our review were completed.
- Western - only 1 (3.3%) of the 30 FCAPs required during the period of our review was completed.
- Labrador-Grenfell - only 1 (3.7%) of the 27 FCAPs required during the period of our review was completed.

Furthermore, a review of those 46 case files by Regional Health Authority (RHA) indicated that there were 28 case files where not even one FCAP was completed. The details are as follows:

- Eastern - 18 of 31 samples had no FCAPs completed even though 222 were required.
- Central - 3 of 5 samples had no FCAPs completed even though 23 were required.

## Protective Intervention Program - Long-Term Protection

- Western - 3 of 5 samples had no FCAPs completed even though 28 were required.
- Labrador Grenfell - 4 of 5 samples had no FCAPs completed even though 19 were required.

### Procedures compensating for lack of Risk Assessment Instruments and FCAPs

Due to the high deviation rate between the number of Risk Assessment Instruments and FCAPs required to be completed and what was actually completed we requested further information on what procedures or activities may have been occurring which could compensate for the lack of completed Risk Assessment Instruments and FCAPs. These additional procedures included Court applications for removal of a child(ren), ongoing referrals (and the completion of the associated safety assessment) and Case Notes.

#### **Court applications for removal of child(ren)**

When it has been assessed that it is in the best interests of the child(ren) to be removed from the home due to the risk of maltreatment, a Court order to remove the child(ren) will be sought. As part of the Court process social workers will prepare documents to support the application for the removal of the Child(ren) such as a Plan of Care.

The Plan of Care provided to the Court must include the following:

- factual summary of circumstances which necessitated the child being removed from the parent (risk assessment);
- interventions provided to the family to prevent the child coming into care (risk reduction planning);
- the goal for the child, e.g., reunification, continuous custody and/or placement with relatives;
- interventions to be provided to the child and/or family to facilitate the goal and meet the needs of the child;
- access arrangements;
- previous Court order(s); and
- views and wishes of a child.

## Protective Intervention Program - Long-Term Protection

We found that for the period of our review there were 12 cases where a child was placed into the custody of the Director and for which the Court process would be followed.

The process of compiling information that is subjected to judicial process and scrutiny would provide evidence to show that monitoring of a case has been occurring. In most cases the period between the decision of the Director to apply for custody of a child(ren) and the removal of the child from the home is short. While there may be increased case management and monitoring for cases where a child is placed in the custody of the Director, this increased case management and monitoring may not be occurring over the entire period of time that the case was on LTP.

### Ongoing referrals

The completion of a referral investigation would have required a social worker to interview or observe the child(ren) and complete a Safety Assessment. The Safety Assessment would have provided a formal and clinically documented evaluation of the current environment in which the child(ren) is residing and the current risk of maltreatment. In addition, as a result of a referral investigation it could also have been determined that further action is required to reduce the risk of maltreatment.

We found that for the period of our review there were 142 referrals received for our 46 samples. This resulted in the completion of 142 Safety Assessments. Six of the samples had no referrals; while other samples had multiple referrals (as high as 18 referrals in one case).

While the Safety Assessments that are completed during a referral investigation document the evaluation of a child(ren)'s current home environment and any associated risks, these Assessments are completed as a result of complaints being received and not at a fixed interval or on any other systematic basis that would provide for regular monitoring of a LTP case. For example, it is possible that there could be several referrals received on a LTP case within a short period of time resulting in an assessment of risk that covers only a short period. In addition, the focus of a Safety Assessment is the immediate safety of the child(ren); it does not assess the future risk of maltreatment to a child(ren) like a Risk Assessment Instrument would do.

### Case Notes

We also requested copies of the Case Notes for a selection of 32 files, out of our total sample of 46 files, to further determine the extent of case management that was occurring. Case Notes are used by social workers to document all contact with the family and other matters of significance to the case. They do not provide the clinical assessment and documentation that is undertaken during the completion of the Risk Assessment Instruments and FCAP. We reviewed the Case Notes provided and, while there were instances where there was contact with the families involved, this contact would not be sufficient to compensate for the lack of completed FCAPs and Risk Assessment Instruments.

### Recommendations

The Regional Health Authorities should complete Risk Assessment Instruments and Family Centered Action Plans (FCAP) in accordance with established standards.

The Department and the Regional Health Authorities should monitor the completion of Risk Assessment Instruments and FCAPs to ensure that these documents are completed in accordance with established standards.

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

#### 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 for Long-Term Protection (LTP) established by the Department. This situation exists because the RHA was not able to implement the Risk Management System (RMS) in all locations as a result of difficulties in recruiting and retaining social workers.

We were informed by officials of the Labrador-Grenfell RHA that subsequent to the 2007 calendar year, the Client and Risk Management System (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.

## Protective Intervention Program - Long-Term Protection

We were also informed by officials of the Labrador-Grenfell RHA that subsequent to the 2005 and 2006 calendar years, the RMS was phased into more areas within the RHA. However, as of the completion of our fieldwork, the RHA had still not implemented the RMS 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 RMS throughout its jurisdiction. Officials of the RHA indicated that in place of the RMS it was continuing to use the previous methodology to manage LTP cases.

### Recommendation

The Department and the Labrador-Grenfell RHA should:

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

## 2. Protective Intervention Program – Long-Term Protection - Monitoring and Evaluation

### Overview

The Director of Child, Youth and Family Services at the Department of Child, Youth and Family Services 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;

## Protective Intervention Program - Long-Term Protection

- 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, jointly with the Department of Health and Community Services, 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 regional health authorities 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 LTP standards are being met**

### Department of Child, Youth and Family Services

During our review, we requested that the Department provide us with an overview of the monitoring activities it performs on the PIP, including the LTP, 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.

Department officials indicated that CRMS reports to monitor the LTP are currently not available. Initially, officials indicated that monitoring reports were in the process of being developed and tested; however, obtaining the necessary resources to complete this task had been a challenge. In January 2010, the Department indicated that, as a result of a Technical Review and a Business Review of CRMS, it was determined that a major retrofit would be required to address program requirements, which would be neither cost effective nor sustainable over time. Consequently, work is underway to develop a new CYFS information system.

Departmental officials also indicated that there were insufficient staff resources available to monitor and evaluate the LTP in accordance with the *Act*. While certain information needed to monitor the LTP could be obtained from the CRMS, it will always 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.

## Protective Intervention Program - Long-Term Protection

Officials indicated that some monitoring of the PIP is performed, in conjunction with the resources available. The officials indicated that they interact regularly with the Regional Directors at each RHA to discuss matters of significance. During 2008 the Department took some steps to improve its monitoring capacity by hiring two Quality Assurance staff (a Manager and a Consultant). Each RHA was also provided funding, which they used to hire Quality Managers, to enhance monitoring. In addition, the Department has undertaken other ad hoc monitoring activities in conjunction with the RHAs such as the High Risk File Review (2006), Clinical Services Review (2008), and the PIP Workload Analysis (2009) as well as some case-specific reviews pertaining to critical incidents.

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### Regional Health Authorities

We also requested that the RHAs provide us with an overview of the monitoring activities performed to determine if the PIP, including the LTP, 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 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 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 standards are being met.
- Central RHA does not prepare formal monitoring reports; however, the RHA indicated that it conducted manual monitoring by having managers check the status of individual case files in the CRMS to determine compliance with standards.
- Western RHA does perform some monitoring which consists of manually prepared reports outlining case statistics. Managers and a coordinator position also conduct manual monitoring by checking the status of individual case files with workers to determine compliance with standards.

## Protective Intervention Program - Long-Term Protection

- Labrador-Grenfell RHA manually compiled monitoring reports on a monthly basis, which allows them to determine if key Risk Management procedures have been completed (in areas where Risk Management has been implemented). According to the RHA, during 2009 this manual monitoring process allowed them to determine compliance with standards.

### Importance of monitoring reports

It is important that LTP cases be monitored on a regular basis to detect and address any actual or potential maltreatment. Failure to undertake the required procedures within the established PIP standards increases the risk that maltreatment of child(ren) may not be addressed in a timely manner.

Computer-generated monitoring reports would allow the Department and RHAs to more readily monitor compliance with established 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 established standards then corrective action could be implemented by either the Department or the RHA in a more timely manner to deal with these situations.

Computer-generated monitoring reports would also enable the Department and the RHAs to more readily monitor case load statistics at various degrees of detail to 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. However, there is currently no direct means of determining the number of cases at any specified assessed risk level that have been assigned to a given social worker. This prevents regions, managers and individual workers from readily assessing case loads by risk to ensure that a worker's case load is manageable.

In addition, the computer-generated reports are currently not available to inform social workers and their supervisors when certain procedures are due, or overdue, for completion. The operation of the LTP process would be enhanced if these reports were available. These reports would assist social workers in completing the LTP process within the established standards and also provide supervisors with a means of following up on outstanding procedures.

## Protective Intervention Program - Long-Term Protection

For example, the current CRMS does not notify or prompt a social worker to either close files or transfer files to the Youth Services program when a child turns 16. (When a child turns 16 they are considered a youth under the *Act* and becomes eligible for a different range of services than those provided to children under 16). We found one instance of a child who remained in LTP after they were 16 years of age. If such a prompt had existed then planning for the transition to youth services could have commenced prior to, or immediately upon, the youth reaching the age of 16.

As part of our testing we found that not all Risk Assessment Instruments were completed using the CRMS. Instead the Risk Assessment Instruments were completed using a paper based Risk Assessment Instrument form. In addition, FCAPs, which are paper-based forms, are not always recorded in the CRMS as having been completed so that social workers would know that they exist. As a result, social workers would be required to refer to a paper case file and search through the file to find relevant documents instead of being able to access them electronically. Also, by not referencing manually prepared LTP documentation, specifically FCAPs, that have been completed in the CRMS any monitoring reports would not be an accurate reflection of the work that has been completed.

It appears that the CRMS does not adequately distinguish between the Investigation and Intake stage and Long-Term Protection. This may cause issues with respect to being able to monitor Long-Term Protection cases. For example, while the CRMS does allow for a running record, referred to as Case Notes, to be kept of all home and office visits as well as other contact it does not provide for these visits to be specifically noted as being related to the completion of LTP related procedures such as a Risk Assessment and FCAP.

Manually completed monitoring reports are time consuming to prepare and, considering the limited timeframes available to complete certain Risk Management 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, the absence of monitoring capability makes it very difficult for the Provincial Director to fulfill the requirement to provide advice to the Minister.

### Recommendation

The Department 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 Long-Term Protection Component of the PIP.

## Department's Response

### *Introduction:*

*The Auditor General's (AG) Report completed during the time period of January 2005 to December 2009 identifies that improvements are needed in the Long Term Protection component of the Protective Intervention Program (PIP). The Department of Child, Youth and Family Services acknowledges improvements are required in this specific program area. Various activities have been implemented or are in progress to address the recommendations in the Auditor General's Report.*

*The Auditor General's Report is a sample of 46 cases that span a five-year period during which there were significant changes made in the system. The current risk management system (RMS) was implemented in 2004-2005 thus the Auditor General's review period covers the initial years of RMS implementation with its associated challenges and learnings. In 2010, under the direction of the new Department, changes were made to the risk management system and further enhancements are planned.*

### *Departmental response to Recommendations:*

*The Auditor General's Report contains the following five recommendations:*

***The regional health authorities should complete Risk Assessments (RAs) and Family Centered Action Plans (FCAPs) in accordance with accepted standards.***

*The provincial Risk Management System has established standards based on best practice. According to the detailed regional responses, not all of the identified files in the sample required RAs and FCAPs to be completed. The Department agrees that it is important to strive to meet accepted standards and has undertaken initiatives to assist in improving performance in this area.*

## Protective Intervention Program - Long-Term Protection

*Since 2006, which includes the period of the Auditor General's review, Government made substantial investments in the area of Child, Youth & Family Services (CYFS). These investments were aimed at supporting and strengthening capacity in the system. From 2006 to 2009, there was a total of \$24 million invested in the areas of front line service delivery, training, human resources, technology, quality improvement, and policy and program development. Investments in human resources included 223 new positions at both the regional and provincial levels. Funding was also provided in 2009 to increase foster home rates.*

*Despite significant investments, many issues remain, therefore in Budget 2009 government announced the creation of the new Department of Child, Youth and Family Services to bring targeted attention to this program area. The decision to create a specific department was made subsequent to a number of reports including the Clinical Services Review (2008) that highlighted issues in the child protection system. Budget 2010 committed an additional \$1.8 million for positions, \$21.8 million for residential costs for at-risk children, and \$400,000 to commence replacement of the computerized case management system.*

*Government acknowledges that there are major systemic issues within the CYFS program and that initiatives undertaken by the RHAs have not resulted in significant change in outcomes for critical areas. A key factor in achieving improvement is ensuring frontline staff and managers have the tools, resources, and supports required to provide services to children who require protective intervention including the completion of RAs and FCAPS. To help address this need, a new provincial organizational model has been developed, which will be implemented when staff transition from the RHAs, focused on providing supports to the frontline.*

*Training is another component which supports improved practice and this is a priority area for the Department. While much work remains, progress has been made in developing and implementing specialized mandatory training to equip social workers and supervisors with the knowledge and skills required for effective child welfare practice.*

*In addition to these broad initiatives the Department also undertook changes to the risk management standards as well as the Client Referral Management System (CRMS) in May 2010 to improve usability and assist RHAs in standards and policy compliance. These were in keeping with standards nationally. A plan has been developed to evaluate these changes to the RMS and further adjustments to RMS are being assessed as a short term strategy until the new system is in place. In addition, CYFS documentation standards are currently being worked on to provide clear direction to staff.*

## Protective Intervention Program - Long-Term Protection

***The Department and Labrador-Grenfell Health Authority should:***

- ***Continue the deployment of the computerized Risk Management System in Labrador region of the RHA.***

*The Department supports the compliance of RMS in all RHAs through the afore-mentioned investments and initiatives to improve performance. The implementation of the current Risk Management System became a policy requirement in 2005. Implementation of the system varied depending on regional capacity to train staff and establish the necessary procedures. While progress has been made, this remains an issue in Labrador in one zone of the region. The LGRHA has indicated that implementation and operationalization of RMS in the Labrador region is impacted by the recruitment and retention of social work staff. A number of initiatives are underway to address stabilization of the workforce which are noted in the next section.*

***The Department and Labrador-Grenfell Health Authority should:***

- ***Continue to address the recruitment and retention issues in the RHA, particularly in the Labrador region.***

*The Department recognizes that stabilization of the workforce is key to an effective child protection system in the province. 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 area of social work practice.*

*In response to the need for more social workers, in Budget 2008, 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 program has been restructured from a five to a four-year program. In addition, as of May 2010, the School of Social Work has again been offering a BSW degree as a second degree. This four-semester (16-month) program will have its first class graduate in August 2011. A second class commenced as of January 2011 and will graduate May 2012. The Department anticipates that initiatives being undertaken to improve access to supervision, reduce caseload ratios, and increase access to professional development will further support recruitment and retention efforts.*

## Protective Intervention Program - Long-Term Protection

*Government has also supported initiatives directed specifically at improving recruitment and retention of social workers in Labrador. In partnership with the Nunatsiavut government, a two-year post undergraduate degree in social work has been established. This program has resulted in the graduation of over twenty additional social workers in Labrador. As well, funds were provided to develop a recruitment video and housing in remote communities.*

*Labrador-Grenfell Regional Health Authority indicates its workforce is currently stabilizing particularly in Happy Valley-Goose Bay and that North Coast staffing is at its highest levels in years.*

*The Department is also developing a service delivery framework and Aboriginal model of practice appropriate to working in remote aboriginal communities and within the context of high clinical complexity. A consultant for Aboriginal Issues was recently hired and is based in the Labrador region. In addition, a Steering Committee for CYFS Services has been established for Labrador. This Committee, which held its inaugural meeting in November 2010, will work to develop a new organizational structure aimed at addressing systemic issues, improving service delivery and recognizing Labrador's unique geographic and cultural considerations, circumstances, and challenges. Provincial ministers from the Departments of CYFS, Labrador and Aboriginal Affairs, and Health and Community Services are part of the committee, alongside leaders from the Innu Nation, Nunatsiavut Government, and the NunatuKavut Community Council.*

***The Department and Regional Health Authorities should monitor the completion of Risk Assessments and Family Centered Action Plans to ensure that these documents are completed in accordance with established standards.***

***The Department 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 Long Term Intervention Component of the PIP.***

*Monitoring does take place within CYFS; this has been done in conjunction with the resources available. Since 2008, there have been two Quality Assurance staff at the departmental level and funding was provided to each regional health authority to hire Quality Managers. Improvements are required in monitoring at all levels of the organization to ensure performance is tracked and specific action plans are put in place to improve performance where required.*

## Protective Intervention Program - Long-Term Protection

*Currently, there are six types of reports available in CRMS which can be used to monitor compliance with each of the RMS standards in terms of whether the documentation and supervisory response is completed in the required timeframe. These focus on screening, response priority, safety assessment, safety planning, verification, and the completion of an assessment/investigative summary.*

*A Technical Review (2008) and Business Review (2009) of CRMS have been completed. Based on the findings from these reviews a decision was made to develop a new CYFS information system to assist in caseload management. The new system will be implemented over three years at a cost of \$15.4 million and tailored to the specific documentation and strategic objectives of the Department of Child, Youth and Family Services. It will be a less cumbersome system than the existing one, and will be much more effective in terms of the clinical management of child protection cases, accountability, and quality control.*

*In light of the decision to proceed with a new case management system, some of the development work planned on additional monitoring reports within the current system has been put on hold. However, development of “work due” reports highlighted by the Auditor General as an area of concern is proceeding to enhance KIV (Keep in View) functionality in CRMS for social workers. During fiscal year 2011-12, KIVs will be developed for all risk decision points. Social workers and managers will be able to run the reports showing work completed, due, or overdue for a social worker.*

*During the period covered by the AG’s report, the CRMS reports currently available have been utilized for monitoring and evaluation purposes. As well, the Department undertook targeted monitoring in some areas and a major review of case files, the Clinical Services Review (2008), was completed.*

*The Clinical Services Review in 2008 was an evaluation of clinical social work and management practices within the child, youth and family services program. The report was based on a review of 400 provincial files (active between April 1, 2007 to March 31, 2008) from across seven program areas (Protective Intervention, Family Services, Child Welfare Allowance, Children in Care, Caregiver Homes, Youth Services and Screened-Out Cases).*

## Protective Intervention Program - Long-Term Protection

*The Clinical Services Review recommended legislative reform, recruitment and retention programs, mandatory professional training, quality improvement programs, new system for managing complex cases, consistent policies and procedures, workload assessment, standards for documentation and improved information technology. In May 2009, Government announced that it had accepted the recommendations of Clinical Services Review Report which is being used as a guiding document as the Department moves forward to a new era in child protection.*

*In addition to these specific activities, the creation of a new line Department affords a better ability to focus on direct monitoring. The organizational structure of the new Department includes an Inquiries/Complaints Coordinator established in 2009 and a Quality Assurance Division comprised of a Director, Consultant, Program and Practice Auditors, and a Statistician which will be established in 2011. Departmental restructuring has also allowed program responsibilities for youth corrections, adoptions, quality and training to be removed from the Provincial Director position to support more focus on the protective intervention and in-care program.*

### **Conclusion**

*There is concern around progress on key systemic issues despite investments by government and initiatives within the RHAs. A key response to this is the creation of a new department dedicated to this program area to drive necessary changes ensuring consistency provincially. The Department of Child, Youth and Family Services has acknowledged that improvements are required in the Long Term Protection component of the Protective Intervention Program. Substantive improvements are expected within a three to five-year time frame.*

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## Eastern Health'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.*

## Protective Intervention Program - Long-Term Protection

*The Clinical Services Review Report (2008) 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 second report completed by the Auditor General on Protective Intervention Services is welcomed by Eastern Health as another process in the identification of systemic issues.*

*Eastern Health acknowledges and generally accepts the findings of the Auditor General with respect to its inconsistency in meeting Provincial Risk Management Standards.*

*While attempting to meet current provincial standards, Eastern Health continues to advocate for both additional resources and new processes to assist the Child, Youth and Family Services Program to meet its legislative mandate. 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 new solutions.*

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### ***Recommendations:***

***The Regional Health Authorities should complete Risk Assessment Instruments and Family-Centred Action Plans (FCAP) in accordance with established standards.***

***The Department and Regional Health Authorities should monitor the completion of Risk Assessment Instruments and the FCAP's to ensure that these documents are completed in accordance with established standards.***

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### ***Completion of Risk Assessment Instruments and Family-Centred Action Plans (FCAP's)***

*When the Risk Management System was introduced in 2003, the original plan was for CRMS to have monitoring reports and processes.*

## Protective Intervention Program - Long-Term Protection

*This did not occur; therefore, from the onset, Regional Health Authorities were unable to ascertain whether the standards were being met. Eastern Health has consistently identified a number of factors which have further compromised its ability to meet the standards. The key factors identified have been documentation within an electronic system, social work turnover, case complexity and workload. A further complicating factor is time lost due to sick leave and workplace accommodations. Improvement initiatives have been focused on these areas.*

*Eastern Health acknowledges the Department of Child, Youth and Family Services' commitment to review the Risk Management System and develop a new computerized information management system. Eastern Health has been a participant in the review process and believes that changes to the timeframes for the completion of the Risk Assessment Instruments are a positive step in the redesign of an effective Risk Management process.*

### **Documentation**

*The issue of incomplete and timely documentation including Risk Assessment Instruments and FCAP's has been an area of concern for Eastern Health. Eastern Health has consistently advocated for improved processes related to documentation. In the summer of 2009, each Regional Health Authority participated in a working group to recommend solutions to the new Department of Child, Youth and Family Services.*

*Since 2008, Professional Practice has been involved with program staff in the development and delivery of standardized documentation training which included frontline social workers and program managers. Eastern Health has contributed to the Department of Child, Youth and Family Services' working group on documentation.*

### **Recruitment and Retention of a Stable Workforce**

*Eastern Health has had high social work turnover throughout the CYFS Program. Negative impacts of social worker turnover include disruption in assessment and planning processes and the completion of related Risk Management documentation. Eastern Health has been diligent in its recruitment and orientation processes. Vacancies are filled as quickly as possible, and strategies to ensure workers update their documentation prior to leaving their caseload are in place.*

## Protective Intervention Program - Long-Term Protection

*Eastern Health ensures all new social workers hired meet the provincial orientation standards in a timely manner. Social workers receive training in Risk Management Standards and documentation before engaging in this area of practice. However, the concern that new social workers are beginning their practice in this high-risk area remains.*

*Eastern Health has identified that the workload of social workers is a concern and does impact on the ability to meet provincial standards. Through the budget process, there have been new resources allocated to the program. Eastern Health, through provincial funding, has hired social work assistants to work in the Child, Youth and Family Services Program. These new resources have reduced social work time in non-social work functions and allowed social workers to focus on other workload. Eastern Health continues to seek ways to reduce social workers' overtime as a means to improve worker retention.*

### **Monitoring Processes**

*As identified by the Auditor General, CRMS monitoring reports for Risk Assessment Instruments and FCAP's are limited. Eastern Health has implemented a manual statistics process to assist in the identification of related caseload/workload issues. Additionally, program managers are required to have scheduled Individual Supervisory sessions with social workers. These sessions are designed to include case review and the identification of high and moderate-high cases. During these supervisory sessions, the manager and social worker engage in case management planning including the prioritization of Risk Assessment Instrument and FCAP completion. Given the volume of cases and the limitations of manual reporting, the Child, Youth and Family Services Program is limited in its ability to provide timely, accurate information necessary to monitor Risk Management documentation completion. Since and prior to Risk Management implementation, Eastern Health and legacy organizations have advocated for the implementation of the CRMS monitoring component. Eastern Health will continue to work in partnership with the Department of Child, Youth and Family Services to monitor the completion of Risk Management documentation within current resources. Eastern Health is supportive of the new Department of Child, Youth and Family Services' development and implementation of a new integrated service management system.*

### *Summary*

*Eastern Health continues to work towards the resolution of the systemic issues which continue to impact its ability to meet Provincial Risk Management Standards. Workload challenges social workers' capacity to meet caseload demands. Retention of experienced social workers is a concern.*

*Eastern Health is committed to the improvement of its compliance to provincial standards while participating fully in ongoing review and transition of the program to the new Department of Child, Youth and Family Services.*

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## Central Health's Response

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*In Central Health there were 5 samples involved in this review period of January 1, 2005 to December 31, 2009. These 5 samples were included in the 8 samples from the previous Auditor General Report of December 2009 which reported on compliance of response times in the "Protective Intervention Program for Children at Risk: Period April 1, 2005 – December 31, 2008".*

*These 5 samples are identified as Long Term Protection.*

- *Sample 1 opened 2005 and remains **open**.*
- *Sample 2 opened April 2005 and **closed** June 2007.*
- *Sample 3 opened February 2006 and **closed** July 2008.*
- *Sample 4 opened October 2005 and **closed** April 2010.*
- *Sample 5 was **transferred** to eastern region in September 2008.*

*Central Health will respond to the following recommendations outlined in the Auditor General's Report:*

- *The Regional Health Authorities should complete Risk Assessment Instruments and Family Centered Action Plans (FCAP) in accordance with established standards.*
- *The Department and the Regional Health Authorities should monitor the completion of Risk Assessment Instruments and FCAP's to ensure that these documents are completed in accordance with established standards.*

## Protective Intervention Program - Long-Term Protection

### **Recommendation:**

*The Regional Health Authorities should complete Risk Assessment Instruments (RAI) and Family Centered Action Plans (FCAP) in accordance with established standards.*

### **Our Response:**

*The policies governing the Long-Term Protection Component of the Protective Intervention Program (PIP) require a RAI be completed within 30 days of a referral being received and transferred to long term intervention, and every 90 days thereafter. The reassessment includes the completion of the Risk Assessment process and the related RAI and FCAP's. The RAI is one component of a clinical assessment process that is used along with a social worker's professional judgment. The instrument does not solely determine future risk of maltreatment, but rather it assists social workers in their clinical decision-making.*

*In these 5 samples from the Central region, there were varying reasons as to why these 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. To address the afore mentioned issues an intensive social work recruitment strategy was implemented and five additional managers were added to the management compliment thus allowing us to have 3 program managers dedicated to clinically supervise the Protective Intervention Program and Family Services programs. In Central Health we have very recently started to move toward a different model of supervision within the CYFS program which is more aligned with the vision of the new dept of CYFS. That is to supervise the staff by geography versus by program. This model will support the goal of on site supervision and enhance access to the clinical supervisor.*

*In addition to the challenges within the region as outlined above, there are other factors to consider when looking at compliance with program standards. The current Risk Management System, including documentation standard requirements was introduced in 2003 with a plan for full implementation by early 2005. Integration and 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 the system was introduced. This created a snowball effect of barriers for staff to work through in that the system was not functioning as intended, thus impacting on the ability to meet program standards. There was no evaluation of the process of implementation or the standard timeframes dictated in the Risk Management System.*

## Protective Intervention Program - Long-Term Protection

*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.*

*[Page number] of the Report, **Figure 2**, references that 5 of 44 (or 11.4%) of the required RAI's were completed. Upon review of the samples, there are many factors that contributed to the low number of RAI's completed. For example, it is very evident how a high turnover rate of social workers impacted the timeliness of documentation and service provision.*

*Sample 4: there were a number of different social workers responsible for the file at different points in time. There were some RAI's completed on the family but only one FCAP.*

*Sample 3: there were a number of different social workers responsible for this family in a two year period. In this sample, the outcome of the investigation of the referral in February 2006 deemed the children safe and not in need of protective intervention. The file should have been closed in 2006 however this documentation was not completed in a timely manner. A RAI and FCAP were not completed as the referral was not verified.*

*Sample 2: there were two RAI's completed in this case; one in May 2005 and another in August 2006. There was ongoing contact with the family as indicated in the service notes and an indication of a plan of intervention with the family in terms of follow up interviews with the two children, and the family were engaged in educational sessions regarding family violence.*

*[Page number] of the Report, **Figure 4**, references 4 (or 9.1%) of the 44 FCAP's required during the period of the review were completed. Upon review of the samples there was evidence in service notes that social workers did develop plans with families to address issues of risk to their children.*

### **Recommendation:**

*The Department and the Regional Health Authorities should monitor the completion of Risk Assessment Instruments and FCAP's to ensure that these documents are completed in accordance with established standards.*

## Protective Intervention Program - Long-Term Protection

### Our Response:

*Currently there are limited CRMS monitoring capabilities and no Provincial standardized monitoring system. Both a Technical Review completed in October, 2007 and a Business Review completed in August, 2009 of the current Client Referral Management System identified challenges and enhancements that are required to the current information system. The Department of Child, Youth and Family Services have communicated their intention to develop a new information system.*

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

*From 2004 - 2007 there were comprehensive manual reviews performed on all caseloads in Child, Youth & Family Services in the central region. Throughout subsequent reviews we were able to measure our progress, identify issues and develop plans in an attempt to address breaches of provincial standards. Given the challenges faced in the region, such as staff turnover, vacancies, and high supervisor-supervisee ratios, we acknowledge that meeting the standards in 100% of cases was not possible. In October 2007, funding was approved for a new position - Clinical Information Specialist (CIS). Since 2008 this position has provided significant monitoring and review of client files, particularly in the Protective Intervention Program. This position also monitors data quality issues and has developed and implemented processes which support social workers in their work. In 2008 there was funding approved for a Quality Manager in the program. This position was instrumental in participating in various quality reviews such as Clinical Services Review, PIP Workload Analysis, and Critical Incident Reviews. Most recently the CIS and Program Development Specialist have been involved in quality initiatives such as Case Count Activity and audit of clinical files to monitor evidence of case planning, documentation and supervisory consultation. In the past two years Central Health experienced regular and consistent monitoring of program standards with these dedicated positions.*

## Protective Intervention Program - Long-Term Protection

*Central Health has worked collaboratively with the other regional health authorities and CYFS provincial office staff to develop a plan that would enable us to meet the standards within the Risk Management System. In 2009 specific initiatives were tabled to support the completion of Risk Assessment Instruments and FCAP's to enable us to meet the best interest of children. Modifications were made to the risk assessment tool to extend the time lines for completing RAI's, and documenting risk tools on paper versus electronically was suggested as a way to support the completion of risk assessment instruments.*

*Central Health strongly recommends an overall review of the provincial Risk Management System.*

### **Conclusion**

*Central Health appreciates the opportunity to offer a response to the Report of the Auditor General. We are committed to working towards continuous improvement in the quality of services that we offer to children and their families in the central region.*

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## Western Health's Response

### ***Risk Assessment Instruments not completed***

***A Risk Assessment is primarily a clinical assessment process that a social worker completes in order to determine the future risk of maltreatment to a child(ren).***

*The Risk Assessment Instrument (RAI) is one component of a clinical assessment process that is used along with a social worker's professional judgment. The instrument, in isolation, does not determine future risk of maltreatment, but rather it assists social workers in their clinical decision-making. As identified in the current Auditor General's report, "A risk management system involves the use of assessment tools (e.g. Safety Assessments and Risk Assessment Instruments) to supplement the social worker's clinical judgment when determining the level of risk to a child throughout the life of a case." The current Risk Management System Manual (2003), Section 6 (Subsection 6.2 – 6.3) Risk Decision #6: Is the Child at Risk of Future Harm? outlines the rationale for using RAI and also outlines limitations such as:*

## Protective Intervention Program - Long-Term Protection

- *“risk assessment instruments can help focus professional judgement but cannot substitute for sound professional judgement, trained staff, or effective supervision.”*
- *“No one instrument can be used to accurately assess all risk in every case...”*

*(Risk Management System Manual 2003 Section 6.2 – 6.3).*

*Also found in Section 2 (Subsection 2.6) of the Child, Youth, and Family Services Standards and Policy Manual, 2007, “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.”*

*In Western’s Health’s opinion, in 2 of the 5 cases identified in the current sample as having no Risk Assessment Instrument completed, the Risk Assessment Instrument was not required based on to the clinical judgment of the social worker. A more detailed description of these cases and the rationale is included in this document in the case descriptions.*

### ***Family Centered Action Plans not completed***

***“Without an FCAP, there is an increased risk that maltreatment of child(ren) could occur.”***

*As stated in the Risk Management System Manual, 2003, a:*

- *“Family Centered Action Plan that a social worker develops with a family is their joint road map to successful intervention” (section. 7.2) (Risk Management System Manual 2003). The Manual also highlights family involvement and expectations in relation to Family Centered Action plans (section. 7.1 – 7.2)*

*FCAP also consists of details in relation to the parents’ ability/motivation to work on goals. In some situations, parents make a decision that they are not willing or motivated to work on issues. Parents sometimes choose not to participate or cooperate with any planning, and may not work on reunification with their children. When children are placed out of their homes either in foster care or significant other/family placements, some parents continue to work to reduce risk, while others do not. In Western Health’s opinion, 2 cases identified in the current sample as having no Family Centered Action Plan completed, the Family Centered Action Plan was not required due to fact that the parent was not interested in resuming care of the children and would, therefore, not be engaged in goal setting or planning. A more detailed description of these cases and the rationale is included in this document in the case descriptions.*

### *Long-Term Protection - Samples*

*A risk management system involves the use of assessment tools (e.g. Safety Assessments and Risk Assessment Instruments) to supplement the social worker's clinical judgment when determining the level of risk to a child throughout the life of a case.*

*Generally, all risk management tools must always be used with clinical judgment. The tool, in isolation, does not determine risk as noted above, both the current CYFS Standards Manual and the Risk Management System Manual (2003) highlight the importance of professional judgment and assessments being used to facilitate or guide a Social Worker's decision.*

*Risk management assesses the risk that the parent/primary caregiver presents. Therefore, if a child is no longer being cared for by that parent/primary caregiver and there is no reunification plan but contact is still being maintained somewhat, Western Health interprets the Risk Management System Manual (2003) to indicate that the Risk Assessment Instrument and Family Centered Action Plan are no longer the most appropriate tools to utilize.*

*For example, in two of the five case samples from Western Health, the biological parents were not caring for their children. When an incident arose the incident was entered into CRMS as a Protective Intervention referral, however, the biological parent was NOT the primary caregiver. The referrals were entered inappropriately into the CRMS system, which generated the expectation that the Risk Assessment Instrument, and Family Centered Action Plan be completed. In Western Health's opinion, these referrals would have been more appropriately entered in other sections of the CRMS system that did not require the Risk Assessment Instrument and Family Centered Action Plan to be completed.*

### **Long-Term Protection**

#### **Western Health's 5 Case Samples reviewed by the Auditor General.**

*(Case 1)*

- The case was entered into CRMS as a referral, and the social worker indicated that overall protection was not required. Protection was not required because the child initially resided in an out of home placement and then was placed in continuous custody. Reunification with the parent was not an option. As this case was not a long-term protection case, the Risk Assessment Instrument and Family Centered Action Plan were not necessary. Western Health views that this case was not appropriate as part of the current audit sample and should not be considered as evidence of noncompliance.*

## Protective Intervention Program - Long-Term Protection

(Case 2)

- *Upon Western Health's review, there was evidence of case notes. The requirements for Risk Assessment and Family Centered Action Plans were not completed.*

(Case 3)

- *The risk management process should not have been initiated in this case as the allegations were not against the primary caregivers of the child. The matter should have been closed as soon as it was assessed that the primary caregivers were protective. The completion of the Risk Assessment Instrument and Family Centered Action Plan was not necessary in this case.*

(Case 4)

- *Upon Western Health's review, this case did reflect evidence of active intervention and case planning and due to a number of factors, such as vacancies, change of social workers and work load demands; the information did not get entered into the Risk Assessment Instrument or Family Centered Action Plan.*

(Case 5)

- *Completion of the Risk Assessment Instrument did not occur within the appropriate time frames for Long Term Intervention. However, two Risk Assessment Instruments were completed on this case while the child was in care. These Risk Assessment Instruments were not included in the current Auditor General's review of Long Term Intervention. In this case, the child was returned to the parents under a supervision order, which outlined expectations of the parents to ensure risks were reduced. This supervision order was used to support the social worker's intervention with the family.*

### **Case Notes**

***They do not provide the clinical assessment and documentation that is undertaken during the completion of the RAI and FCAP.***

*In Western Health's subsequent review of these case samples, Social Workers did complete clinical case notes. These case notes provided information on outlined risks, services in place, and the progress of family, depending on the nature of the specific case.*

## Protective Intervention Program - Long-Term Protection

### *Recommendations*

***The Regional Health Authorities (RHA's) should complete RAI's and FCAP's in accordance with established standards.***

*There are issues with the current RAI's and FCAP's in relation to their relevance for all cases and as highlighted in the case examples. Western Health strongly recommends a review of the Risk Management system and an identification of alternate tools.*

***The Department and the Regional Health Authorities should monitor the completion of RAI's and FCAP's to ensure that these documents are completed in accordance with established standards.***

*Western Health has developed manual reports to assist in reviewing completion of RAI's and FCAP's.*

### **Conclusion**

*In 2003, The Department of Health and Community Services began the implementation of a computerized Risk Management System for the Protective Intervention Program. Western Health recommends the needs for an evaluation of the system in order to improve the quality of services to children and their families. Western Health is committed to working with the Department of Child, Youth and Family Services to move forwards our shared goal of improving the health and safety of children and their families.*

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## Labrador-Grenfell Health's Response

### *Introduction*

*The Labrador-Grenfell Health Authority is responsible to ensure that any decision made under the Child, Youth and Family Services Act serves the best interest of children. Under the Act that responsibility includes assurances of personal health, safety and well being for every child.*

*The Board and staff believe that the personal health, safety and well being of children is best served 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 being observed in children and their families who require the services of Child, Youth and Family Services. The Board and staff believe that the protection of children is best assured when communities are working together to that common end.*

## Protective Intervention Program - Long-Term Protection

*The Board and staff believe that assurances of personal health, safety and well being require a comprehensive and integrated risk management approach.*

### ***Risk Management and Quality***

*The management of risk requires a comprehensive approach which includes multiple strategies. To that end the Labrador-Grenfell Health Authority is actively engaged in initiatives to strengthen the CYFS service delivery system. Since 2006 multiple reviews have confirmed an extensive level of social distress across communities as well as significant mental health and addictions issues within the population being served by CYFS Labrador-Grenfell Region. In response to those reviews a continuous effort has been made to better respond to the clinical, social and cultural complexity of the region. We have diversified the service delivery structure and increased staff. Specifically we have added social worker positions, social work assistants, community service workers, family intervention workers, clerical supports as well as new management positions. Four of the positions were added to facilitate increased access to clinical supervision. One position was added to strengthen quality and risk management. The additional focus on quality has enabled the region to move forward with strategies which are bringing us closer to achieving compliance with provincial standards.*

### ***Investment in Professional Development***

*In collaboration with the Department of Health and Community Services there has been a significant investment in professional support and development. All staff are oriented to their positions and engaged in ongoing professional development. Furthermore, 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 has implemented training in documentation. The goal is to increase capacity specific to the investigation and assessment of risk as a collaborative and team based process. Furthermore and as noted in the Report of the Auditor General, the region has developed reporting processes to better enable managers and staff to mitigate risk and ensure compliance.*

### ***Implementation of Risk Assessment Instrument and Family Centered Action Plan (FCAP)***

*The Labrador - Grenfell RHA has been challenged with the implementation of the computerized Risk Assessment Instrument and the Family Centered Action Plan as noted in the Report of the Auditor General. Significant advancements, however, been made to fully implement the formalized process throughout the region. Implementation has been achieved at all sites with the exception of one zone. While the formalized risk management system, through CRMS, has not been fully implemented, child protection services are provided in all areas of the region. Referrals are actioned, safety assessments are completed and situations of risk are monitored. Response times have improved.*

*While the completion of the computerized Risk Assessment Instrument and the Family Centered Action Plan are important processes, completion of the tool does not assure the personal safety, health and well being of children. The personal safety, health and well being of children can best be assured through the full development and implementation of a comprehensive and diversified risk management process which is the goal of the Labrador-Grenfell Health Authority. This will include a focus on Aboriginal models of practice.*

*Furthermore, there have been challenges achieving compliance with the computerized risk management process. The challenges have been identified and policies and standards modified to better support compliance and the mitigation of risk to children. For instance, the risk management timelines referred to in the Long Term Protection report of the Auditor General have since been revised to better enable compliance with the completion of the risk assessment instruments and FCAPS.*

### ***Recruitment and Retention***

*The Office of the Auditor General has observed that the implementation of the formalized Risk Management System throughout CYFS in the Labrador-Grenfell Health Authority was impacted by the significant recruitment and retention challenges particular to the region. The lack of stability in the workforce, for extensive periods of time, impacted what could get done. Due to the shortfall, CYFS - LGH was unable to provide Long Term Protection in the form of completed risk assessment instruments and FCAPS for all families on the protection caseload. The high turnover and worker shortage impacted our ability to form stable/effective working relationships with families. Staff shortages have been an issue and the focus of Labrador-Grenfell Health has been on attending to the most urgent matters.*

## Protective Intervention Program - Long-Term Protection

*We are pleased that several initiatives have been implemented to address the chronic recruitment and retention issues in this region and with some success. One notable example was the Labrador Bachelor of Social Work program. Through that program CYFS has been able to enhance the number of fully trained social workers across our region, but particularly, in our more remote communities. 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.*

*The region's work force is becoming more stable. This is particularly true for the Happy Valley-Goose Bay office where we have seen dramatic improvement in service delivery and documentation of long term prevention programs. Staffing on the North Coast staff is also at its highest level in years and again we are seeing better compliance with policies and standards.*

### **Monitoring and Statistical Reporting**

*The Auditor General Report notes that the region has taken steps to track compliance with standards. Specifically the region has implemented a monthly statistical report which enables us to monitor the application of risk management processes across sites. These stats are completed by protective intervention social workers to enable a review all cases on a monthly basis. These stats are utilized in regular individualized supervisory sessions with managers.*

*We recognize that this initiative is very much a manual process and consequently labor intensive and subject to error. A computer generated reporting process would be more efficient in supporting monitoring and system improvement. Improved access to client specific as well as aggregate data would support more effective case management practice and would strengthen risk management.*

### **Going Forward**

*The Protective Intervention Program – Long Term Protection (LTP) report for the period of January 2005 – December 31, 2009 completed by the Office of the Auditor General identifies several areas where processes can be strengthened specific to the computerized risk management system. We feel that progress has been achieved in all areas.*

## Protective Intervention Program - Long-Term Protection

*We continue to strive to assure the personal health, safety and well being of children in this region. This will require that we strengthen our service delivery system to better address the complexity and cultural diversity that we are observing in our families and our communities.*

*There is much work yet to be done but we feel that CYFS, Labrador-Grenfell Health has made significant gains. We believe that the protection of children requires taking a collective responsibility for the future health and well being of all children.*

*CYFS in the Labrador-Grenfell Health Authority has been deeply involved in a comprehensive change process for the past several years. The objective has been the identification of programs and services which would enable CYFS staff to be more responsive to the clinical and cultural complexity across the region together with strengthening compliance with provincial standards.*

*Examples of initiatives which we believe are having a positive impact include:*

- *The strengthening of clinical supervision with the addition of a second manager in 2008 and most recently the successful recruitment of a manager on site in our Hopedale office.*
  - *The strengthening of compliance with policy and standards. In 2006 the risk management system had not been turned on; in 2009 staff across the region with the exemption of one zone is fully engaged in the formalized risk management process.*
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**Protective Intervention Program - Long-Term Protection**

**PART 2.3**

**DEPARTMENT OF EDUCATION**

**NOVA CENTRAL SCHOOL DISTRICT  
- MONITORING OF FINANCIAL OPERATIONS**

### Executive Summary

The Nova Central School District (the District) is responsible for the delivery of primary, elementary, intermediate and secondary educational services to approximately 12,700 students in 66 schools in Central Newfoundland. As at 30 June 2009, the District had 1,864 teachers and 526 administrative and support staff, with annual salary costs of approximately \$110.1 million. For the fiscal year ending 30 June 2009, the District had expenditures totalling approximately \$132.4 million.

Our review identified a number of issues with regard to the District's non-compliance with the *Public Tender Act* and lack of monitoring and control of its capital assets and vehicle fleet. We also identified issues with compensation and recruitment practices and expenditures related to travel claims, cell phones and other expenditures. In particular:

#### ***Public Tender Act***

We identified 14 purchases totalling approximately \$627,000 where the District did not call a public tender as required. In 4 of these 14 purchases totalling approximately \$294,000 the District split the purchases to avoid the requirement to call a public tender. In total, 35 purchase orders were issued in amounts less than the threshold limits (i.e. greater than \$10,000 for goods and services and greater than \$20,000 for public works) required for tendering.

We identified 6 purchases totalling approximately \$227,000 where, although the District determined that these were sole source purchases, the required Form B was never completed. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed of these 6 instances totalling approximately \$227,000.

We identified 4 purchases totalling approximately \$16,500 where the District did not obtain the required three quotes or provide documentation to show that a fair and reasonable price was obtained.

We identified 1 purchase for \$56,370 for mechanical tools where the District did not award the tender to the lowest bidder and there was no documentation to support why the lower bids were not accepted.

We identified 1 purchase for \$59,015 for music equipment which had been tendered for a specific brand and model number. While the tender also referred to “or equivalent”, in our opinion, the tender specifications were so specific that it did not meet the spirit and intent of the *Public Tender Act* to provide a level playing field. Two lower bidders were excluded because they did not meet all of the specifications.

We identified 1 purchase for approximately \$40,000 for a wheelchair lift where, although the District completed and filed a Form B as an emergency purchase, in our opinion, this was not an emergency situation. The wheelchair lift was required in September 2008; however, it was not installed until March 2009. A temporary lift had been in place since September 2008. Therefore, there was ample time for a tender call.

### **Monitoring and Control of Contracts**

We identified a number of issues relating to the monitoring and control of contracts as follows:

- Two companies were not required to provide either workers’ health and safety clearance letters or proof of insurance coverage for the second and third year of a fire alarm inspection contract and a fire extinguisher inspection contract.
- One company was paid \$103 per month for garbage collection related to one school from March 2008, when it closed, to the period of our review in February 2010.
- The District requested two quotes for the removal, transportation and disposal of septic waste at one school. The lowest quote at approximately \$0.08 per litre (65,000 litres for \$5,095) was not accepted. Instead, the contract was awarded to a company based on \$0.09 per litre.

We note that, subsequent to the contract being awarded, the company billed and the District paid a fixed rate of \$1,495 per trip. The District also paid a \$350 tipping fee to the town council for each trip the company made. The District was not able to provide documentation to explain the pricing arrangements.

### Vehicle Fleet

The District did not adequately monitor the cost and usage of its 28 service vehicles and 180 buses. Specifically:

- The District did not monitor cost and usage on any of its 208 vehicles; however, information on fuel and maintenance costs was maintained on 17 of 28 of its service vehicles. For example, we identified two instances where the fuel card slips indicated that gasoline purchases were made for two school buses with diesel engines.
- Although the District has 111 fuel credit cards, they were not necessarily assigned to a particular vehicle in order to allow monitoring of costs. In addition, during our audit, we determined that the District could not locate 8 of the 111 fuel credit cards.
- We found 26 instances of expenditures totalling \$860 inappropriately charged to the fuel credit cards. In particular, \$753 related to restaurant charges and \$107 related to one unspecified purchase at a convenience store. Restaurant charges, if claimable, should be included on employee travel claims.
- Employees were required to record the vehicle number or licence plate number, kilometre reading and initial the receipt at the time of fuel purchase; however, our review of 150 fuel credit card slips for 11 fuel credit cards identified that the required information was not always recorded.
- Fourteen of the 111 fuel credit cards were maintained at service stations which were available for use by District staff to refuel vehicles. Having fuel credit cards maintained at service stations for use by a variety of District staff increases the risk of unauthorized use.
- The District had an arrangement with various service stations whereby its vehicles could refuel and information such as vehicle number, driver name, litres purchased, total cost, date and odometer reading was recorded on a log sheet. Although these log sheets were attached to the monthly statements, they were not reviewed by the District in order to monitor fuel consumption and costs.

Sixteen of 28 District service vehicles were kept at employees' homes after working hours and on weekends. Government policy requires that Government vehicles are only to be kept at employees' homes when the employee is officially on call or it has been determined that it is advantageous for the employee to be able to leave their home to go to their work site. We found that:

- There was no documentation to demonstrate that these 16 vehicles should be kept at personal homes.
- 4 of the 16 vehicles were located in communities where a District depot was also located. As a result, it is difficult to understand why the employee would be permitted to have the District vehicle parked at their home.
- 2 of the 16 vehicles were used by management employees who drove 44 kilometres return and 70 kilometres return each day from their home to their headquarters. Government policy states that no employee shall use a Government vehicle from their home to work on a daily basis unless authorized by a department head. No such authorization was on file at the District.

### **Capital Assets**

The District did not adequately monitor and safeguard its furniture and equipment. Specifically:

- The District did not have a policies and procedures manual to guide staff in the monitoring and safeguarding of capital assets.
- Furniture and equipment was not tagged for monitoring and control purposes.
- There was no capital asset ledger maintained. There was, however, a listing of certain computer equipment. Computer equipment purchased by the District was recorded on a listing and computer equipment purchased by the Department and provided to the District was included on a listing prepared by the Department. However, computer equipment donated through the Computers for Schools Program was not recorded on the listing. Furthermore, the District's listing was not maintained prior to February 2007 and did not include cost information. The Department's listing did not include either cost information or the date of acquisition.

- The District did not conduct periodic inventory counts to confirm/reconcile its furniture and equipment inventory.
- We determined that two of eight computers we selected for examination from the District's listing were not physically located at head office. Apparently one computer was at an employee's home while the other computer was in an employee's vehicle. Although we asked the employee to retrieve the computer from the vehicle, the employee did not comply.

As at February 2010, the District had 7 vacant schools and 1 vacant administrative building. The schools became vacant as follows: June 2004, June 2005, January 2007, June 2007 (2), March 2008 and June 2008, while the administrative building became vacant in September 2007. The District estimates that it had incurred operating costs at these vacant buildings totalling \$129,000 for fiscal year 2009. Although the District has taken various actions (e.g. contacted the denominational authorities and held discussions with the Department) to address the disposition of these vacant buildings, in our opinion, the District has not made a final plan for disposition in a timely manner.

### **Compensation and Recruitment Practices**

We identified a number of issues with regard to compensation and recruitment practices as follows:

- The process for hiring summer maintenance employees was not documented and the District did not maintain any competition files. This was especially relevant for the period prior to February 2009 when the summer maintenance employees were not unionized and there was no requirement to hire summer maintenance employees based on seniority.
- We identified an instance where, in July 2007, a spouse of a senior maintenance manager was hired as a labourer under the summer maintenance program and no competition was held for the position. Furthermore, the person, in their application letter, indicated that they had "no employment experience as a labourer". The District was unable to provide us with documentation to determine whether more qualified persons were available for the position.

### Leave

The District was not adequately recording, monitoring and reporting leave for its management employees. In particular:

- The District did not use a standard leave form for requesting and approving leave for management employees. Instead, the District indicated that it used emails to request and approve leave; however, this documentation was not always on file to support the leave.
- The District did not record, in its financial statements, a liability of approximately \$400,000 as at 30 June 2009 relating to the paid leave of 10 senior administrative employees.

### Expenditures Issues

#### *Travel*

Approval of out-of-Province travel was not consistently documented by an employees' supervisor prior to the travel being taken. For example, for the period of our review, we identified 7 instances totalling approximately \$42,000 where 18 employees travelled out-of-Province and there was no travel authorization documentation attached to the travel claim. Upon enquiry, officials provided various travel authorization documentation such as email requests, cheque requisitions, Board approvals and budget documentation.

#### *Cell Phones*

The District was not adequately monitoring the usage and costs of cell phones. From July 2008 to December 2009, the District spent approximately \$67,624 on cell phone communications for approximately 79 cell phones. There was no listing of cell phones identifying: who the cell phone was assigned to; the cell phone number; cell phone plan information; or the issue date. Furthermore, the District had not analyzed its cell phone services to ensure that the most optimal package had been acquired. For example, we identified 7 cell phones where the cell phone plan minutes were exceeded by approximately \$3,600 for a seven month period.

### *Purchase Orders*

Purchase orders were either not always completed or were completed after the purchase was made. Furthermore, the District did not have a centralized purchasing department and, therefore, purchases were being initiated and approved by various individuals and divisions throughout the District. As a result, the controls associated with purchase orders were not always present. This could result in unauthorized purchases.

### *Non-compliance with the Schools Act, 1997*

Contrary to the *Schools Act, 1997*, the District did not obtain approval of the Minister of Education before entering into long-term financing leases totalling approximately \$410,000 relating to the acquisition of equipment and vehicles.

### *Use of Electrical Contractor*

During the fiscal year ending 30 June 2009, the District paid approximately \$236,000 (273 transactions) to one electrical contractor for material and labour for various electrical work in the central west area. The District did not either tender for a standing offer for electrical services or determine whether a more cost effective solution existed i.e. hiring staff electricians for central west as for central east where there were 3 electricians and 1 apprentice electrician.

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## Background

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### Overview

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

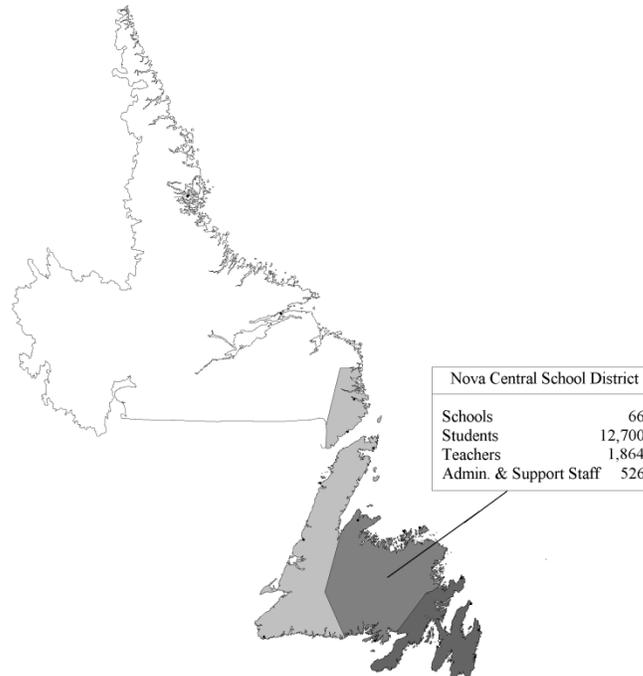
The District's head office is located in Gander with the District operating 66 schools with a student population of 12,700 for the 2008-09 school year. The District has 1,864 teachers and 526 administrative and support staff with annual salary and employee benefit costs of approximately \$110.1 million. For the fiscal year ending 30 June 2009, the District had expenditures totalling approximately \$132.4 million.

## Nova Central School District

The District serves a mostly rural population, spread over a large geographical area that ranges from Charlottetown in the East to Westport on the Baie Verte Peninsula to Harbour Breton on the south coast and to Fogo Island on the north coast. Figure 1 provides a map of the District.

**Figure 1**

### Nova Central School District Geographical Boundary



### Financial position

Figure 2 summarizes the financial position of the District for the fiscal years ending 30 June 2007 through to 2009. As at 30 June 2009, the District reported an accumulated operating deficit of \$18.8 million (which includes \$21.1 million in severance pay) and \$178.4 million investment in capital assets.

**Figure 2**

**Nova Central School District  
Financial Position  
As at 30 June 2007 through to 2009  
(\$000's)**

<b>Fund</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>
<b>Operations</b>			
Current Assets	\$ 14,285	\$ 16,642	\$ 18,891
Current Liabilities (Less capital)	(12,745)	(14,944)	(16,582)
Severance Pay	(19,995)	(20,383)	(21,129)
<b>Accumulated Operating Deficit</b>	<b>\$ (18,455)</b>	<b>\$ (18,685)</b>	<b>\$ (18,820)</b>
<b>Capital</b>			
Capital Assets	\$ 176,175	\$ 183,132	\$ 186,027
Long-term Debt	(8,886)	(7,630)	(6,408)
Other Current Liabilities	(1,402)	(1,227)	(1,221)
<b>Investment in Capital Assets</b>	<b>\$ 165,887</b>	<b>\$ 174,275</b>	<b>\$ 178,398</b>

Source: Audited Financial Statements

**Operating results**

Figure 3 provides details of the District's revenue and expenditures for fiscal years ending 30 June 2007 through to 2009. As Figure 3 shows, the Provincial Government provided operating grants of \$113.6 million, \$121.1 million and \$129.3 million for 2007, 2008 and 2009 respectively.

**Figure 3**

**Nova Central School District  
Revenue and Expenditures  
Fiscal Years Ending 30 June 2007 through to 2009  
(\$000's)**

	2007	2008	2009
<b>Revenue</b>			
Provincial Grants	\$ 113,564	\$ 121,083	\$ 129,262
Federal Grants	-	83	46
Ancillary Services	56	41	36
Miscellaneous	1,590	1,065	2,942
<b>Total Revenue</b>	115,210	122,272	132,286
Instructional	89,839	94,775	101,667
Operations and Maintenance	11,946	13,657	15,675
Pupil Transportation	10,288	10,703	11,118
Administration	2,963	3,320	3,922
Ancillary Services	-	38	39
Interest	33	9	1
<b>Total Expenditures</b>	115,069	122,502	132,422
<b>Surplus (Deficit)</b>	<b>\$ 141</b>	<b>\$ (230)</b>	<b>\$ (136)</b>

Source: Audited Financial Statements

## Audit Objectives and Scope

### Audit objectives

The objectives of our review were to determine whether:

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

**Audit scope** Our review was completed in March 2010 and covered the period 1 July 2008 to 31 December 2009. Our review included the examination of the District's financial records and file documentation, and interviews with senior staff.

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### Detailed Observations

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

1. Compensation and Recruitment Practices
  2. Tendering of Goods and Services
  3. Travel Claims, Cell Phones and Other Expenditures
  4. Buildings, Furniture and Equipment
  5. Vehicles
- 

### 1. Compensation and Recruitment Practices

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**Overview** During the fiscal year 2009, the District employed approximately 2,390 staff (1,864 teaching staff and 526 administrative and support staff) on a full or part-time basis. For the fiscal year 2009, the District spent \$110.1 million on salary and employee benefits.

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From our review of executive and management employee compensation (including leave entitlement), a sample of 17 non-teacher job competitions and a sample of 4 position reclassifications, we identified issues in the following areas:

- A. Job Competitions
- B. Employee Leave

Details are as follows:

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## 1A. Job Competitions

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For the period 1 July 2008 to 31 December 2009, the District reported approximately 200 job competitions for bargaining unit positions, non-bargaining positions and senior executive positions. Job competitions ranged from temporary part-time to permanent full time positions.

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**Job  
competitions  
not always  
held**

Our review of 17 job competitions and 4 position reclassifications identified issues with incomplete documentation to support the competition process and 1 instance where a job competition was not held.

- The process for hiring summer maintenance employees was not documented and the District did not maintain any competition files. This was especially relevant for the period prior to February 2009 when the summer maintenance employees were not unionized and there was no requirement to hire summer maintenance employees based on seniority. The District hired employees for the summer maintenance period each year from employees hired in the previous year's summer program, applications on file from previous year and new applications; however, the competition process was not documented for these positions prior to 2009. As a result, District officials could not demonstrate whether the competition process was fair and complete.

For example, we identified an instance where, in July 2007, a spouse of a senior maintenance manager was hired as a labourer under the summer maintenance program and no competition was held for the position. Furthermore, the person, in their application letter, stated, "*Although I have no employment experience as a labourer I have worked on a number of construction projects on a personal and volunteer basis*". District officials were unable to provide us with documentation to determine whether more qualified persons were available for the position.

- We identified 1 instance where an employee was temporarily promoted to a higher position in September 2008 and has remained in the position since that time.

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## **1B. Employee Leave**

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As at 30 June 2009, the District reported annual and paid leave payable totalling \$768,000. Management and executive employees are required to comply with Government's paid leave policy while bargaining unit employees are required to comply with leave articles in the collective agreement.

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Our review identified that the District was not adequately recording, monitoring and reporting leave for its management employees. In particular:

**Leave forms  
not used to  
document leave  
requests and  
approvals**

- The District did not use a standard leave form for requesting and approving leave for management employees. Instead, the District indicated that it uses emails to request and approve leave; however, this documentation was not always on file to support the leave. The use of e-mails to document and support leave has inherent risks as e-mails may be deleted or employee e-mail accounts may be removed once an employee terminates employment.

We do note that the District was test piloting an on-line leave system for its human resources and information technology employees; however, this system had yet to be fully implemented.

- In the absence of leave forms, we reviewed a sample of 32 periods of leave for 11 management employees to determine whether reported leave was supported by an e-mail or recorded in the on-line leave system. We found:
  - 15 periods of leave were supported by an e-mail request, one of which was obtained from the employee because the supervisor had not maintained the e-mail request;
  - 5 periods of leave were not supported by an e-mail or other documentation;
  - 4 periods of leave were supported by a day planner entry or the employee's monthly time sheet;
  - 3 periods of leave for one employee were supported by a Leave Request form used by bargaining unit employees in addition to an e-mail request. However, one Leave Request form was not approved; and

- 5 periods of leave were reported through the piloted on-line system. Of these entries, 2 periods of leave were for sick leave and recorded in the on-line system. However, Government's Paid Leave policy requires that the first two days a management employee is on sick leave should be recorded as paid leave. A Human Resources staff member indicated that although the on-line system had the leave recorded as sick leave, one employee's paid leave was accurately reported in their personnel file records as the employee was nearing retirement. Also, one period of sick leave was entered approximately 6 months after the leave was taken.

In addition, one period of paid leave was not approved in the system until 4 months after the leave was entered; and 1 period of leave for 10.5 hours (3.5 hours for 3 half days) was entered in the system as 3.5 hours.

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### Leave not adequately monitored

- The system requires that an employee's supervisor verify that paid leave is accurately recorded by agreeing submitted time sheets to leave requests before time sheets are submitted to payroll for processing. Although this procedure verifies leave recorded on the time sheets, it does not ensure that leave taken and not recorded in the time sheets is identified, especially if the e-mail request and approval were well before the leave was taken.
- Government's Paid Leave policy requires that a minimum of 10 days of paid leave have to be taken each year by management staff. Employees who are unable to use a minimum of 10 days paid leave each year as a result of being on extended sick leave, injury-on-duty or because of bona fide operational requirements, may be exempted by the employer. Our review of 11 management employees' leave identified that 2 management employees recorded paid leave of 6 days and 8.5 days respectively during the school year 2009; however, there was no documentation to approve these exemptions.

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### Leave accrual not reported

- The District did not record, in its financial statements, a liability of approximately \$400,000 as at 30 June 2009 relating to the paid leave of 10 senior administrative employees.

**Recommendations**

The District should:

- conduct and document job competitions for all job postings to ensure the integrity of the hiring process;
- document the request and approval of leave for management and executive through a leave form; and
- ensure its leave accrual is accurately reported in the financial records.

**2. Tendering of Goods and Services**

**Overview**

The District spent approximately \$23 million during the fiscal year 2009 and \$9 million for the period 1 July 2009 through to 31 December 2009 on goods and services. Whenever the District acquires goods and services, it must comply with the requirements of the *Public Tender Act* (the *Act*) and the *Public Tender Regulations, 1998* (the *Regulations*). Figure 4 summarizes the requirements of the *Act*.

**Figure 4**

**Nova Central School District  
Public Tender Act Requirements**

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

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

In our sample of 46 purchases over \$10,000 and a sample of 25 purchases under \$10,000 we identified issues with the tendering of goods and services in the following areas:

- A. Goods and services greater than \$10,000
- B. Goods and services \$10,000 and less

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### **2A. Goods and services greater than \$10,000**

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**Non-compliance with the *Public Tender Act***

Our review included a sample of 46 purchases greater than \$10,000 totalling \$2.4 million for the period 1 July 2008 to 31 December 2009 to assess the District's compliance with the *Act* and *Regulations*. Our review identified the following:

- 26 purchases totalling \$1,556,600 were tendered in accordance with the *Act*; and
- 20 purchases totalling \$854,329 were not tendered as required by the *Act*; (We identified 6 purchases totalling \$227,576 where, although the District determined that these were sole source purchases, the required Form B was not completed. Therefore, the Government Purchasing Agency was not notified as required and consequently the House of Assembly was not informed of these 6 instances).

Figure 5 provides details of the 20 purchases not tendered.

## Nova Central School District

**Figure 5**

**Nova Central School District  
Items Not Tendered**

Date	Amount (net of HST)	Description
<b>No Form B</b>		
10 July 2008	\$ 26,986	Conversion of two buses to wheel chair accessible units
11 July 2008	45,107	St. Pierre trips
1 February 2009	33,320	Software maintenance agreement
4 April 2009	50,429	Accounting software program
15 June 2009	11,614	Functional curriculum materials
2008-2009	60,120	Computers for schools - upgrades
<b>Sub-total</b>	<b>227,576</b>	
<b>Multiple Purchases for the Same Goods or Services</b>		
July 2008 (3 purchase orders)	11,398	Acoustic ceiling tiles
June - December 2009 (8 purchase orders)	55,648	Air conditioning units for computer rooms - 8 schools
2008-2009 (14 purchase orders)	75,561	Enhanced inspections - repairs/cleaning ventilation - 14 schools
2008-2009 (10 purchase orders)	151,450	Oil tank removals/replacements -10 schools
<b>Sub-total</b>	<b>294,057</b>	
<b>Other</b>		
February and March 2009	56,380	Hazardous materials assessments - 38 schools
11 -12 May 2009	28,077	Provincial high school festival - accommodations and meals
20 November 2009	28,001	District professional development - accommodations and meals
20 November 2009	37,340	2 used vehicles
20 November 2009	30,200	2 used vehicles
24 November 2009	18,800	1 used vehicle
2008-2009	71,760	Septic tank cleaning - Lester Pearson Memorial High
2008-2009	29,921	Elevator Inspections and repairs
2008-2009	18,300	Garbage collection - 11 buildings
2008-2009	13,917	Garbage collection - 5 buildings
<b>Sub-total</b>	<b>332,696</b>	
<b>Total</b>	<b>\$854,329</b>	

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**Issues with items tendered**

Our review identified the following issues with goods and services tendered by the District:

- We identified 1 purchase for \$59,015 for music equipment which had been tendered for a specific brand and model number. While the tender also referred to “or equivalent”, in our opinion, the tender specifications were so specific that it did not meet the spirit and intent of the *Act* to provide a level playing field. Two lower bidders were excluded because they did not meet all of the specifications.
- We identified 1 purchase for \$56,370 for mechanical tools where the District did not award the tender to the lowest bidder and there was no documentation to support why the lowest bid was not accepted.
- Two companies were not required to provide either workers’ health and safety clearance letters or proof of insurance coverage for the second and third year of a fire alarm inspection contract and a fire extinguisher inspection contract.

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**Issues with items not tendered**

Our review also identified issues with goods and services that were not tendered by the District as follows:

- We identified 4 instances totalling \$294,057 where 35 purchase orders were issued in amounts less than the threshold limits required for tendering (i.e. greater than \$10,000 for goods and services and greater than \$20,000 for public works) and for each instance were for the same goods and services. The District did not call tenders for any of the instances identified. Specifically, 3 purchase orders totalling \$11,398 were for acoustic ceiling tiles, 14 purchase orders totalling \$75,561 were for ventilation system cleanings, 8 purchase orders totalling \$55,648 were for air conditioning units, and 10 purchase orders totalling \$151,450 were for oil tank removal and replacement. Although the purchases were made over a period of time, in our opinion, the District had sufficient information on the estimated scope and costs to be performed in each instance.
- We identified 1 purchase for \$39,995 for a wheelchair lift where, although the District completed and filed a Form B as an emergency purchase, in our opinion, this was not an emergency situation. The wheelchair lift was required in September 2008; however, it was not installed until March 2009. Because a temporary lift had been in place since September 2008, there was ample time for a tender call.

- The District requested two quotes for the removal, transportation and disposal of septic waste at one school and the lowest quote at approximately \$0.08 per litre (65,000 litres for \$5,095) was not accepted. Instead, the contract was awarded to a company based on \$0.09 per litre.

We note that, subsequent to the contract being awarded, the company billed and the District paid a fixed rate of \$1,495 per trip from August 2007 to November 2009. The District also paid a \$350 tipping fee to a town council for each trip the company made until August 2009, after which the District paid a \$550 tipping fee directly to the company up to November 2009. The District was not able to provide documentation to explain these pricing arrangements.

- One company was paid \$103 per month for garbage collection related to one school from March 2008, when it closed, to the period of our review in February 2010. We also noted workers' health and safety clearance letters, proof of insurance coverage, vehicle registration, pest control certification and a certificate of approval to collect garbage was not on file for this company.

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### 2B. Goods and services \$10,000 and less

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#### Quotes were not always obtained

Our review included a sample of 25 purchases that were \$10,000 and less totalling \$125,884 for the period 1 July 2008 to 31 December 2009. Our review identified 4 purchases totalling \$16,495 that did not have the required three quotes or documentation that a fair and reasonable price was obtained.

#### Other issues

Our review also identified issues with the level of detail on invoices to support quoted prices and the awarding of quotes to higher bidders. Specifically:

- One contract was quoted and awarded for walkway renovations based upon a \$65 per hour wage rate; however, the invoice totalling \$6,300 had no details on the number of hours to complete the walkway. As a result, the District could not determine if the contract was completed at the quoted wage rate.
- The District paid \$7,200 for one school's air conditioning unit even though another company quoted a lower price for \$6,500.

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**Recommendation**

The District should comply with the *Public Tender Act and Regulations*.

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**3. Travel Claims, Cell Phones and Other Expenditures**

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**3A. Travel Claims**

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The District spent approximately \$1.1 million in travel expenses from July 2008 to December 2009. The District follows Government's travel rules and employees are required to complete a District travel claim to support the travel expense claimed.

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Our review of the District's corporate travel card and 161 travel claims for 26 employees and 9 Board members identified the following issues:

**Approval for out-of-Province travel not adequately documented**

- Our review identified 7 instances where the District paid \$42,139 for out-of-Province professional development for 18 employees (travel costs of \$28,392 and registration fees of \$13,747). The District did not document the approval for out-of-Province travel using a journey authorization form prior to the travel occurring to ensure that out-of-Province travel was consistently approved and documented. Although District staff indicated that all out-of-Province professional development is approved prior to travel, either through the budget process, at Board meetings or approved by the employee's supervisor, none of the travel claims had documentation attached to support this approval.
- 

**Travel claims not always properly completed**

- Travel claims were not always completed in accordance with Government's and the District's travel policies. Of the 161 travel claims examined:
  - 65 travel claims did not record the purpose of the travel to document that the travel was for legitimate District business.
  - 61 travel claims did not record the time of departure or arrival and, as a result, District officials could not verify that meal rates were correctly claimed. For example, for the period 1 July 2008 through

to 31 December 2009, two maintenance employees claimed \$2,809 and \$1,735 for meals for 197 days and 146 days respectively. None of the claims included times of travel.

- 9 travel claims for 4 employees and 1 Board member were not submitted within 30 days as required by the District. For example, 1 maintenance employee submitted travel claims every 6 months and 1 Board member submitted 6 travel claims for the period September 2008 to June 2009 in June 2009. If travel claims are not submitted on a timely basis, it is more difficult for the approver to verify the travel.
- The Director of Education's travel claims were not approved by a supervisory employee – in this case at the Board level. Our review of 31 travel claims totalling \$25,100 identified that the travel claims were approved by the Assistant Director of Education – Finance who reports to the Director of Education. Travel claims should be approved at an appropriate level to ensure that accountability exists.

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**Corporate travel card transactions not always supported**

- The District has a corporate credit card which was used for travel purposes. From June 2008 to December 2009, the District charged approximately \$24,000 in travel expenses. Our review of the corporate travel card charges identified the following:
  - \$2,987 for 3 hotel and 2 airfare charges did not have the hotel or airline invoices attached to the monthly corporate card statement to support the expense;
  - the District was not paying the corporate card account when due and as a result incurred \$248 in interest charges; and
  - charges made through the corporate card were not always cross-referenced against the travel claim to ensure items were not claimed twice. Our review identified one instance where a hotel charge for \$269 was paid through the corporate card and later claimed through a Board member's travel claim. The Board member had attached the hotel invoice to the travel claim; but did not claim it as an expense; however, when the claim was processed, the hotel charge was incorrectly added to the claim on the assumption that the Board member had forgotten to include it. The District was not aware of the \$269 overpayment until our review. Subsequent to our review, the District recovered the overpayment.

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### **3B. Cell Phones**

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**Cell phones  
usage and costs  
not monitored**

From July 2008 to December 2009, the District spent approximately \$67,624 on cell phone communications. The District has approximately 79 cell phones for its executive, administrative and support, program, maintenance and transportation staff. Our review identified that the District did not adequately monitor the usage and costs of cell phones. Details are as follows:

- The District did not maintain an inventory of cell phones which documented which staff members used the phone, cell phone number, cell phone plan information and issue date for record keeping purposes.
- The District has not analyzed its cell phone services to determine if cell phone plans purchased were being utilized, exceeded or whether shared service plans were more optimal. Our review of a sample of 30 cell phones identified the following instances where cell phone plans were either exceeded or not warranted:
  - 7 cell phones had a total of \$3,619 in excess minute charges as a result of the cell phone plan minutes being exceeded. One cell phone had excess charges totalling \$757 for the 7 months examined; and
  - 15 cell phones, with various cell phone plans, were either not used or not used enough to warrant the plan provided. Six phones costing approximately \$186 per month were rarely used and not used for 51 of the 60 months examined resulting in an unnecessary cost to the District of \$1,641. Nine cell phones costing approximately \$392 per month were only used on average 4% to 41% compared to the cell phone plan.

A District official stated that the District's cell phone service provider was requested in February 2010 to review the District's cell phone plans.

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### **3C. Other Expenditure Issues**

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**Introduction**

District policy requires that all purchases of goods and services (except utilities, telephone, etc.) are to be approved by an authorized signing official prior to the purchase being made, either through a purchase order, contract or agreement. District policy also states that the District endorses the concept of centralized purchasing and that purchases should represent the best value for the dollar.

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Our review identified the following issues:

**Purchase order not always completed properly**

- Purchase orders were either not always completed or were completed after the purchase was made. Furthermore, the District did not have a centralized purchasing department and, therefore, purchases were being initiated and approved by various individuals and divisions throughout the District. As a result, the controls associated with purchase orders were not always present and this could result in unauthorized purchases. Our review of 71 purchases from our tender and quote sample identified the following issues:
  - 9 different employees approved purchase orders on behalf of the District;
  - 8 purchase orders totalling \$110,618 were dated after the purchase was made. This indicates that purchases were being made without approval prior to purchase being made; and
  - 6 purchases totalling \$187,525 did not have purchase orders completed.

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**District did not always demonstrate that expenditures were monitored**

- The District did not always take advantage of discounts available when paying its municipal property taxes. We identified 3 instances where property taxes were not paid by the discount date and \$1,312 in discounts was not availed of.
- One contract was awarded for two years for the provision of special transportation of one student at a cost of \$339 per day for a 6-kilomtere, one-way trip (approximately \$66,105 annually). Only 1 company bid on the tender and was awarded the contract. In light of the high cost, the District looked at using one of its own buses which had been converted

partially to a wheel chair bus; however, the District determined that the vehicle was not practical. In our opinion, given the high cost of the contract, the District should have re-tendered or investigated other alternative arrangements (i.e. purchase of smaller wheel chair bus).

- During fiscal year 2009, the District paid approximately \$236,000 (273 transactions) to one electrical vendor for material and labour for various electrical work in the central west area of the District. Discussions with District staff indicated that the District had 3 electricians and 1 apprentice electrician which serviced the central east area. The District did not either tender for a standing offer for electrical services or determine whether a more cost effective solution existed i.e. hiring staff electricians for central west as was in place for central east.

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### Debt incurred without the prior approval of the Minister

- The *Schools Act, 1997* states that a board shall not, in a fiscal year, incur, contract for or become liable for an expenditure or debt that is more than the estimated expenditures or debt set out in its annual budget, except with the prior written approval of the Minister. However, the District entered into long-term financing leases for equipment and vehicles without the prior approval of the Minister of Education. The District expects to pay approximately \$410,000 over the next 5 years on these leases.

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### No internal audit function

- The District acknowledged the need for an internal auditor and has been planning for the establishment of an internal audit function. In its fiscal year 2009 budget, the District included funding for an internal audit position; however, as of January 2010, the District did not have an internal auditor in place. Given that the District is responsible for expenditures of \$132.4 million, an internal audit function would improve the controls over those expenditures.

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## Recommendations

The District should:

- comply with Government's travel rules by ensuring travel claims are complete and properly approved;
- monitor costs and usage of its cell phones;

- establish a centralized purchasing system in order to control its expenditures;
- comply with the *Schools Act, 1997*; and
- establish an internal audit function.

#### **4. Buildings, Furniture and Equipment**

**Overview**

As at 30 June 2009, the District reported capital assets of \$186 million. In order for the District to control and monitor its capital assets, it must ensure that policies and procedures are documented and communicated to staff, and that assets are identified and recorded when purchased, periodically inventoried and reconciled to financial records. Figure 6 provides a summary of the District’s capital assets.

**Figure 6**

**Nova Central School District  
Tangible Capital Assets  
Fiscal Years Ending 30 June 2008 and 2009  
(\$000’s)**

<b>Description</b>	<b>2008</b>	<b>2009</b>
Land	\$ 2,493	\$ 2,718
Buildings	143,167	145,460
Furniture and Equipment	21,559	22,298
Service Vehicles	263	245
Pupil Transportation (Note 1)	15,650	15,306
<b>Total Capital Assets</b>	<b>\$183,132</b>	<b>\$ 186,027</b>

Note 1: Includes land, buildings, service vehicles, buses and equipment

We identified issues in the following areas:

- A. Safeguarding of Furniture and Equipment
- B. Disposition of Vacant Buildings

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#### 4A. Safeguarding of Furniture and Equipment

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The District has invested over \$22 million in furniture and equipment (including computers). As furniture and equipment are moveable assets and more susceptible to loss, it is important that the District have controls in place to safeguard these assets. Our review identified the following issues:

**Controls not adequate over furniture and equipment**

- The District has not documented its procedures for the control of capital assets including proper recognition, safeguarding, write-downs and disposal of assets. Although the District has been provided with the Province's Tangible Capital Assets Policies and Guidelines, the District has not developed specific procedures to ensure that the guidelines were followed or adapted, where necessary, to meet the needs of the District. For example, certain thresholds provided in the Guidelines are well above what the District would use for capitalization purposes (i.e. furniture and equipment is \$15,000).
- Physical identification methods such a tagging were not used to identify furniture and equipment as District property. Without unique identification, the District could not determine if all assets were recorded and accounted for.
- There was no capital asset ledger maintained. There was, however, a listing of certain computer equipment. Computer equipment purchased by the District was recorded on a listing and computer equipment purchased by the Department and provided to the District was included on a listing prepared by the Department. However, computer equipment donated through the Computers for Schools Program was not recorded on the listing. Furthermore, the District's listing was not maintained prior to February 2007 and did not include cost information. The Department's listing did not include either cost information or the date of acquisition.

As part of our review we attempted to locate and examine a sample of 8 items recorded on the District's computer equipment listing. Our review indicated that two laptop computers were not physically located at head office at the time of our examination. Apparently one computer was at an employee's home while the other computer was in an employee's vehicle. Although we asked the employee to retrieve the computer from the vehicle, the employee did not comply. Our review also indicated that the computer located at the employee's residence was temporarily provided to the employee in September 2009 to administer school board elections; however, the computer was still assigned to the employee four months after the elections had been completed in November 2009.

- The District did not conduct periodic inventory counts to confirm/reconcile the furniture and equipment inventory.

As a result, the District cannot determine whether all capital assets were safeguarded and accounted for.

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### 4B. Disposition of Vacant Buildings

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As of December 2009, the District reported 74 schools and 12 administrative/maintenance buildings. Our review identified that 8 (7 schools and 1 administrative building) were not being used by the District and have been vacant since as early as 2004. Although the District has taken various actions to address the disposition of the buildings, the duration since the vacancy of the buildings appears excessive. Our review also identified the following issues:

**Vacated  
buildings not  
disposed of in a  
timely manner**

- Although the 8 buildings have been vacant (some as early as 2004) the District has been maintaining the buildings and paying for insurance, property taxes, snow clearing, heat and general maintenance. For example, the Department of Education continues to pay premiums through the Province's school insurance policy for the 8 buildings, reported at a replacement value of \$46.1 million. As Figure 7 shows, the District incurred operating costs at these vacant buildings totalling \$129,368 during the fiscal year 2009. Although the District has taken various actions (e.g. contacted the denominational authorities and held discussions with the Department) to address the disposition of these vacant buildings, in our opinion, the District has not made a final plan of disposition in a timely manner.

**Figure 7**

**Nova Central School District  
Vacant Buildings  
Operating Costs  
Fiscal Year Ending 30 June 2009**

<b>Building Name</b>	<b>Location</b>	<b>Vacant Date</b>	<b>Operating Costs</b>
Summerford Elementary	Summerford	June 2004	\$ 5,653
Baie Verte Middle	Baie Verte	June 2005	7,707
L.P. Purchase Academy	Botwood	January 2007	17,672
M.W. Jean Academy	Burlington	June 2007	8,939
South Brook Academy	South Brook	June 2007	8,368
Former School Board Office	Grand Falls-Windsor	September 2007	9,551
Exploits Valley High-Maple	Grand Falls-Windsor	March 2008	63,518
Deckwood Elementary	Woodstock	June 2008	7,960
<b>Total</b>			<b>\$129,368</b>

Source: District information

**Disposed buildings still included on insurance listing**

- A review of the District’s insurance listing identified 3 residence buildings at a replacement cost of \$466,800; however, an official indicated that the residences were disposed of before 2004. As the buildings were still included on the insurance listing it should be assumed that insurance premiums were being paid for over the 6 years.

**Recommendations**

The District should:

- develop and implement policies and procedures for the identification, recording, controlling and monitoring of capital assets; and
- dispose of vacant buildings in a timely manner to reduce unnecessary costs.

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## 5. Vehicles

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### Overview

As of December 2009, the District maintained 180 buses and 28 service vehicles. During the fiscal year 2009, the District spent approximately \$1.9 million in vehicle operating expenses for busing and \$185,000 for service vehicles. Of this, the District spent approximately \$1.1 million in fuel for its buses and service vehicles. For fueling purposes, the District used fuel credit cards or had accounts set up at various service stations that did not accept fuel credit cards. The District maintained a fuel credit card listing which recorded 111 fuel credit cards from 3 vendors.

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### 5A. Vehicle Usage and Expenses.

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Our review of controls over vehicle usage and expenses identified the following:

### Inadequate controls over vehicle usage

- Although the District established a budget for vehicle operating costs by functional group (i.e. pupil transportation, maintenance, administration, etc.) and established schedule accounts for 17 of its 28 service vehicles to report costs by vehicle, the District did not formally monitor the operating cost of each vehicle (including buses) by vehicle or kilometres driven.
- The District had an arrangement with various service stations whereby their vehicles can refuel and information such as vehicle number, driver name, litres purchased, total cost, date and odometer reading was recorded on a log sheet. Although these log sheets were attached to the monthly statements, they were not reviewed by the District in order to monitor fuel consumption and costs.
- 16 of the 28 District service vehicles were being kept at employees' homes after working hours and weekends. Government policy requires that Government vehicles are only to be kept at employees' homes when the employee is officially on call or it has been determined that it is advantageous for the employee to be able to leave their home to go to their work site. We found that:
  - There was no documentation to demonstrate that these 16 vehicles should be kept at personal homes.

- 4 of the 16 vehicles were located in communities where a District depot was also located. As a result, it is difficult to understand why the employee would be permitted to have the District vehicle parked at their home.
- 2 of the 16 vehicles were used by management employees who drove 44 kilometres return (Glenwood to Gander Depot) and 70 kilometres (Botwood to Grand Falls-Winsor Depot) return each day from their home to their headquarters. Government policy states that no employee shall use a Government vehicle to travel from their home to work on a daily basis unless authorized by a department head. No such authorization was on file at the District.
- Used oil must be disposed of by companies certified under the *Used Oil Control Regulations* under the *Environmental Protection Act*. We identified that 5 of the 6 bussing depots did not use a certified oil disposal company to dispose of used oil at the sites. An official indicated that the District knew that the local companies or individuals that disposed of the used oil were not certified.

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### 5B. Monitoring of Vehicle Fuel Purchases

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Our review of fuel credit card transactions identified the following:

**Vehicle fuel credit cards not adequately tracked**

- At the time of our audit, the District was verifying the location of its fuel credit cards to its listings. Although the District has 111 fuel credit cards, they were not necessarily assigned to a particular vehicle in order to allow monitoring of costs. Of the 111 fuel credit cards, the District reported that:
  - 14 cards were kept at service stations;
  - 70 cards were issued to staff or bus depots;
  - 19 cards were located at the District office and not being used; and
  - 8 cards had not been located.

Subsequent to our review, the District indicated that 2 of the unidentified cards were located at service stations and destroyed by the service station as either a new card had been issued or the service station had established an account and was now submitting invoices for payment purposes.

### Vehicle fuel purchase not adequately monitored

- We found 26 instances of expenditures totalling \$860 inappropriately charged to the fuel credit cards. In particular, \$753 related to restaurant charges and \$107 related to one unspecified purchase at a convenience store. Restaurant charges, if claimable, should be included on employee travel claims. In addition, two slips, a restaurant charge for \$51 and a convenience charge of \$107 were not attached to the statement.
- Employees were required to record the vehicle number or license plate number, kilometre reading and initial the receipt at the time of fuel purchase. Our review of 150 fuel credit card slips of 11 fuel credit cards for one vendor account for the period July 2008 to November 2008 indicated that 14 gas receipts did not have kilometres recorded, 14 gas receipts did not have the licence plate number recorded and 18 gas receipts were not signed by the employee using the vehicle.
- The District was not adequately reviewing card slips to ensure the reasonableness of each transaction. For example, 2 instances were identified where slips attached for 2 separate buses (1 for \$170 – 17 June 2008 and 1 for \$100 – 8 October 2008) were for gas purchases in which the buses were diesel vehicles. There was no notation on the slip or statement to indicate that any follow-up had taken place.
- Fourteen of the 111 fuel credit cards were maintained at service stations which were available for use by District staff to refuel vehicles. Having fuel credit cards maintained at service stations for use by a variety of District staff increases the risk of unauthorized use. Government policy requires that fuel credit cards be issued to a specific vehicle and only for fuel purchases of that vehicle. Although log sheets were maintained at these service stations which record the purchase amount, litres purchased, fuel type, kilometres, and employee initial, it was common to see multiple vehicles using the same card.

### Recommendations

The District should:

- monitor the cost, use and accessibility of District-owned vehicles;
- comply with the *Used Oil Control Regulations* under the *Environmental Protection Act*; and
- issue and maintain fuel credit cards per vehicle to ensure fuel purchases are appropriately tracked and reported.

## **District's Response**

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### ***Response to the items listed in the Auditor's report under Compensation and Recruitment Practices for the Nova Central School District:***

#### ***Item IA: Job competitions***

*The report indicated a concern with seasonal maintenance competitions prior to February 2009 however since this group has been negotiated into the NAPE Master Collective Agreement for Support Staff in 2009, practices have changed and recruitment procedures currently follow as per the collective agreement.*

*With respect to fair and complete process prior to 2009: external applications were accepted and filed in the HR division under general pool applications for a period of one year (purged annually). When a manager indicated a need for additional seasonal maintenance staff, resumes were pulled from the pool for interviewing. HR is unable to provide applications for the July 2007 timeframe in question due to annual purging for volume /storage capacity. The reference to the common law spouse and manager relationship, this scenario would have been processed through the general application pool. The applicant was interviewed by impartial interview panel and met the minimum qualification requirement of a labourer position. The conflict of interest with manager was removed as he was not involved in the interview or hiring process.*

*Clarification around the temporary assigning of an employee into a higher paying position: The employer's intent was to forward the new job description to PSS for review and place the employee into the role due to the fact this was a payroll position with time constraints until the position was officially reviewed. Miscommunication led to the description not being filed in a timely manner however it has since been completed and reviewed. PSS has officially reclassified this employee to the higher position of Payroll Clerk III effective July 20, 2010.*

#### ***Item IB: Employee Leave***

*As referenced in the report, the online leave system continues to be rolled out to the District. All management staff are now using the on line system, with schools being brought online incrementally throughout the year. An alert email is currently being tested to increase accountability for approval and tracking measures.*

*The Auditor General noted that the district did not record the liability of approximately \$400,000 as at June 30, 2009 for senior administrative employees. It should be noted that it was assumed by the District that the employees in question, (due to the fact that their payroll was paid directly by the Department of Education) that the subsequent year end reports for other employees paid directly by the Department of Education, included these totals. The District felt it had recorded this liability. It is our understanding that all other schools districts in the province made the same assumption. The most recent audited statements for our District now include this liability.*

***Response to the items listed in the Auditor's report under Tendering of Goods and Services for the Nova Central School District:***

***Item 2A: Goods and Services Greater than \$10,000***

***No Form B***

*The Auditor General identified six instances where no Form-B was filed. However, it is the opinion of The Nova Central School District, that two of the identified items did not require a Form-B.*

*The software maintenance agreement (1 February, 2009 - \$ 33,320) is not only a sole source supplier as indicated by the AG; it is also a service that requires technical expertise: 2(g) "services" does not include legal, engineering, architectural, accounting, land surveying, banking or insurance services, voice telephone services, or other services that require the giving of an opinion, creativity, the preparation of a design, or technical expertise... " therefore a tender is not required and section 10(1) does not apply.*

*The Computers for Schools upgrades (2008-2009 - \$ 60,120) is considered a sole source provider. However in addition, it was the opinion of the Nova Central School District that this provider: Computers for Schools, was another government funded body with direction from the Department of Education to avail of the service. Computers for Schools, is a not for profit corporation, created with partnerships from other government funded bodies, including, Memorial University, Newfoundland and Labrador School Board Association and the Province of Newfoundland and Labrador. The act speaks to this: 3(c) "where the work can be more expeditiously or economically executed by the employees of the government funded body or, with the prior approval of the Treasury Board, the employees of another government funded body" therefore a tender is not required and section 10(1) would not apply.*

*The Nova Central School District acknowledges and agrees with the other four items identified by the Auditor General. The Nova Central School District has since implemented additional control procedures to ensure that Form-B's are filed with government.*

### ***Issues with items tendered***

*The Auditor General noted purchases for musical equipment, where it was his opinion that the specification was so specific that it did not meet the spirit or intent of the act. He noted that the tender included specific requirements and included the term "or equivalent".*

*It was the intent of the board to obtain the highest quality musical instruments for the students of Nova Central School District. The specification was done in consultation with instructors and program specialists. It should be noted that the tender was awarded for musical instruments to two of the three bidders and in two instances "equivalents" were accepted. The District feels that the spirit and intent of the act was met while balancing the need of the students of the District.*

*With respect to the tender for mechanical tools, originally the lowest tender was forwarded to the Department of Education for approval. It was advised that the tendered should be awarded based on individual line items rather than the complete tender response. The tender was then awarded to two separate suppliers who met all the specifications (based on the tender responses at the individual mechanical tool price quoted). In hindsight there were instances where the suppliers who did not meet all the requirements, but did meet the requirements on some individual items could have been included. However, to award the tender to so many suppliers would have forced logistical costs on to the District, given the various locations that the items need to be shipped and received throughout the District. The District agrees that this information/ reasoning should have been included in the tender file.*

*The contracts awarded to both fire alarm inspections and fire extinguisher inspections should have included either proof of insurance or workers health and safety clearance. This was an oversight, however it should be noted that both suppliers had the required documents on file in previous years and subsequent years and thus this oversight is not incessant.*

### ***Issues with items not tendered***

*With respect to the acoustic ceiling tiles, ventilation system cleanings, air conditioning units and oil tank services where the auditor general has identified deficiencies:*

*The maintenance department within the Nova Central School District, operates its annual maintenance programs under an annual budget, further its capital projects are directed through the Department of Education budgets. These projects and programs are under constant change throughout the year in terms of scope and budget constraints. If projects change in scope/budget; further capital priorities and maintenance priorities are evaluated. In addition logistics plays a large role in a district that covers a vast geographical area. We strongly disagree that sufficient information is always available to determine the scope of these projects in order to always facilitate larger purchases that would require a tender. However after consideration given to the auditor general recommendations, the board has begun to obtain standing offers for various supplies of services and maintenance items. This should facilitate the best value for the board. It is important to note, that although tenders were not called for the invoices identified, quotes were obtained and documented.*

*Concerning the wheelchair lift; on the surface this would look like it was not an emergency situation. However, the decision to purchase as an emergency expenditure was made in good faith, after a discussion with the Department of Education. The old stair lift, which had been serviced in August, ceased to function in September. This meant that one student in a wheelchair could not attend classes with her peers, nor could she avail of the labs. The Board acted quickly to approve the purchase with the knowledge that it could take a couple of months to get the lift manufactured and installed. Awarding without full tender process would save the Board a month's time in resolving the situation. It was felt that this month would be crucial to the student's education. Several problems with Government Services approvals and with the manufacturing process arose after the award causing the lift to be delayed until March. In the interim, the Board installed a "stair climber". This device is a last resort and is used as infrequently as possible. Many people simply refuse to use such a device for fear of tipping although they are reputed to be quite safe.*

*Concerning the septic waste disposal, as the Auditor general noted the \$1,495 flat fee was far less expensive than the \$0.08 x 65,000 liters and the contract was awarded correctly. The tipping charge was originally paid to the town of Gander until the District discovered that the contractor could dispose of the septic waste for a fee of \$275, or as the Auditor General points out: twice for \$550. To alleviate the concerns raised by the Auditor General, The district will re-examine the invoices to ensure the correct amounts were billed. Any overbilling will be charged back to the supplier.*

*Concerning the Garbage collection; the initial contract covered all of the schools in GFW and Bishop's Falls. In March 2008, the District closed EV Intermediate - Maple division and opened the extension at EVI - Greenwood. The contract does address buildings, however in this situation the Greenwood building was extended and thus an increase in volume. The contractor was informed that the work performed for the Maple building had to be performed at the Greenwood building. This is not a situation where the District was paying for garbage collection at an empty building.*

*The Auditor General also included a number of other items that were not tendered (Figure 5).*

*The hazardous materials assessments were performed by consultants and quotes were obtained. Consulting services do not require a tender to be issued.*

*The Provincial high school drama festival and the district professional development accommodation and meals were subject to logistical issues. The number of staff and students requiring transportation to and from venues and/or supervision by chaperons dictated the locations for accommodations. The Board recognizes in these instances a Form "B" should have been filed. The Nova Central School District has since implemented additional control procedures to ensure that Form-B's are filed with government.*

*The Nova Central School District did tender the supply of used vehicles; however all of the tender responses came in over budget. The School district worked with the suppliers to obtain alternate vehicles. It should be noted that all the respondents to the original tender shared in the subsequent purchases.*

*Septic tank cleaning services were performed at the request of the department of education under their supervision and authority.*

*Elevator inspections are performed as need by the request of the government based on their inspections. The board, does not anticipate the in advance the need for the repairs making a larger annual tender difficult, however the Board in an attempt to follow the public tendering act and anticipation of required service, will begin to obtain standing offers for this type of service. It should be noted the great difficulty that the Board faces when attempting to obtain such services in rural areas.*

*The garbage collection referred to in figure 5, were a renewal option of a previous tender.*

### ***Item 2B: Goods and Services \$10,000 or Less***

#### ***Quotes were not always obtained***

*The Nova Central School District makes every effort to obtain a fair and reasonable price. The 4 of the 25 purchases examined that did not have adequate documentation to support such efforts is unfortunate. The Nova Central School district will follow up to ensure that proper policy is followed.*

#### ***Other Issues***

*The Auditor general also identified an instance where an invoice provided by a supplier of service did not show adequate information. It should be noted that before an invoice is paid, the employee responsible for the budget line would need to approve the invoice and would be familiar with the scope and detail of the work performed, thus determining that the work was performed at the quoted rate.*

*The District agrees that documentation should have been available to show the reasoning behind the purchase of the more expensive air conditioner. Further investigation revealed that the less expensive air conditioner did not meet the requirements for the district. Adherence to purchasing policy was communicated to staff for this oversight.*

#### ***Response to the items listed in the Auditor's report under Travel Claims, Cell Phones and Other Expenditures:***

##### ***Item 3A: Travel Claims***

#### ***Approval for out of province travel***

*The auditor general noted that sufficient documentation was not available or attached to the relating travel claim for pre-approval of out of province travel. The Nova Central School District has since implemented a policy and form to be used in all out of province travel to eliminate this deficiency.*

#### ***Travel claims not always completed as required***

*The thousands of travel claims (\$1.1 million from July 2008 to December 2009 as identified by the Auditor General) are processed by one employee, who, due to the nature of this position, is extremely well versed in the nature of the types of travel (teacher in-service, program staff in a very large district, board travel and management travel) and the applicable rates. The District also requires approval for the travel claims before being processed, where they are again scrutinized. However, the District appreciates the need*

*to perform better documentation and the completeness of the forms. The District has begun development of an electronic travel claim where, all the required fields are complete before submission for approval can occur.*

*The Auditor General also noted the need for timeliness of travel claims and the District agrees to these statements. It is for this reason that the Director of Education's travel claims were approved by the assistant Director of Finance. The Auditor General notes that accountability should exist. The Board of trustees approves the Directors travel budget at the beginning of the year and subsequently during the semiannual report and annual report.*

### ***Corporate travel cards transactions not always supported***

*The Auditor General Identified an instance where invoices were not attached to the statement. The corporate Travel Credit Card is often paid through internet billing and the subsequent charge found on the bank statement. It is normal procedure to attach the supporting documentation to the means of payment. In this instance the supporting documentation was included with the monthly bank reconciliation.*

*The District agrees that corporate card account should be paid regularly to avoid interest payments.*

*The Auditor General discovered an error whereby a manager, while attempting to correct a travel claim, inadvertently increased the reimbursement. We agree that the corporate travel cards should be reconciled to the travel claims associated.*

### ***Item3B: Cell Phones***

#### ***Cell Phones usage and monitoring***

*As the Auditor General noted a review of cell phone plans and policies was begun before and continued during the time of the Auditor Generals visit. The Board now has an inventory of cell phones and has begun updating the various plans as the contracts are required for renewal.*

### **Item 3C:**

#### ***Other Expenditure Items***

##### ***Purchases orders not always completed properly***

*The District acknowledges the issues identified surrounding purchase orders. The District has begun to eliminate manual purchase orders in favor of online (web based) purchase orders and begun to investigate additional purchasing support in the finance department. This should, along with improved communication to staff surrounding the policies, lower the number of users authorized to issue purchase orders, and improve compliance to existing policies.*

##### ***District did not always demonstrate that expenditures were monitored***

*The District makes every attempt to ensure that value is provided when making purchases. The Auditor General points to an instance where, in their opinion, the board should have investigated other arrangements concerning the high cost of an instance of special transportation.*

*While the District is responsible for the tendering process, in cases of special transportation contracts, the Department of Education provides the approval and guidance. The District will follow the Departments direction in these matters. The Auditor General raised concerns concerning the high costs of electrical services. The District will begin to obtain standing offers on electrical services as with other services outlined earlier in this response.*

*The Nova Central School District agrees that the instances of not availing of discounts should be corrected and will examine policies to ensure this in the future.*

##### ***Debt Incurred without Prior Approval of the Minister***

*The District lease expenses relate largely to photocopier equipment at the 66 Schools and regional offices. The district and the former smaller districts had such agreements in place, dating back some time. The vehicles under leasing arrangements, were replacements of existing vehicles. The district acknowledges that it should seek approval from the Department of Education for such agreements and will adopt internal procedures to ensure compliance with the Schools Act, 1997.*

### ***No Internal Audit Function***

*As the auditor General states; the Nova Central School District acknowledges the need for an internal auditor. The Nova Central School District hopes to have such a position in place in the near future.*

### ***Response to the items listed in the Auditor's report under Building Furniture and Equipment:***

#### ***Item 4A: Safeguarding of Furniture and Equipment***

##### ***Controls not adequate over furniture and equipment***

*The Nova Central School District agrees that there are insufficient controls over capital assets. The District would require funding for at least one fulltime position in order to create and monitor such records given our district consist of 66 schools, a board office, regional office and various maintenance and bussing depots over such a large geographical area. In an attempt to come to a partial solution; the Nova Central School District has been in discussion with capital asset software solution providers. The District is hoping to determine if this can be a cost effective means of monitoring land, buildings service vehicles and student transportation assets more closely. These assets account for 88% of all capital assets reported by the District, however would not provide the needed controls over equipment.*

#### ***Item 4B: Disposition of Vacant Buildings***

##### ***Vacant buildings not disposed of in a timely manner***

*The Nova Central School District acknowledges the need for the timely disposition of the vacated buildings. The District requested the approval for demolition of Exploits Valley High-Maple and Baie Verte Middle School in January 2009, offered deeds of quit claim to denominational authorities and has since sold Deckwood Academy. As the Auditor General has noted, we have taken various actions. However we are limited in dealing with such matters due to the other parties involved.*

##### ***Disposed buildings still included on insurance listing***

*The statement that insurance premiums on disposed of residential buildings are being paid by the district is believed to be inaccurate. The listing of insured buildings received from Treasury Board did not match the listing held by the Auditor General's Office. The District has contacted Treasury Board to verify this statement.*

### *Response to the items listed in the Auditor's report under Vehicles*

#### *Item 5A: Vehicle Usage and Expense*

##### *Inadequate controls over vehicle usage*

*As the Auditor General states, the Nova Central School District has established a budget for vehicle operating costs by functional group. These budgets are monitored and reported to senior management, the board and with respect to student transportation, to the Department of Education. Further a majority of the service vehicles are tracked individually by budget line. Given the limited resources of the District further monitoring of operational cost is difficult to perform on a regular basis and thus monitored on the budget level to identify if further investigation is required.*

*Further discussion on vehicle log sheets is available under vehicle fuel cards not adequately tracked.*

*Decisions to provide positions with vehicles and where they were parked were made quite some time ago (greater than 10 years). With school board reorganization these practices continued. Unfortunately the District has no policy in place pertaining to the use and assignment of vehicles. Since the Auditor General raising this concern; the District has been keeping statistics on the vehicles in question. We will then formulate an opinion on whether it is advantageous to the District. If such a determination is made we will seek approval from the Department of Education. The District will develop and adopt policies consistent with Government.*

*Concerning waste oil; not all Depots have approved waste oil tanks to store waste oil. We have recently received limited funding to explore the feasibility of removing our current underground tanks that had been used for fuel/waste oil over the years. These are not in use as they are not approved. Currently our Depots have the following setups in place for disposal of Waste Oil;*

- 1. Gander - Approved Waste Oil Tank installed outside of Depot within past 3 years. Waste oil is picked up by an approved disposal company.*
- 2. Baie Verte - Approved Waste Oil Tank installed outside of Depot a number of years ago. Waste oil is picked up by an approved disposal company.*
- 3. Fogo Island - Waste oil disposed of in Waste Oil Furnace by local Company on Fogo Island.*
- 4. Summerford - Waste oil disposed of in Waste Oil Furnace by local Company (feasibility study underway).*

5. *Lewisporte - Waste oil disposed of in Waste Oil Furnace by local Company (feasibility study underway).*
6. *Grand Falls / Windsor - The underground waste oil lank was in use until recently. Waste oil disposed of in Waste Oil Furnace by local Company.*

### **Item 5A: Monitoring Vehicle Fuel Purchases**

#### ***Vehicle fuel cards not adequately tracked or monitored***

*The Nova Central School District, due to its large geographical area with rural communities faces some difficult challenges. Several communities only sell one brand of fuel while other communities, different brand. Concerns have been raised about the security of School buses and the logic of keeping credit cards attached to a vehicle. Further complications arise due to the fact that fuel companies require payment with two weeks of purchases, the timeliness of receiving credit card slips signed dated with vehicle id and kilometer readings at the District office from the rural locations is not often possible. Ad hoc solutions have been implemented to accommodate such things as changing school bus routes and bus locations in the district; such as keeping fuel cards at service stations. These ad- hoc solutions have made it difficult to clearly communicate standard policies within the organization. Limited staff and lack of clear policy has made it difficult to more closely monitor fuel and vehicle expenses. For this reason shortly before the Auditor Generals visit the district began to review matters and investigate alternatives. It was at this time an inventory of credit cards was taken. Accounts with fuel providers were consolidated in late 2009 and contact was made with several fleet credit card providers to discuss best practices. It was determined that the district should implement one fuel card for all fuel purchases that can be used at various fuel providers. This would eliminate the need for cards to be located at fuel providers, offer a greater length of time for payment, communicate clear policy, and, as chip technology on credit cards become more prevalent, allow for exception reporting on inappropriate purchases as well as provide improved vehicle expense tracking.*

*It is important to note that the expense was not inappropriate, simply the method of payment. Staff has been reminded to use travel claim forms for meal purchases. Convenience store purchases are likely to consist of oil for vehicles or windshield wash for vehicles, on an as needed basis or cases to be stored at various depots. While all the current fleet of school buses uses diesel fuel the district has no control over the attendant at the service station recording the purchase as gas.*

**PART 2.4**

**DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

**CONTAMINATED SITES**

### Executive Summary

A contaminated site is defined by the Canadian Council of Ministers of the Environment (CCME) as a location at which soils, sediments, wastes, groundwater, and surface water are contaminated by substances that are above the benchmark criteria and/or that pose an existing or imminent threat to human health or the environment. In Newfoundland and Labrador, section 26 of the *Environmental Protection Act* (the *Act*) states that if a substance that may have an adverse effect is present in an area of the environment, the Minister may designate that area as a contaminated site.

The Department of Environment and Conservation (the Department), through the Pollution Prevention Division (PPD), has responsibilities related to the management of contaminated sites and maintenance of a database for these sites which are located throughout the Province. Information used by the Department to populate the database can come from information provided by a Government Services Centre (GSC), consultants' reports made directly to the Department and from information provided by other Government departments and agencies upon request by the Department. The database includes information such as the name of the property, location, ownership, person responsible for contamination and property status (active, remediated or unknown).

The Department uses three tiers for remedial criteria, endorsed through its participation with the CCME. Tiers are used to describe the complexity of the cleanup of identified contaminated sites, with Tier 3 being the most complex. The Department has entered into a Memorandum of Understanding (MOU) with the Department of Government Services, whereby GSCs throughout the Province are responsible to perform initial inspections and identify who is responsible for the contamination.

If, based on the Department's Guidance Document for the Management of Impacted Sites (Guidance Document), the GSC determines that a consultant is required to complete an environmental site assessment, the consultant's report would categorize the cleanup of a site as a Tier 1, 2 or 3. If the cleanup of a site is categorized as a Tier 1, the GSC would ensure that proper remediation is performed. If the cleanup of a site is categorized as a Tier 2 or 3, the Department would take responsibility for ensuring that proper remediation is performed. On occasion, businesses can take it upon themselves to hire a consultant to determine the extent of contamination and undertake a cleanup prior to being directed to do so by Government. These businesses would deal directly with either the GSC or the Department, depending on the Tier category.

## Contaminated Sites

As at 5 October 2010 the database included 621 active unremediated contaminated sites, of which 252 were owned by the Province, 29 were owned by the Federal government, 10 were owned by municipalities, 304 were privately owned and 26 where the owner had not been identified.

In 2002, we determined that Government was not doing a good job with regard to identifying and remediating contaminated sites in the Province. We now find that, eight years later, Government is still not doing a good job with regard to identifying and remediating contaminated sites in the Province. Government does not have a comprehensive long-term plan and timeline in place to systematically remediate contaminated sites, the database is neither complete nor accurate, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation and the Department is not adequately monitoring the activities of other departments and agencies in relation to contaminated sites. Furthermore, as a result of the inadequate contaminated sites database, the Office of the Comptroller General is not being provided with complete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements. Details are as follows:

The database does not include all contaminated sites in the Province. For example, we found 4 contaminated sites that were included in the recorded environmental liability in the Province's financial statements for the 2010 fiscal year totalling \$2.153 million; however, they were not included in the database. One site was the responsibility of the Department of Environment and Conservation (\$2.095 million) while the other 3 were the responsibility of the Department of Transportation and Works (\$58,000).

Furthermore, when contaminated sites are identified, the information captured and recorded in the database is not always complete or accurate. We found the following:

- There were no fields in the database to record total estimated remediation costs, costs incurred to date and progress to date. Furthermore, there was no field in the database to identify who was responsible to pay for remediation costs.
- We identified 26 of the 621 active sites in the database where there was no indication as to who owned the contaminated site.
- We identified 184 of the 621 active sites in the database where there was no indication as to who was responsible for contaminating the site.

## Contaminated Sites

- The database was not being updated on a timely basis. For example, although the Department received information on 139 sites from four departments and two Crown agencies between May and September 2010, as of the end of October 2010, the database had still not been updated.
- Some sites that were listed as open (active) on the database were closed (remediated) and sites that were listed as closed were still open. For example:
  - The Department of Transportation and Works incurred remediation costs of \$228,762 during the fiscal year 2010 on two sites (old highway depot in St. Barbe and the old Janeway Hospital site) that were already indicated as closed sites in the database.
  - A listing received from the Department of Education in November 2010 indicated that 10 of the 19 contaminated sites owned by that Department in the database had been remediated and were now closed sites even though the database indicated that all 10 sites were open.

Government does not have a comprehensive long-term plan or timeline in place to systematically remediate contaminated sites. There is no Government-wide risk-based system in order to prioritize which contaminated sites would be remediated first in the Province. Furthermore, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation; instead, budgets are set at a departmental level.

As a result, Government does not have a readily available comprehensive record of contaminated sites including risk of adverse health and environmental impacts, prioritization and remediation costs. Furthermore, Members of the House of Assembly do not readily have budget information available on remediation initiatives when they review Government's estimates.

The Department is not fulfilling its leadership role in monitoring all contaminated sites in the Province. In addition to not maintaining a complete and accurate database, the Department does not adequately monitor the activities of other departments in relation to contaminated sites. While information has been requested from other departments in the past, the Department has not been proactive in making these requests on an annual basis and does not follow-up on outstanding information. In particular:

## Contaminated Sites

- Officials at the Department indicated that they annually request information from certain departments and Crown agencies to be used in updating their contaminated sites database. We found that, while requests were made during 2008 and 2010, no requests were made during 2009. In addition, not all departments and Crown agencies were contacted. In 2008, requests were sent to only 5 of the 17 departments, and only 1 Crown agency (Nalcor) of the 52 Crown agencies as reported in the Province's financial statements. In 2010, requests were sent to only 14 of the 17 departments, and only 2 Crown agencies (Nalcor and the Newfoundland and Labrador Housing Corporation) of the 52 Crown agencies as reported in the Province's financial statements.
- As at 31 October 2010, 9 departments had not responded to the Department's 2010 request. Furthermore, the Department did not follow-up on any of the outstanding responses.

As the Department's database does not contain any information regarding costs associated with contaminated sites, the Department cannot provide the Office of the Comptroller General with information on Provincially-owned contaminated sites. Our review indicated that liability information provided by the departments to that Office is also incomplete. Therefore, the Office of the Comptroller General has incomplete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements. For example:

- Even though the Department of Natural Resources incurred a total of \$6.4 million over the last two years in remediation costs for four sites, and has budgeted a further \$4.2 million to be spent for three of these four sites in the fiscal year 2011, it did not provide the Office of the Comptroller General with any information for possible environmental liabilities reporting or related note disclosure. In its responses to the Department's 15 April 2010 letter and our Office's 1 October 2010 letter, the Department of Natural Resources indicated that they estimated costs totalling \$136 million to remediate two of the four sites.
- The Department of Environment and Conservation only provided the Office of the Comptroller General with information on four of the five sites which the Department is currently remediating. During the 2010 fiscal year, the Department incurred costs totalling \$128,241 on the remaining site, with an additional \$350,000 budgeted to be spent in the 2011 fiscal year.

## Contaminated Sites

The Government Services Centres are not performing the required tasks under the MOU and the Department's Guidance Document. We visited 2 of the 15 GSCs (St. John's, and Corner Brook) and found the following:

- At the Corner Brook GSC, required information (e.g. the Record of Site Condition and letter to the owner from the GSC outlining the owner's responsibilities) for 19 of the 20 sites reviewed and for 3 of the 20 sites reviewed at the St. John's GSC was not forwarded to the Department. We also found that the Department was not doing an adequate job in following-up to ensure that the GSCs did provide the required information.
- While the Department has not established a timeframe for the submission of consultants' reports to the GSC by either the consultant or the owner of the site, we found that the Corner Brook GSC was not always proactive in obtaining consultants' reports on a timely basis. For example, one site was first identified as being contaminated on 8 April 2009; however, as at 31 October 2010, the consultant's report had not been received. As a result, the GSC was not able to determine the extent of remediation progress or whether a site should be identified as closed.
- The Corner Brook GSC was also not always inspecting contaminated sites in a timely manner. Officials at the GSC indicated that sites requiring lengthy travel are typically investigated only when there is a known immediate health concern. Furthermore, timely site inspections may be delayed by issues with recruitment and retention of Environmental Protection Officers throughout the Province.
- The St. John's GSC and the Corner Brook GSC are using different filing systems to record spills. The St. John's GSC records spills by location whereas the Corner Brook GSC records spills by incident date. This means that the Corner Brook GSC would have difficulty in identifying a history of past contamination by location.
- None of the files at either GSC had any evidence to support a formal management review.

Although the *Environmental Protection Act* (the *Act*) indicates that the Minister may designate an area as a contaminated site, the Minister has not designated any sites in the Province as being contaminated even though the Department's database has identified 621 open (active) sites which have been impacted by contaminants. As a result, the provisions of the *Act* which apply to "contaminated sites" may not apply to sites that Departmental officials refer to as sites which have been "impacted by contaminants".

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### Background

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The Department of Environment and Conservation (the Department) protects and promotes a healthy and natural environment. The Department is responsible for the protection and enhancement of the environment, management of the Province's wildlife, inland fish, water, parks, and Crown land resources.

The Department consists of three branches - Environment, Lands and Natural Heritage. The mandate of the Industrial Compliance Section under the Pollution Prevention Division (PPD) of the Department's Environment branch is to:

- prevent the degradation of the environment by industrial operations, and ensure their compliance with the Provincial Regulations; and
- manage impacted sites in accordance with Department policy.

The Department's main offices are located at the Confederation Building and the Howley Building in St. John's, as well as in Deer Lake and Corner Brook. The Department has regional offices in other locations in St. John's, Grand Falls-Windsor, Clarenville, Corner Brook, Gander and Happy Valley-Goose Bay.

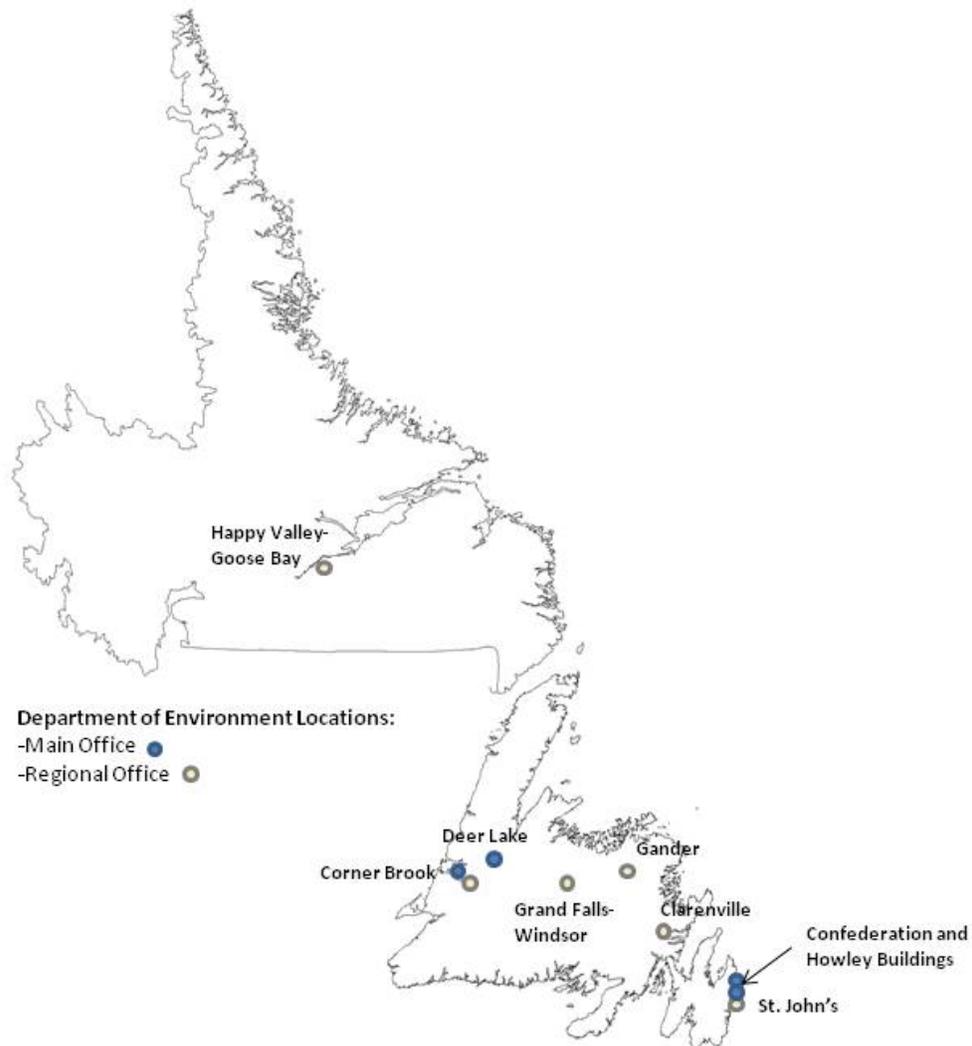
The Department has 408 employees (including permanent, contractual, seasonal and temporary employees). There are 213 employees on the Avalon Peninsula and 195 employees in all other regions including Labrador. Of the 408 employees, 7 work in the Industrial Compliance Section.

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Figure 1 shows the locations of the Department's main and regional offices in the Province.

Figure 1

### Department of Environment and Conservation Office Locations



### Impacted site management process and Government Services Centres

There are 15 Government Services Centres (GSCs) across the Province, some of which perform duties within the impacted site management process through a Memorandum of Understanding (MOU) between the Department and the Department of Government Services. There are 13 Environmental Protection Officer (EPO) positions located throughout the Province. EPOs perform the initial inspection of impacted sites, help determine the party responsible and ensure the responsible party performs all of the requirements necessary to remediate a site. The Department uses three tiers for remedial criteria, endorsed through its participation with the Canadian Council of

## Contaminated Sites

Ministers of the Environment (CCME). Tiers are used to describe the complexity of the cleanup of identified contaminated sites, with Tier 3 being the most complex. The GSC is responsible for managing the cleanup of Tier 1 sites on behalf of the Department, while the Department is responsible for managing the cleanup of Tier 2 and 3 sites due to their greater complexity.

If, based on the Department's Guidance Document for the Management of Impacted Sites (Guidance Document), the GSC determines that a consultant is required to complete an environmental site assessment, the consultant's report would categorize the cleanup of a site as a Tier 1, 2 or 3. If the cleanup of a site is categorized as a Tier 1, the GSC would ensure that proper remediation is performed. If the cleanup of a site is categorized as a Tier 2 or 3, the Department would take responsibility for ensuring that proper remediation is performed. On occasion, businesses can take it upon themselves to hire a consultant to determine the extent of contamination and undertake a cleanup prior to being directed to do so by Government. These businesses would deal directly with either the GSC or the Department, depending on the Tier category.

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### Results of our previous review

A previous review was conducted on contaminated sites and reported in our *2002 Report on Reviews of Departments and Crown Agencies*. The findings included the following:

- no central inventory for contaminated sites that were the responsibility of the Province or those that were the responsibility of private owners;
- estimated future remediation costs were \$37.4 million, not including amounts for an estimated 10 sites that had yet to have an assessment performed; and
- no co-ordinated budget submissions for assessment and remediation of contaminated sites since responsibility was spread over various departments and each individually assessed its own sites for funding priority for monitoring.

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### Legislation

The Pollution Prevention Division (PPD) is responsible for the administration of the *Environmental Protection Act* (the *Act*) which is the primary legislation that governs the protection of the environment. Other relevant legislation includes the *Storage and Handling of Gasoline and Associated Products Regulations, 2003* under the *Act*, the *Water Resources Act* and *Environmental Control Water and Sewer Regulations, 2003*, under the *Water Resources Act*.

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## Contaminated Sites

### Definition of contaminated site

A contaminated site is defined by the CCME as a location at which soils, sediments, wastes, groundwater, and surface water are contaminated by substances that are above the benchmark criteria and/or that pose an existing or imminent threat to human health or the environment.

Contaminated sites can be designated by the Minister of Environment and Conservation as per Section 26 of the *Environmental Protection Act* (the Act). The Act states that “Where the minister is of the opinion that a substance that may cause, is causing or has caused an adverse effect is present in an area of the environment, the minister may designate that area of the environment as a contaminated site.”

There are many sites in the Province which have environmental contamination resulting from things such as PCBs, old fuel storage tanks and solid waste landfills. These sites include, for example, New Harbour waste disposal site, the former military base in Hopedale, Buckmaster’s Circle, Marystown Shipyard and abandoned mining properties.

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### Contaminated sites database

Our 2002 Annual Report recommended that the Department establish a central inventory of contaminated sites. In 2004, the Department was contacted about the progress made towards this recommendation and Departmental officials indicated that they had set up a database for the management of contaminated sites. The database is currently maintained by the PPD of the Department.

The contaminated sites database maintained by the PPD is an electronic database containing information on private, Federal, municipal and Provincial sites in the Province. There are currently 29 different column headings included in the database. The database includes information such as the name of the property, location, ownership, person responsible and property status - open (active), closed (remediated) or unknown.

As at 5 October 2010, the database included 621 active unremediated contaminated sites, of which 252 were owned by the Province, 29 were owned by the Federal government, 10 were owned by municipalities, 304 were privately owned and 26 where the owner had not been identified.

### Audit Objectives and Scope

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#### Audit objectives

The objective of our review was to determine whether the Department had a complete and accurate central inventory of contaminated sites that would assist the Government in:

- determining the nature and extent of contaminated sites in the Province;
- determining the extent of progress on remediation efforts; and
- estimating future remediation costs to be incurred.

Our review focused on the Department's Pollution Prevention Division (PPD) which is responsible for the administration of the *Environmental Protection Act*. We also contacted the Department of Government Services which performs duties on behalf of the Department of Environment and Conservation through a signed MOU. In addition, we sent letters to other Government departments and asked them to indicate whether they or any of the Crown agencies that report to them were responsible for any contaminated sites.

#### Audit scope

Our review examined the PPD of the Department and their maintenance of the contaminated sites database. The review covered the period 2008 to 2010 and was completed in November 2010.

The scope of the audit included:

- discussions with officials at the Departments of Environment and Conservation, and Government Services;
- contacting each of the Government departments requesting a listing of their contaminated sites including those of the Crown agencies that report to them;
- a review of the procedures and processes in place regarding contaminated sites in the Province and the roles that the Departments of Environment and Conservation, and Government Services both play in these procedures and processes;

## Contaminated Sites

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- an examination of the contaminated sites database, Departmental files and a sample of files located at the Government Services Centres in Corner Brook and St. John's; and
  - a review of the financial information submitted by departments to the Office of the Comptroller General and the financial statements of Crown agencies to determine what environmental liabilities had been reported and contingencies noted for inclusion in the financial statements of the Province.
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## Detailed Observations

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

1. Contaminated Sites Database
  2. Information Gathering Process
  3. Reporting of Environmental Liabilities
  4. Legislation
  5. Government Services Centres
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### 1. Contaminated Sites Database

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#### Overview

The contaminated sites database is an electronic inventory maintained by the PPD of the Department of Environment and Conservation (the Department). Departmental officials indicated that in July 2003, the Department began the process of entering all known contaminated sites into a database. The Department started this process using the information that was located in its registry. However, Departmental officials also indicated that most of the information entered into the database was on a go-forward basis.

The database had 1,549 sites listed. The breakdown of these items in terms of ownership is indicated in Figure 2.

## Contaminated Sites

Figure 2

**Department of Environment and Conservation**  
**Listing of Contaminated Sites**  
**As at 5 October 2010**

Ownership	Number of Total Sites	Number of Open Sites
Federal	70	29
Provincial	356	252
Municipal	24	10
Private	1,061	304
Unknown, Blank, NA	38	26
<b>Total</b>	<b>1,549</b>	<b>621</b>

Source: Department of Environment, Pollution Prevention Division

The majority of sites listed in the database are privately owned and are not the responsibility of the Province to remediate. Currently 621 out of the 1,549 sites remain open, meaning that environmental risks have not been satisfactorily addressed. Of the 621 open sites, 252 fall under Provincial ownership.

In reviewing the electronic database of contaminated sites, we identified the following issues:

- A. Accuracy of Contaminated Sites Database
- B. Completeness of Contaminated Sites Database
- C. Use of Database

### 1A. Accuracy of Contaminated Sites Database

**Inaccurate  
contaminated  
site database**

We found that the contaminated sites database was not accurate. Some sites that were listed as open (active) on the database were closed (remediated) and sites that were listed as closed were still open. For example:

- The Department of Transportation and Works incurred remediation costs of \$228,762 during the fiscal year 2010 on two sites (old highway depot in St. Barbe and the old Janeway Hospital site) that were already indicated as closed sites in the database.

## Contaminated Sites

- A listing received from the Department of Education in November 2010 indicated that 10 of the 19 contaminated sites owned by that Department in the database had been remediated and were now closed sites even though the database indicated that all 10 sites were open.

Officials indicated that it is their policy to enter information into the database on a monthly basis when the Department becomes aware of the information. However, sites listed in the database were not updated on a timely basis and as a result the current status of the sites was not accurate. For example, although the Department received information on 139 sites from four departments and two Crown agencies between May and September 2010, as of the end of October 2010, the database had still not been updated.

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### 1B. Completeness of Contaminated Sites Database

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#### Incomplete contaminated sites database

When contaminated sites were identified, the information captured and recorded in the database was not always complete. We found the following:

- There were numerous blank fields in the database where important information should be included. There were no fields in the database to record total estimated remediation costs, costs incurred to date and progress to date. The person responsible field was often left blank; this field is for the party responsible for the contamination and ultimate clean up costs.
- Furthermore, there was no field in the database to identify who was responsible to pay for remediation costs. There were instances where the owner and responsible party listed was not the one actually paying for the remediation costs.
  - For example, the Abitibi sites in Buchans were still listed as being privately owned and the responsibility of Abitibi, even though the Departments of Environment and Conservation and Natural Resources were currently paying for remediation costs for these sites.

## Contaminated Sites

- None of the five sites currently being remediated by the Department list the Department as the responsible party, because the Department was not responsible for the contamination. However, although the Department is currently responsible for managing the cleanup of these sites and incurring remediation costs, there was no information in the database to indicate the Department's responsibility for these sites. Of these five sites, one site could not be located in the database, one site listed a private company as the responsible party and the remaining three sites had no responsible party listed (Hopedale, Salmonier and Northwest Point).
- We identified 26 of the 621 active sites in the database where there was no indication as to who owned the contaminated site.
- We identified 184 of the 621 active sites in the database where there was no indication as to who was responsible for contaminating the site.

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### Liabilities reported in the Province's financial statements cannot be found in the database

Part of our review included looking at the liabilities reported in 2010 by the departments and Crown agencies of the Province.

Only three departments reported environmental liabilities for inclusion in the Province's financial statements for 2010. This includes the Department of Environment and Conservation (\$20.610 million), the Department of Education (\$0.102 million) and the Department of Transportation and Works (\$0.388 million).

The database did not include all contaminated sites within the Province. For example, we found 4 contaminated sites that were included in the reported environmental liability in the Province's financial statements for the 2010 fiscal year totalling \$2.153 million were not included in the database. One site was the responsibility of the Department of Environment and Conservation (\$2.095 million) while the other 3 were the responsibility of the Department of Transportation and Works (\$58,000).

- The liability reported by the Department of Environment and Conservation was for remediation of four contaminated sites that were the responsibility of that Department and included in the Province's financial statements for the 2010 fiscal year. However, information provided by the Department indicated that they were responsible for 15 sites in total. Of these 15 sites, four could not be found in the database.

## Contaminated Sites

- The liability reported by the Department of Transportation and Works was for remediation of 11 sites that were the responsibility of that Department and included in the Province's financial statements for the fiscal year 2010. However, a listing provided by the Department of Transportation and Works indicated that they were responsible for at least 27 sites in total. Of these 27 sites, 16 were not found in the database. Furthermore, 26 sites indicated as owned by the Department of Transportation and Works were in the database as open sites. Of these 26, 18 were not included in the listing of 27 sites provided by the Department of Transportation and Works.
- The liability reported by the Department of Education was for remediation of one contaminated site that was the responsibility of that Department and included in the Province's financial statements for the fiscal year 2010. However, a listing provided by the Department of Education indicated that they were responsible for 14 sites in total. Of the 14 sites, 3 were not found in the database. Furthermore, 19 sites indicated as owned by the Department of Education were in the database as open sites. Of these 19, 7 were not included in the listing of 14 sites provided by the Department of Education.

**Contaminated sites noted in agency financial statements cannot be found in the database**

Six of the 52 agencies as reported in the Public Accounts had a contingency note in their financial statements for environmental liabilities. These agencies are: Eastern School District, Newfoundland and Labrador Housing Corporation (NLHC), Nalcor, Newfoundland Hardwoods Limited, Newfoundland Ocean Enterprises Limited, and Western School District.

NLHC noted in its financial statements for the year ended 31 March 2010 that it had seven contaminated sites with an estimated remediation cost of \$20.590 million. Of these seven sites, five were found in the database but we could not locate the remaining two sites. According to the contaminated sites database, there were a total of 26 open sites that were the responsibility of NLHC. There were no costs included with any of the site information found in the database.

Nalcor noted in its financial statements for the year ended 31 December 2009 that it had only one contaminated site. However, the contaminated sites database contained a total of 87 sites that were owned by Nalcor. These represented the highest total of any entity in the database. Nalcor provided us with a listing of 105 contaminated sites, 59 of which were unremediated and open but 10 of these 59 sites could not be found in the database. Also, 7 of the 87 open sites included in the contaminated sites database could not be found on the Nalcor listing.

## Contaminated Sites

Eastern and Western School districts had a general note related to contaminated sites in their financial statements for the year ended 30 June 2010 that did not mention a specific site; cost information and determination of a liability was unknown. Therefore, we were unable to determine whether any sites owned by these school districts were included in the database.

Newfoundland Hardwoods and Newfoundland Ocean Enterprises noted in their financial statements for the year ended 31 March 2010 that each had one site; however, no information was noted for the amount of environmental liability.

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### 1C. Use of Database

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#### Introduction

The contaminated sites database should be used to assist the Government in:

- determining how many of its sites are contaminated;
- understanding the risks to human health and the environment and the probable costs of dealing with these sites;
- ranking these sites in order of risks;
- creating an action plan and timetable to deal with these sites; and
- recording in a timely and accurate manner the liability these sites pose to the Province.

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#### Database is not useful

The current use of the database falls short of its full potential. The database is currently being used as a filing system. The departments do not always provide cost information and the database had no provision for costs to date or estimated costs to complete remediation. Cost information is simply not captured. Furthermore, as a result of the inadequate contaminated sites database, the Office of the Comptroller General is not being provided with complete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements.

The information that would need to be in the database in order for the database to be more useful is currently not available. In order for the database to be more useful, the following information would be required:

## Contaminated Sites

- remediation costs (estimates and actual);
- detailed status information; and
- detailed classification (prioritization) information.

The departments and agencies do not provide enough information to the Department in order to populate the database with all relevant information.

### Summary of the Province's contaminated sites contained in the database

Figure 3 summarizes the open contaminated sites that had been included in the database as being owned by the Province. An open site is one for which the environmental risks have not been satisfactorily addressed.

### Figure 3

#### Department of Environment and Conservation Summary of Open Contaminated Sites Reported in the Database Fiscal Year Ended 31 March 2010

Ownership	Total Number of Open Sites	Number of Sites Reported as a Liability or Contingency Note
Education	19	1
Environment and Conservation	11	4
Fisheries and Aquaculture	4	0
Health and Community Services	5	0
Innovation, Trade and Rural Development	3	2
Justice	1	0
Memorial University of Newfoundland	1	0
Municipal Affairs	1	0
Natural Resources	66	0
Nalcor	87	1
Newfoundland and Labrador Housing Corporation	19	7
Transportation and Works	26	11
Unknown, Blank, NA	9	0
<b>Total</b>	<b>252</b>	<b>26</b>

Source: Department of Environment and Conservation, Pollution Prevention Division

## Contaminated Sites

As Figure 3 shows, the Province owns a total of 252 contaminated sites. Although 252 sites were found in the database, only 26 had been reported in the financial statements as either a liability or a contingency note. None of the sites included in the database had cost information.

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### Missing classification information

There was no classification information for each site currently recorded in the database. The information was not requested by the Department and it was not provided to them. The CCME has a National Classification System for contaminated sites. This is a tool designed specifically for the classification and prioritization of contaminated sites and aids in the evaluation of sites based on their adverse impacts on human health and the environment. By using this classification system the Government could rank its sites in order of risk and then ensure that sites that pose the highest risk are dealt with first.

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### Missing status information

The status information currently recorded in the database includes categories such as whether a site is open, closed, and has a record of site condition. This status information does not explain the progress of remediation including whether assessments have been completed or whether remediation is ongoing. Without detailed status information the Province is unable to account for its progress in dealing with the risks and liabilities posed by contaminated sites. Until a site has undergone assessment, the estimated remediation costs cannot be determined. Therefore, if the majority of sites have not undergone an assessment, there is potential for a significant unknown liability for the Province. The Province has no easy way of reviewing the 252 open sites that are currently in the database to determine the status of each site.

Knowing the status of the sites and reviewing it on a regular basis would also help the Province determine whether it is dealing with the contaminated sites in a timely and efficient manner. In order for the status information to be useful though, it would have to be provided on a timely basis and updated regularly. There is no current process in place to complete this update.

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### No long-term plan for remediation of contaminated sites

Government does not have a comprehensive long-term plan or timeline in place to systematically remediate contaminated sites. There is no Government-wide risk-based system in order to prioritize which contaminated sites would be remediated first in the Province. Furthermore, there is no central budget to show how much is set aside on an annual basis for contaminated site remediation; instead, budgets are set at a departmental level.

## Contaminated Sites

As a result, Government does not have a readily available comprehensive record of contaminated sites including risk of adverse health and environmental impacts, prioritization and remediation costs. Furthermore, Members of the House of Assembly do not readily have complete budget information available on remediation initiatives when they review Government's estimates.

### Recommendations

The Department of Environment and Conservation should ensure that:

- the contaminated sites database is complete and accurate, and includes detailed information relating to the remediation efforts, site status, classification and human health and environmental risk as well as actual and estimated costs for assessment and remediation; and
- the information obtained in the listing is current and comprehensive.

The Department of Environment and Conservation should consult with Executive Council in order to:

- clarify its role and responsibility as it relates to contaminated sites;
- use the contaminated sites database to rank the sites on a Government-wide basis and allocate funds based on this ranking;
- develop an action plan and timeline for dealing with the contaminated sites that are the responsibility of the Province; and
- periodically report the progress against the action plan.

The Department of Environment and Conservation should consult with Treasury Board Secretariat on developing a central budget for the management of contaminated sites in the Province.

### 2. Information Gathering Process

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**Overview** As part of our review we looked at the process used by the Department to obtain information for the database. The contaminated sites database is compiled from:

- annual letters sent to each department requesting information;
  - the impacted site management process which includes information obtained from the GSCs; and
  - reports that come directly to the Department from the site professionals hired to complete the environmental assessments.
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**The Department is not fulfilling its leadership role**

The Department is not fulfilling its leadership role in monitoring all contaminated sites in the Province. In addition to not maintaining a complete and accurate database, the Department is not adequately monitoring the activities of other departments in relation to contaminated sites. While information had been requested from other departments in the past, the Department has not been proactive in making these requests on an annual basis and does not follow-up on outstanding information.

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**Annual letter to departments**

In December 2004, the Department began sending letters to other departments requesting information regarding their contaminated sites. The Department's annual update letter sent to certain departments requested information such as location, level of priority for assessment and remediation, type of contamination and potential assessment/remediation costs, and any other relevant information on contaminated sites.

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## Contaminated Sites

### Departments did not always respond to request for information

Although the Department indicated that it has taken responsibility for maintaining this database, it has not fully accepted its usefulness. Officials at the Department indicated that annually they request information from certain departments and Crown agencies to be used in updating the contaminated sites database. However, the Department has not been proactive in following-up on information for the database. We found that while requests were made during 2008 and 2010, no requests were made during 2009. In addition, not all departments and Crown agencies were contacted. In 2008, requests were sent to only 5 of the 17 departments, and only 1 Crown agency (Nalcor) of the 52 Crown agencies included in the Province's financial statements. In 2010, requests were sent to only 14 of the 17 departments, and only 2 Crown agencies (Nalcor and the Newfoundland and Labrador Housing Corporation) of the 52 Crown agencies included in the Province's financial statements.

As at 31 October 2010, 9 departments had not responded to the Department's 15 April 2010 request. Furthermore, the Department did not follow-up on any of the outstanding responses.

### All departments did not respond to Auditor General's request for information

Our office sent a letter on 1 October 2010 to 16 departments, including the Department of Environment and Conservation, requesting information on all the contaminated sites for which each department and Crown agency that falls under that department's jurisdiction were responsible. As of 2 November 2010, eight of the 16 departments had not responded to the request and were sent a second notice letter. Four of the 8 included the Departments of Education, Transportation and Works, Health and Community Services, and Natural Resources (including Nalcor) all of which had open sites in the contaminated sites database and therefore, potential environmental liabilities. As of 16 December 2010, we still had not received any information from the Department of Health and Community Services.

### Management of contaminated sites

The Department issued a Guidance Document for the Management of Impacted Sites (Guidance Document) in September 2005 to provide a process for the management of impacted sites in Newfoundland and Labrador.

The Guidance Document refers to an electronic sites database which is defined as:

*“An electronic database containing information on sites or properties that have been impacted or potentially impacted by an environmental contaminant and that have been/are the subject of investigation (for the presence of environmental contaminants). Once investigated a site will have an entry in the database irregardless of whether contamination was discovered or whether any confirmed contaminants have been remediated.”*

## Contaminated Sites

The management of impacted sites process has been broken into four steps:

1. Initial Actions;
2. Site Assessment;
3. Remedial Action Planning; and
4. Remediation and Closure.

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### **Inadequate process**

The first mention of the environmental sites database in the management of impacted sites process in the Guidance Document occurs in the fourth and final step. It indicates that a site notice is sent to the Department for inclusion in the environmental sites database after the remedial action plan objectives have been met. This seems to contradict the definition of the environmental sites database contained in the Guidance Document which indicates that sites are added once an investigation of the site has been completed. Site investigation occurs at step one of the process; however, there is no mention of sending information to be included in the database at this point. Officials at the GSCs and the Department advised that the Department was copied on letters sent to the responsible party after a site inspection was completed; however, testing by our Office confirmed that this was not always carried out. The Department does not typically receive consultant reports on Tier I sites; therefore, the Department does not know the status of these sites until after remediation is completed or is not aware of these sites at all.

If, as indicated in the impacted site management process, information is not provided for the database until the end of the process (once remediation of a contaminated site has been completed) it will be of no use to the Province. The database was put in place to help in the management process, yet if information is not provided until the end of the process then it cannot be used to manage the sites.

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### **GSCs do not provide cost information**

Through the impacted site management process, any spills that occur have to be reported to a GSC. Officials at the GSCs advised that they send a copy of the initial letter sent to the responsible party of a site, to the Department and also a copy of the signed record of site condition after a site has been remediated. When information is provided by the GSCs, it never includes cost information, either actual or estimates. The GSCs indicated that the cost information is not provided to them. This information would be obtained by the site professional hired to do the environmental assessment on the site and would be given directly to the person responsible for the site contamination. Given that the GSCs are never provided with cost information, they cannot provide the information to the Department for inclusion in the database.

### Recommendations

The Department of Environment and Conservation should:

- ensure it is proactive in its search for information used to populate the database;
- follow-up on departments who are not forwarding information on a timely basis; and
- populate the database when information is received.

The Department of Government Services, through its GSCs, should:

- ensure that all appropriate information is forwarded to the Department for entry into the database; and
- investigate whether cost information can be obtained on the impacted sites they are responsible for overseeing.

### 3. Reporting of Environmental Liabilities

Note 9(c)(vi) Environmental Responsibility in the Province's financial statements states, "*A liability will be accrued in the financial statements when it has been determined that the Province is liable for a site which has become contaminated and where a reasonable estimate of the remediation costs can be made.*"

#### Departments not disclosing all information to determine their environmental liabilities

As the Department's database does not contain any information regarding costs associated with contaminated sites, the Department cannot provide the Office of the Comptroller General with information on Provincially-owned contaminated sites. Our review indicated that liability information provided by the departments to that Office is also incomplete. Therefore, the Office of the Comptroller General has incomplete information on which to determine the Province's environmental liabilities for inclusion in the Province's financial statements. For example:

## Contaminated Sites

- Even though the Department of Natural Resources incurred a total of \$6.4 million over the last two years on remediation costs for four sites, and has budgeted a further \$4.2 million (\$3.8 million for the Buchans tailings dam) to be spent on three of these four sites in the 2011 fiscal year, it did not provide the Office of the Comptroller General with any information for possible environmental liabilities reporting or related note disclosure. In its responses to the Department's 15 April 2010 letter and our Office's 1 October 2010 letter, the Department of Natural Resources indicated that it estimated costs totalling \$136 million to remediate two of the four sites. This information was not provided to the Office of the Comptroller General.

Our Office forwarded this information to the Office of the Comptroller General for its assessment. The environmental responsibility section of the contingent liability note in the Province's financial statements for the 2010 fiscal year now includes specific mention of the two former mines including the estimated remediation cost of \$136 million.

- The Department of Environment and Conservation only provided the Office of the Comptroller General with information on four of the five sites which the Department is currently remediating. The remaining site (Salmonier) had remediation costs incurred during the past two years and the Department also incurred remediation costs of \$128,241 during the 2010 fiscal year for this site. Even though no amount was reported as an environmental liability, \$350,000 is budgeted to be spent in the 2011 fiscal year.
- One contaminated site the Department is currently remediating is the tailings spill area and mucky ditch at the Buchans Abitibi mine site. This site is one of five sites in total contaminated by Abitibi and is included in the Department's environmental liability for the 2010 fiscal year. The Department is currently having environmental assessments completed to determine the cost of remediation for the remaining four sites.

The environmental responsibility section of the contingent liability note in the Province's financial statements for the year ended 31 March 2010 includes specific mention of the Abitibi sites but does not include any estimate for remediation costs as the Office of the Comptroller General has not been advised of these costs.

- Our review identified a total of 15 contaminated sites that the Department is responsible for remediating. Costs for 8 of the 15 sites are unknown.

## Contaminated Sites

- The database included the cleanup of the St. John's Harbour as a contaminated site. The Department indicated that it will cost \$140 million to remediate this site on a cost-shared basis by the Provincial, Federal and municipal governments. However, since the Province has not yet made a commitment to fund any part of this project, no liability has been recognized.
- Even though the Department of Innovation, Trade and Rural Development budgeted \$2.5 million to be incurred in the 2011 fiscal year on remediation of the Marystown Shipyard site, it did not provide the Office of the Comptroller General with any information for possible environmental liabilities reporting or related note disclosure.
- The Department of Transportation and Works reported an environmental liability for 11 sites with a total remediation cost of \$388,000. Even though \$388,000 was reported as a liability, a listing was provided that shows \$1.6 million is budgeted to be incurred in the 2011 fiscal year to remediate 15 sites.
- The Department of Education reported an environmental liability for 1 site with a total remediation cost of \$102,000. Even though a listing was provided that shows \$400,000 is budgeted to be incurred in the 2011 and 2012 fiscal years to remediate the Amos Comenius school site, it did not provide the Office of the Comptroller General with any information for possible environmental liabilities reporting or note disclosure related to this site.
- Newfoundland and Labrador Housing Corporation (NLHC) reported 7 sites with a total remediation cost of \$20.590 million in the notes to its financial statements for the year ended 31 March 2010. Even though NLHC disclosed costs for these 7 sites in the notes of its financial statements, none of this information was included in the notes to the Province's financial statements for the year ended 31 March 2010.

The environmental liability reported in the Province's financial statements for the year ended 31 March 2010 represented 16 sites reported by the Departments of Environment and Conservation, Education and Transportation and Works for a total cost of \$21.1 million. These 16 sites represent a small portion of the at least 356 sites that are owned by the Province. Our review of information provided by the departments and Crown agencies indicates that there are potential environmental liabilities associated with contaminated sites that have not been assessed to determine the cost.

## Contaminated Sites

### Cost and status information unknown

Cost and status information for the majority of sites identified as contaminated or potentially contaminated are unknown. For example:

- The Department of Natural Resources provided a listing of 67 sites; however, cost information was only available for 4 of these 67 sites. For the remaining 63 sites the property status was unknown; therefore, there was no cost information available for these sites.
- Nalcor provided us with a listing of 105 sites, 59 of which were unremediated sites. No cost information was provided for any of these 59 sites. No amount was disclosed as an environmental liability even though the listing indicated that remediation had been conducted recently on various sites. Only 1 site is identified in the notes to Nalcor's financial statements for the 2010 fiscal year but no cost information is included.
- Responses received from the Departments of Municipal Affairs and Fisheries and Aquaculture, as well as Memorial University of Newfoundland, indicated that these entities were not responsible for any contaminated sites despite being the owners of 6 open sites listed in the contaminated sites database. Therefore, these departments and the University may be unaware that they are responsible for remediating contaminated sites.

Without completing environmental site assessments and incurring related costs, Government is unable to determine the current status of these sites including the cost to remediate. As a result, Government may not know whether these sites pose a risk to human health or the environment.

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The Province has reported a \$21.1 million environmental liability for the 2010 fiscal year. Note 9(c)(vi) to the financial statements of the Province 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...".

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## Contaminated Sites

**Cannot properly determine liability without costs**

Without a Government-wide process in place for the management of contaminated sites, insufficient cost information is available on the contaminated sites that are the responsibility of the Province. Therefore, the Province cannot properly determine the liability posed by these sites. There was no cost information available for the majority of identified contaminated sites. Therefore, many sites remain unremediated but are not reported as a liability in the financial statements. There are no amounts available for an estimated cost and the status of these sites is unknown by the departments and Crown agencies and as such cannot be properly assessed for environmental liabilities.

### Recommendations

The Department of Environment and Conservation should:

- consult with the Office of the Comptroller General on criteria for the recognition of an environmental liability and provide guidance on liability information to the departments for their submission to the Office of the Comptroller General for inclusion in the Province's financial statements; and
- use the contaminated site database to identify all contaminated sites in the Province for which it is potentially liable, determine the estimated remediation costs and provide this information to the Office of the Comptroller General for inclusion in the Province's financial statements.

## 4. Legislation

**No contaminated sites designation by the Minister**

Although the *Environmental Protection Act* (the *Act*) indicates that the Minister may designate an area as a contaminated site, the Minister has not designated any sites in the Province as being contaminated even though the Department's database has identified 621 open (active) sites which have been impacted by contaminants. As a result, the provisions of the *Act* which apply to "contaminated sites" may not apply to sites that Departmental officials refer to as sites which have been "impacted by contaminants".

## Contaminated Sites

### Recommendation

The Department of Environment and Conservation should utilize and enforce the provisions outlined in the *Act* regarding contaminated sites.

## 5. Government Services Centres

The Government Services Centres (GSCs) perform tasks under the MOU and the Department's Guidance Document. The GSCs maintain a spill listing which is a summary of all oil or chemical spills that are reported in the Province. We visited two of the 15 GSCs (St. John's and Corner Brook). We selected a total of 40 spill files, 20 at each GSC, to review the process for investigating and reporting contaminated sites.

### GSC not performing tasks required under MOU and Department's Guidance Document

The GSCs are not performing the required tasks under the MOU and the Department's Guidance Document. GSC Officials at Corner Brook and St. John's advised that only information from major spills (over 70 litres) were sent to the Department. However, the Guidance Document specifies that once investigated, a site will have an entry in the database irregardless of whether contamination was discovered or whether any confirmed contaminants have been remediated.

### Corner Brook

At Corner Brook our review included a random sample of 20 sites on the spill listing which we traced to the contaminated sites database. We found that:

- only 1 site could be found on the contaminated sites database;
- required information (e.g. the Record of Site Condition and letter to the owner from the GSC outlining the owner's responsibilities) for 19 of the 20 sites reviewed was not forwarded to the Department. The letter to the owner from GSC should also be copied to the Department of Environment and Conservation in order to update the contaminated sites database with the site information contained in the letter;
- 16 sites remained open and 4 were closed; and
- none of the files had any evidence to support a formal management review.

## Contaminated Sites

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### St. John's

At St. John's our review included a random sample of 20 sites on the spill listing which we traced to the contaminated sites database. We found that:

- only 15 sites could be found on the contaminated sites database. In addition, there was evidence that the GSC forwarded information on an additional site; however, this site could not be located in the database;
- of these 15 sites, 14 remained open in the contaminated sites database; however, 7 sites were closed in the spill listing;
- required information for 3 of the 20 sites reviewed at the St. John's GSC was not forwarded to the Department. In addition, information on an additional site was not forwarded to the Department by the GSC, as this site falls under Federal jurisdiction; and
- none of the files had any evidence to support a formal management review.

We also found that the Department was not doing an adequate job in following-up to ensure that the GSCs provided the required information.

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Consultants are site professionals hired by the responsible party for a contaminated site in order to perform environmental site assessments, remediate the site and forward a record of site condition to be signed off by either the Department or the GSC.

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### Lack of timely review of consultant reports and site investigations

Many sites remain open in the spill listing at the Corner Brook GSC and officials advised that files can take a long time to close. This is largely due to the Environmental Protection Officers (EPOs) not having the completed consultant report for a given site. While the Department has not established a timeframe for the submission of consultants' reports to the GSC by either the consultant or the owner of the site, we found that the Corner Brook GSC was not always proactive in obtaining consultants' reports on a timely basis. Owners are not forwarding a copy of the consultant's report to the GSC for the cleanup of Tier I sites. For example, one site was first identified as being contaminated on 8 April 2009; however, as at the end of October 2010, the consultant's report had not been received. As a result, the GSC was not able to determine the extent of remediation progress or whether a site should be identified as closed.

## Contaminated Sites

The Corner Brook GSC was also not always inspecting contaminated sites in a timely manner. Officials at the GSC indicated that sites requiring lengthy travel are typically investigated only when there is a known immediate health concern. Therefore, sites that require lengthy travel where there is no known immediate health concern are investigated only when there is a demand for inspection of other sites in the region. The GSC relies on consultants, owners and third parties at a site for information, without necessarily performing its own investigations right away.

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### **Recruitment and retention of EPOs**

Officials at both the St. John's and Corner Brook GSCs indicated that recruitment and retention of EPOs is an issue. Officials advised that there are currently 13 positions throughout the Province. One position is located in Labrador and this position is currently vacant. Another position in Grand Falls is also currently vacant. Timely site inspections may be delayed by issues with recruitment and retention of EPOs throughout the Province.

Officials advised us that EPOs frequently move to a higher paying position within the Department of Environment and Conservation. EPOs in the Western region are currently responsible for responding to spills in Labrador; therefore, there would be no EPOs immediately available if there was an emergency spill in Labrador. Having a high rate of turnover for EPOs could result in a lack of continuity in dealing with impacted sites and contaminants.

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### **No history for western site locations**

The St. John's GSC and the Corner Brook GSC are using different filing systems to record spills. The St. John's GSC records spills by location whereas the Corner Brook GSC records spills by incident date. A spill history per site is important in order to identify potential repetitive contamination issues. It can also be used to aid any potential purchasers of a property by providing them with an accurate picture of previous spills at the site. Therefore, any information on site history is currently unavailable for the western region. This means that the Corner Brook GSC would have difficulty in identifying a history of past contamination by location.

### Recommendations

The Department of Government Services, through its GSCs should:

- adhere to the duties outlined in the MOU and the Department of Environment and Conservation's Guidance Document;
- ensure that all owners are forwarding consultant reports and that consultant reports are received and reviewed on a timely basis;
- ensure all sites are investigated in a timely manner; and
- ensure that consistent policy and procedures exist for maintenance of spill listing and related files at all GSC locations.

## Department of Environment and Conservation's Response

### *1A&1B. Accuracy and Completeness of Contaminated Sites Database*

*Your report recommends the Department of Environment and Conservation ensure the database is complete, accurate, current and comprehensive and that the Department is pro-active in obtaining information. Your report states that the database is being used as a filing system. ENVC cannot disagree that this system is less than perfect. However, an understanding of the history and ENVC's thoughts on the future may demonstrate the commitment to this area.*

*The "database" is a collection of information on impacted sites located at the Department of Environment and Conservation and Department of Government Services offices across the province with a spreadsheet summarizing that information located at the Department of Environment and Conservation. The electronic database that you reference was originally a personal tracking system for one staff to manage their work load. Based on your recommendations in previous reports, this database was improved to better manage the available data. However, its format (Excel) does not permit it to be as large or comprehensive as would be desired. Nor does it support direct data entry by GSC offices. This was an interim step. The Department is presently working towards a system that we, and hopefully you, will see as more than acceptable.*

## Contaminated Sites

*The Management of Impacted Sites Guidance Document describes an ideal database. The Department has not yet developed such a comprehensive database as described in this document. This work is planned for the near future.*

*In other reports, you have recommended that the Department better manage its information on fuel tanks. The Department is presently working with the OCIO to develop such a system. One of the requirements for this system will be its ability to be expanded to address impacted sites. This makes considerable sense since the vast majority of impacted sites are impacted due to fuel spillage. As to completeness and accuracy, your points are well taken. Deficiencies are simply a function of resource constraints which we anticipate the new system will address. As to the system being a filing system, that is what it is and will remain. However, ENVC is working toward a system that will be accurate and comprehensive for its intended purposes.*

### **1C. Use of Database**

*With respect to your recommendations that also pertain to Executive Council, Treasury Board and the Office of the Comptroller General, ENVC will assess these in more detail over time.*

### **2. Information Gathering Process**

*On [page number] you note that not all departments and agencies were contacted. All Departments were contacted initially. It is possible that we missed agencies that were not identified to us by the responsible Department. Also, those departments and agencies that stated they had no property for which they were responsible were not contacted again.*

*You note that the Department has not been proactive in making requests to departments on an annual basis. ENVC acknowledges that we missed one year, 2009 but all departments that managed contaminated sites were contacted in 2010.*

*With respect to being proactive in obtaining information from other departments, ENVC is already in contact with all departments managing contaminated sites to update our files. ENVC makes every effort to maintain the database of government impacted sites as comprehensive and accurate as possible.*

### 3. Reporting of Environmental Liabilities

*In previous responses to your review of our program, while accepting the advantages of a good understanding and costing for all impacted sites, we have advised you on the significant costs and the disadvantages of this approach. ENVC still maintains that position. However, we are considering the possibility of a process that might allow government to have very rough cost estimates for remediation of these sites. However, it would have to be recognized that these costs were only guesses.*

*With respect to ranking, ENVC believes that based on the experience of staff the Department can do a very good job of identifying those properties that are of significant risk without the need for the extensive and expensive testing that would be required for a more formal process such as a National Classification System for contaminated sites.*

### 4. Legislation

*Your report recommends the Department utilize and enforce the provisions outlined in the Act regarding contaminated sites. However, your report does not provide any examples of where this provision would do a better job than the authorities used by officials. Officials utilize provisions in the Storage and Handling of Gasoline and Associated Products Regulations and the Heating Oil Storage Tank System Regulations and where necessary general enforcement provisions in the Environmental Protection Act. These have been successful in all situations to date.*

#### Various Specific Comments

- *[Page number, paragraph]. It is stated "... the Department was not doing an adequate job in following-up to ensure that the GSCs did provide the required information." During the GSC training sessions in November 2009, Department officials presented on contaminated sites. The reporting requirements were outlined in the presentation. Also, this presentation was sent to EPOs who started since that date.*
- *[Page number, paragraph]. "As a result, the GSC was not able to determine the extent of remediation progress or whether a site should be identified as closed." According to our process, we don't 'close' files when the remediation is complete. The file will remain open until a RoSC is received and signed.*

## Contaminated Sites

- [Page number]. If a file is shown as open in the database, it doesn't necessarily mean that environmental risks have not been satisfactorily addressed. In many cases it does; however, it could mean that government have not received the RoSC, that the site is still operational and a RoSC wasn't required or it could mean that there is just some monitoring occurring at the site.
- [Page number]. Inadequate Process. The process outlined in the guidance document is primarily for a reported spill incident. If a spill is reported, this process is followed, including inspection and a letter from the GSC to the person responsible outlining the requirement to complete an environmental site assessment. However, in some instances, where an assessment is required for a property transaction, an environmental site assessment is completed voluntarily, regardless of a reported spill incident. The Department is often not notified about these sites until a report is provided (i.e., report is considered a means of notification), at which time it is added into the database.
- [Page number]. GSC does not provide cost information. Most contaminated sites that the GSC regulates would likely be privately owned sites and cost information on these is not known nor should it be required.

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## Department of Government Services' Response

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### *Information Gathering Process*

#### *Inadequate process*

*“The first mention of the environmental sites database in the management of impacted sites process in the Guidance Document occurs in the fourth and final step. It indicates that a site notice is sent to the Department for inclusion in the environmental sites database after the remedial action plan objectives have been met. This seems to contradict the definition of the environmental sites database contained in the Guidance Document which indicates that sites are added once an investigation of the site has been completed. Site investigation occurs at step one of the process; however, there is no mention of sending information to be included in the database at this point. Officials at the GSCs and the Department advised that the Department was copied on letters sent to the responsible party after a site inspection was completed; however, testing by our Office confirmed that this was not always carried out. The Department does not typically receive consultant reports on Tier I sites; therefore, the Department does not know*

## Contaminated Sites

*the status of these sites until after remediation is completed or is not aware of these sites at all.*

*If, as indicated in the impacted site management process, information is not provided for the database until the end of the process (once remediation of a contaminated site has been completed) it will be of no use to the Province. The database was put in place to help in the management process, yet if information is not provided until the end of the process then it cannot be used to manage the sites.”*

**Recommendation:** The Department of Government Services, through its GSCs, should ensure that all appropriate information is forwarded to the Department for entry into the database.

**Response:** *The existing process requires the GSC’s to submit information on contaminated (impacted) sites by sending a copy of the final (closure) letter on a site once the remedial action plan objectives have been met. This requirement is clearly outlined in the flow chart contained in the Guidance Document for the Management of Impacted Sites and the earlier guidance document, GDI-PPD-008 -Guidelines for Copying Information on Identified Sites from GSC to the Department of Environment, which states that “...at this time this relevant information shall be the closure letter only.”*

*Since April 2004, this Department has also been providing quarterly environmental occurrence reports (spill statistics), by region, to the Department of Environment and Conservation. This summary lists all reported environmental occurrences, including incidents of less than 70 litres\*. Since April 1, 2010, a roll-up provincial summary is also provided on a quarterly basis.*

*\*[The definition of a “spill” in the Storage and Handling of Gasoline and Associated Products Regulations, 2003 is a loss of gasoline or associated products in excess of 70 litres.]*

*This Department is of the view that it is correctly providing information to the Department of Environment and Conservation in accordance with the existing requirements of the Memorandum of Understanding ( MOU) and its associated guidance documents. However, it is acknowledged that there may be some ambiguity within the guidance documents issued by the Department of Environment and Conservation. This Department will undertake to consult with the Department of Environment and Conservation to clarify their information requirements.*

### GSCs do not provide cost information

*“...The GSCs indicated that the cost information is not provided to them. This information would be obtained by the site professional hired to do the environmental assessment on the site and would be given directly to the person responsible for the site contamination. Given that the GSCs are never provided with cost information, they cannot provide the information to the Department for inclusion in the database.”*

**Recommendation:** The Department of Government Services, through its GSCs, should investigate whether cost information can be obtained on the impacted sites they are responsible for overseeing.

**Response:** *This Department does not collect information on the cost of remediating privately owned sites. These costs are borne directly by the person responsible for remediating the site and are a private matter between that party and the parties undertaking the site assessment and remediation. As such, these costs are not a liability for government.*

### **Government Service Centres**

#### GSC not performing tasks required under MOU and Department's Guidance Document

*“The GSCs are not performing the required tasks under the MOU and the Department's Guidance Document. GSC Officials at Corner Brook and St. John's advised that only information from major spills (over 70 litres) were sent to the Department. However, the Guidance Document specifies that once investigated, a site will have an entry in the database irregardless of whether contamination was discovered or whether any confirmed contaminants have been remediated.”*

**Recommendation:** The Department of Government Services, through its GSCs should adhere to the duties outlined in the MOU and the Department of Environment and Conservation's Guidance Document.

**Response:** *As previously noted, this Department submits information to the Department of Environment and Conservation in accordance with direction contained in the existing guidance documents. This includes quarterly summaries of all environmental incidents that have been reported on a regional basis since 2004. Additionally, since 1 April 2010, this Department has provided quarterly provincial roll-up reports to Environment and Conservation. We are unable to comment on whether the information submitted has been included or updated in the contaminated sites database as this Department does not have access to the database.*

### **Lack of timely review of consultant reports and site investigations**

*“ Many sites remain open in the spill listing at the Corner Brook GSC and officials advised that files can take a long time to close. This is largely due to the Environmental Protection Officers (EPOs) not having the completed consultant report for a given site. While the Department has not established a timeframe for the submission of consultants’ reports to the GSC by either the consultant or the owner of the site, we found that the Corner Brook GSC was not always proactive in obtaining consultants’ reports on a timely basis. Owners are not forwarding a copy of the consultant’s report to the GSC for the cleanup of Tier I sites. For example, one site was first identified as being contaminated on 8 April 2009; however, as at the end of October 2010, the consultant’s report had not been received. As a result, the GSC was not able to determine the extent of remediation progress or whether a site should be identified as closed”.*

**Recommendation:** The Department of Government Services, through its GSCs should ensure that all owners are forwarding consultant reports and that consultant reports are received and reviewed on a timely basis.

**Response:** *The consultants’ reports on the outcomes of the remediation of sites are not progress reports but are only provided to the GSC at the closure stage of a site remediation. The specified case cited in your report may not yet be closed. It would not be practical to establish time limits for the receipt of reports and/or the closure of environmental occurrence files as these matters are often complex, multi-issue situations and clean-up can take several months or longer to be fully completed.*

*This Department also routinely advises identified responsible parties of the requirements of the Management of Impacted Sites Guidance Document.*

*“The Corner Brook GSC was also not always inspecting contaminated sites in a timely manner. Officials at the GSC indicated that sites requiring lengthy travel are typically investigated only when there is a known immediate health concern. Therefore, sites that require lengthy travel where there is no known immediate health concern are investigated only when there is a demand for inspection of other sites in the region. The GSC relies on consultants, owners and third parties at a site for information, without necessarily performing its own investigations right away”.*

**Recommendation:** The Department of Government Services, through its GSCs should ensure all sites are investigated in a timely manner.

**Response:** *This Department responds to all reported environmental occurrences through its 24-hour Duty Officer Program for Environmental Emergencies, in which an Environmental Protection officer is on duty 24/7, on a rotational basis, to receive spill reports from the Coast Guard Emergency Spill Reporting line. Responses to these occurrences are prioritized according to their severity and the relative risk they present to the environment and/or public health. Contact is made with the responsible party and/or their environmental consultant as soon as notification is received by the Environmental Protection Officer.*

*The need for and timing of an on-site investigation by the EPO is determined through this process and undertaken on a priority basis if necessary. However, in the case of minor incidents or where the situation is clearly being dealt with by professional consultants, an immediate on-site visit may not be necessary. Should a particular EPO not be available or a vacancy exist, an officer from another area will be assigned to follow up. This risk management approach ensures appropriate use of public resources.*

*The Department will continue its ongoing efforts to ensure that reports of environmental occurrences are investigated on a timely basis, with priority given to high risk events.*

### **Recruitment and retention of EPOs**

*“Officials at both the St. John’s and Corner Brook GSCs indicated that recruitment and retention of EPOs is an issue. Officials advised that there are currently 13 positions throughout the Province. One position is located in Labrador and this position is currently vacant. Another position in Grand Falls is also currently vacant. Timely site inspections may be delayed by issues with recruitment and retention of EPOs throughout the Province.*

*Officials advised us that EPOs frequently move to a higher paying position within the Department of Environment and Conservation. EPOs in the Western region are currently responsible for responding to spills in Labrador; therefore, there would be no EPOs immediately available if there was an emergency spill in Labrador. Having a high rate of turnover for EPOs could result in a lack of continuity in dealing with impacted sites and contaminants.”*

**Response:** *Recruitment and retention of Environmental Protection Officers (EPOs) is not currently a significant issue for this Department. Twelve of the 13 positions are currently staffed and the vacant position is under active recruitment. Three new permanent EPO positions were added through the 2007-08 budget process.*

## Contaminated Sites

*As previously noted, in the event of an emergency or other high priority in Labrador, or anywhere else in the province, the Department mobilizes EPO resources as necessary.*

### **No history for western site locations**

*“The St. John’s GSC and the Corner Brook GSC are using different filing systems to record spills. The St. John’s GSC records spills by location whereas the Corner Brook GSC records spills by incident date. A spill history per site is important in order to identify potential repetitive contamination issues. It can also be used to aid any potential purchasers of a property by providing them with an accurate picture of previous spills at the site. Therefore, any information on site history is currently unavailable for the western region. This means that the Corner Brook GSC would have difficulty in identifying a history of past contamination by location.”*

**Recommendation:** The Department of Government Services, through its GSCs should ensure that consistent policy and procedures exist for maintenance of spill listing and related files at all GSC locations.

**Response:** *While the current filing systems in use at the GSC’s in Corner Brook and St. John’s are different, they are both capable of providing a site history for a particular location. This Department began a review of its information management systems and procedures at its GSC’s in 2010-11 in order to standardize the filing and document management systems throughout the province. Environmental Protection files are one of the first two priorities for this process. Additionally, in response to your finding that none of the files at either GSC had any evidence to support a formal management review, this Department will add environmental occurrence files to its existing, quarterly management review process and will continue its efforts to standardize information management systems in the upcoming fiscal year.*

### **Conclusion:**

*The Department of Government Services will continue to work collaboratively with the Department of Environment and Conservation to ensure that the requirements of the Management of Impacted Sites Guidance Document and the Memorandum of Understanding are clarified and updated. Both departments have recently engaged in a process to address these issues.*

## Contaminated Sites

**PART 2.5**

**DEPARTMENT OF FINANCE**

**GASOLINE TAX**

### Executive Summary

The Tax Administration Division of the Department of Finance (the Department) is responsible for administering and collecting Gasoline Tax in accordance with the *Revenue Administration Act* and the *Gasoline Tax Regulations*. Revenues from the Provincial Gasoline Tax for the year ended 31 March 2010 totalled \$156 million and represented 5.9% of the Province's taxation revenue and 2.3% of the Province's total revenue from all sources. Provincial gasoline tax is charged on all fuels at rates ranging from 0.7 to 16.5 cents per litre, depending on the type of fuel used.

The *Act* requires every wholesaler and retailer to be registered and licensed to sell gasoline in the Province. Wholesalers bring fuel into the Province and can provide retailers with fuel or consume it themselves. Retailers operate, for the most part, as service stations providing fuel directly to the consumers. As part of the licensing requirement, wholesalers must remit a monthly return and any taxes payable by the 20<sup>th</sup> of the subsequent month.

As at 31 March 2010, there were 489 retailers and 25 wholesalers registered in the Province. Of the 25 wholesalers, 20 sell to retailers, while 5 use gasoline for their own purposes. When a wholesaler consumes their own fuel, they are referred to as "self assessors" and are required to remit the appropriate gasoline tax.

Consumers may apply for a permit to purchase tax-exempt diesel fuel when a valid reason exists e.g. commercial fishing, farming or logging. As at 31 March 2010 there were 2,299 consumers with such a permit. Retailers are required to remit a monthly return if they sell tax-exempt diesel fuel.

Our review indicated that the Department was not proactive in identifying unregistered wholesalers or retailers. The Department did not adequately review wholesaler or retailer returns to determine compliance with the *Act* and performed a very limited number of audits. Furthermore, the extent of audit work performed by staff at the Division was not sufficient. Staff were not provided with any standard audit programs. Exception reports produced by the Department's database were not adequately followed-up.

Although there were instances where tax-exempt diesel fuel was used for an inappropriate purpose, the Department did not conduct sufficient audit work or follow-up on exceptions identified in monthly reports or results of fuel testing.

### Wholesalers

Wholesalers are required by the *Act* to be licensed by the Department and can either provide retailers with fuel or consume it themselves. Wholesalers are also responsible for collecting and remitting all Gasoline Tax due to the Province. We found the following:

- Departmental officials indicated that they do not make any effort to identify unlicensed wholesalers as they were confident that all wholesalers had been identified. However, one wholesaler operated in the Province since at least May 2008 even though they were not licensed until 6 May 2009.

In this case, the Department was aware that this company was operating without a licence because they were identified on the monthly returns provided by another wholesaler. However, it took at least one year for the wholesaler to be licensed. No monthly returns or remittances were made by this wholesaler prior to being licensed.

- We reviewed the 135 monthly returns which were required to be submitted by 6 wholesalers for the 2009 and 2010 fiscal years. We identified 173 deficiencies as follows:
  - 38 returns had no evidence of review. In fact, no reviews of monthly returns had been completed for 5 of the 6 wholesalers since October 2009 and for the other since December 2009;
  - 48 returns were not reviewed until 3 to 10 months after the month for which the return was filed;
  - 59 returns had inadequate or missing documentation and no evidence of follow-up by the reviewer;
  - for 21 returns, the review checklist procedures were not complete; and
  - 7 consecutive returns by one wholesaler from July 2009 contained calculation errors which resulted in insufficient remittance of gasoline tax. Because the July 2009 return was not reviewed until January 2010, the obvious error was not identified until then. The wholesaler was assessed \$4,515 including interest of \$885.

## Gasoline Tax

- The Department did not perform any planned audit work on wholesalers for the five fiscal years 2006 through to 2010. The only audit of the 25 wholesalers performed was the result of a wholesaler informing the Department that its tax-exempt status had changed and that taxes were owed. As a result of the audit, the company was assessed \$474,679, including interest of \$12,626, relating to the period December 2005 to March 2006.
- Furthermore, the Department did not have a standard audit program for wholesaler audits.

### Retailers

Retailers are required by the *Act* to be licensed by the Department in order to sell fuel to consumers. Retailers selling tax-exempt diesel fuel must apply for a licence every three years and must remit a monthly return (Schedule F) showing the purchasers, the quantity of fuel purchased, and the purchasers' permit number. We found the following:

- Officials indicated that the Department was not proactive in identifying unregistered retailers. The Department did not actively seek to ensure that all retailers were licensed and had not conducted any significant search for unregistered retailers since they implemented a new database in 2001.
- The Department could not demonstrate that the extent of audit work on retailers was sufficient for the five fiscal years 2006 through to 2010. We found that, of the 153 tax-exempt retailers, only 42 were audited during the five year period. We reviewed 8 retailers where 28 audits were performed and found the following:
  - 26 of the 28 audits consisted only of reviews of monthly Schedule F returns and the files did not contain any evidence of an audit checklist or program being completed; and
  - While 2 of the 28 audits were more thorough and covered a three year period, including onsite visits and client interviews, one file did not include the audit checklist while the audit checklist in the other file was not fully complete. These two audits resulted in assessments totalling \$52,977, including interest of \$15,939 and penalties of \$3,367.
- The Department did not perform any planned audit work on retailers for the 2009 and 2010 fiscal years.

## Gasoline Tax

- Although, the Department used an audit checklist for retailer audits, it did not have a standard audit program.

### Consumers

Consumers purchase fuel from retailers. They may apply for a permit to purchase tax-exempt diesel fuel under the *Act* if a valid reason for usage exists e.g. commercial fishing, farming or logging. Consumers can only purchase tax-exempt diesel fuel with a permit and may not use the fuel for other purposes. We found the following:

- The Department was not performing sufficient monitoring of tax-exempt diesel fuel purchases. As at 31 March 2010, there were 2,299 registered consumers with permits. During the five fiscal years 2006 to 2010, the Department inspected 3,169 fuel samples of which 173 were identified as tax-exempt diesel fuel. The Department performed only 25 audits. Thirteen of the 25 audits resulted in assessments totalling \$265,812, including interest of \$90,122 and penalties of \$13,850. Furthermore, the Department could not conclude that it did sufficient work because they had not developed any standards as to the extent of testing required.
- There was no follow-up on exception reports highlighting instances where a permit number or name reported for a sale of tax-exempt diesel fuel on a retailer's return did not match the registered permit holder in the Department's database.
- Although the Department used an audit checklist for consumer audit, it did not have a standard audit program.

## Background

The Tax Administration Division of the Department of Finance (the Department) is responsible for administering and collecting Gasoline Tax in accordance with the *Revenue Administration Act* (the *Act*) and the *Gasoline Tax Regulations* (*Regulations*). Provincial gasoline tax is charged on all fuels at rates ranging from 0.7 to 16.5 cents per litre, depending on the type of fuel used. In the *Act*, gasoline is defined as any and all liquids capable of being used for the purpose of generating power in an internal combustion engine. Figure 1 shows the various types of gasoline and the related Provincial gasoline tax per litre.

## Gasoline Tax

**Figure 1**

**Department of Finance  
Gasoline Tax Rates  
As at 31 March 2010**

Type	Consumer Tax (Cents/Litre)
Gasoline	16.5
Diesel	16.5
Auto Propane	7.5
Marine Fuel	3.5
Aviation Fuel	0.7

Source: Department of Finance, Tax Administration

The price consumers pay for gasoline is comprised of the fuel cost, a marketing margin (wholesaler and retailer), Provincial gasoline tax, Federal excise tax and HST. The maximum price of a litre of regular unleaded self serve gasoline in the Avalon Peninsula zone at 31 March 2010 was 112.3 cents per litre. Figure 2 shows the cost components of the litre of gasoline.

**Figure 2**

**Department of Finance  
Regular Unleaded Self Serve Gasoline Cost Components  
for the Avalon Peninsula Zone  
As at 31 March 2010**

Cost Component	Cents Per Litre
Average New York Harbour Benchmark Price for Period	58.04
Total Allowed Markup, as approved by Public Utilities Board	14.83
<b>Pump Price (Excluding Taxes)</b>	<b>72.87</b>
Federal Excise Tax	10.00
Provincial Gasoline Tax	16.50
<b>Pump Price (Excluding HST)</b>	<b>99.37</b>
HST @ 13%	12.92
<b>Pump Price (rounded to one decimal place)</b>	<b>112.3</b>

Source: Public Utilities Board

## Gasoline Tax

Of the total cost per litre, the Province's share is 24.45 cents (Provincial Gasoline Tax plus 8% Provincial portion of HST). Revenues from the Provincial Gasoline Tax for the year ended 31 March 2010 totalled \$156 million and represented 5.9% of the Province's taxation revenue and 2.3% of the Province's total revenue from all sources.

Only two types of fuel may be used without paying tax, gasoline grade fuel or diesel. All other gasoline sales are taxed at the specified rate. While diesel fuel may be purchased tax free at the pump if a purchaser has an exemption permit from the Department of Finance, the tax on gasoline grade fuel is paid at the pump and the purchaser has to request a rebate from the Department. As at 31 March 2010, there were 2,299 registered permit holders eligible to purchase tax-exempt diesel fuel. In both instances, the fuel must be consumed for specified purposes (commercial fishing, farming, logging, manufacturing and processing, transportation by boat, locomotives, generation of electricity, household fuels and natives on reserves) in order to qualify as tax-exempt. Because tax-exempt diesel fuel is available only at a separate pump, it can be dyed, which acts as a deterrent for consumers to use it for other than specified purposes.

There are three levels of application for the *Act* and *Regulations*; wholesalers, retailers, and consumers. The *Act* requires every wholesaler and retailer to be registered and licensed to sell gasoline in the Province. Wholesalers bring fuel into the Province and can provide retailers with fuel or consume it themselves. Retailers operate, for the most part, as service stations providing fuel directly to the consumers. All Provincial Gasoline Tax is collected and remitted by the wholesalers. As part of the licensing requirement, wholesalers must remit a monthly return and any taxes payable by the 20<sup>th</sup> of the subsequent month.

Wholesalers file a generic monthly return which contains details of imports, exports, transfers to/from other wholesalers and opening and closing inventories of all grades of fuel. Retailers must file a return (Schedule F) for all sales of tax-exempt diesel fuel to consumers with a valid permit.

As at 31 March 2010, there were 489 retailers and 25 wholesalers registered in the Province. Of the 25 wholesalers, 20 sell to retailers, while 5 use gasoline for their own purposes. When a wholesaler consumes their own fuel, they are referred to as "self assessors" and are required to remit the appropriate gasoline tax.

Information on the wholesalers and retailers is recorded in the Tax Audit Management System (TAMS) at the Department of Finance.

### Audit Objective and Scope

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**Audit objective** The objective of this audit was to review the Provincial Gasoline Tax program within the Tax Administration Division of the Department of Finance and determine whether adequate systems and practices were in place to ensure that all licencees and consumers are in compliance with the *Revenue Administration Act* and *Gasoline Tax Regulations*, specifically to determine that:

- all potential licencees are identified and registered;
  - all licencees have remitted required returns and tax amounts on a timely basis;
  - monthly returns were adequately monitored; and
  - audits were conducted and issues arising from audits or monthly reviews were investigated and/or followed up on a timely basis.
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**Audit scope** Our review covered the fiscal years 2006 to 2010 and included interviews with Departmental officials, review of Departmental documentation, and review of registration and audit files. Our review was completed in December 2010.

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### Detailed Observations

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

1. Wholesalers
2. Retailers
3. Consumers

## 1. Wholesalers

### Overview

A Gasoline wholesaler is defined by the *Act* as a person who holds a licence to sell or keep gasoline for sale other than to retail purchasers (consumers). As at 31 March 2010 there were 25 wholesalers in the Province, including 5 self-assessors, such as pre-commercial mining operations, who use gasoline for their own purposes.

In reviewing the information from the Department we indentified issues in the following areas:

- A. Registration
- B. Monitoring

Details are as follows:

### 1A. Registration

### Introduction

The 25 registered wholesalers in the Province account for all of the gasoline tax revenue collected and remitted to the Province. The *Act* requires wholesalers to be licensed to sell fuel to retailers. Licensing is also necessary so the Department can monitor the volume of fuel sold and ensure that the appropriate amount of tax is remitted. Licences are required before a wholesaler begins selling fuel, and subsequent applications for renewal are required to be submitted by January 31<sup>st</sup> of the licence year. For the 20 wholesalers who sell fuel to retailers, there is an annual registration fee based on their sales volume.

### Wholesalers not licensed

Departmental officials indicated that they do not make any effort to identify unlicensed wholesalers as they were confident that all wholesalers had been identified. However, one wholesaler operated in the Province since at least May 2008 even though they were not licensed until 6 May 2009.

In this case, the Department was aware that this company was operating without a licence because they were identified on the monthly returns provided by another wholesaler. However, it took at least one year for one wholesaler to be licensed. No monthly returns or remittances were made by this wholesalers prior to being licensed.

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### 1B. Monitoring

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#### Introduction

The wholesalers are required by the *Act* to remit monthly returns. The generic monthly return is a document that was developed at a national level by the Canadian Fuel Tax Council and is standard across the country for all wholesalers. It is used to record sales, imports, exports, and consumption of all fuel types within the Province. It is received by the Department, entered into TAMS, and checked for mathematical accuracy. The Department has a checklist to determine whether all required documents are included with the return. By reviewing the monthly returns, the Department can assess whether the appropriate level of tax is submitted.

The audit of a wholesaler includes a review of the purchases, sales, and changes in inventory levels of all grades of gasoline, usually over a three-year period. The purpose of the audit is to assess compliance with the *Act* by the wholesaler and to obtain information on retailers for later use. The audit provides an assessment of whether the amount of tax remitted by the wholesaler is correct.

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#### Monthly returns not adequately reviewed

We reviewed the 135 monthly returns which were required to be submitted by 6 wholesalers for the 2009 and 2010 fiscal years. We identified 173 deficiencies as follows:

- 38 returns had no evidence of review. In fact, no reviews of monthly returns had been completed for 5 of the 6 wholesalers since October 2009 and for the other since December 2009;
- 48 returns were not reviewed until at least 3 months after the month for which the return was filed:
  - 19 were reviewed 3 months after the return month;
  - 13 were reviewed 4 months after the return month;
  - 6 were reviewed 5 months after the return month;
  - 5 were reviewed 6 months after the return month; and
  - 5 were reviewed 7 to 10 months after the return month;

## Gasoline Tax

- 59 returns had inadequate or missing documentation and no evidence of follow-up by the reviewer;
- for 21 returns, the review checklist procedures were not complete; and
- 7 consecutive returns by one wholesaler from July 2009 contained calculation errors which resulted in insufficient remittance of gasoline tax. Because the July 2009 return was not reviewed until January 2010, the obvious error was not identified until then. The wholesaler was assessed \$4,515 including interest of \$885.

Departmental officials indicated that the Tax Administration Division is currently behind in performing reviews of monthly returns. At the time of our review, of the 6 wholesalers sampled, we found that the Department had not reviewed monthly returns for 5 of the 6 wholesalers since October 2009 and for 1 of the 6 wholesalers since December 2009.

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### **Insufficient audit work**

Our review indicated that the Department did not perform any planned audit work on wholesalers for the five fiscal years 2006 through to 2010. The only audit of the 25 wholesalers performed was the result of a wholesaler informing the Department that its tax-exempt status had changed and that taxes were owed. As a result of the audit, the company was assessed \$474,679, including interest of \$12,626, relating to the period December 2005 to March 2006.

The audit was a desk audit whereby all the records were requested from the client and sent to the Department for review. Onsite field work was not performed. The audit work consisted of a review of monthly return documentation for that period. We found that this documentation did not include the support required by the return review checklist.

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### **No standard audit program**

The Department did not have a standard audit program for wholesaler audits. A standard audit program would ensure that a consistent level of work is completed across all audits.

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### Recommendations

The Department should:

- ensure that all wholesalers have been identified and are licensed;
- ensure that monthly returns submitted by wholesalers are reviewed in an adequate and timely matter and all issues are followed up;
- perform more frequent audits on wholesalers; and
- develop a standard audit program for auditing wholesalers.

## 2. Retailers

### Overview

A gasoline retailer is defined by the *Act* as a person who holds a licence authorizing that person to sell gasoline or keep gasoline for sale directly to consumers. As at 31 March 2010 there were 497 licensed retailers in the Province, 153 of which are licensed to sell tax-exempt diesel fuel to consumers licensed to purchase this fuel.

In reviewing the information from the Department we identified issues in the following areas:

- A. Identification and Registration
- B. Monitoring

Details are as follows:

### 2A. Identification and Registration

### Introduction

Retailers are required by the *Act* to be licensed by the Department in order to sell fuel to consumers. Since 1992, retailers have not been required to renew their licence on an annual basis; instead, the licence remains in effect until the retailer ceases operations or the licence is revoked by the Department.

Retailers selling tax-exempt diesel fuels are required every three years to apply for a licence to sell this fuel.

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**Identification efforts insufficient**

Officials indicated that the Department was not proactive in identifying unregistered retailers. The Department did not actively seek to ensure that all retailers were licensed and had not conducted any significant search for unregistered retailers since they implemented a new database in 2001.

Retailers with permits to sell tax-exempt diesel fuel are required to submit a monthly return (Schedule F) showing all sales of this fuel. The Schedule F return is the only type of monthly submission required to be submitted by a retailer. Retailers who do not sell tax-exempt diesel fuel are not required to make any monthly submission to Government relating to Gasoline Tax. The Department is only concerned with those retailers who are required to submit a Schedule F. However, the *Act* requires that all retailers be licensed.

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### **2B. Monitoring**

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**Introduction**

Retailers with a permit to sell tax-exempt diesel fuel remit a Schedule F return each month showing the purchasers of this fuel, the quantity of fuel sold, and the consumer permit number. Schedule F is received by the Department, entered into TAMS, and checked for mathematical accuracy. Reports are produced from TAMS each month to identify delinquent Schedule F submissions and instances where consumers are sold tax-exempt diesel fuel without a valid permit.

The audit of a retailer includes a review of the retailers' fuel sales, usually over a three-year period. The purpose of the audit is to assess compliance with the *Act* by the retailer and to obtain information on consumers for later use. The Department has a basic checklist for auditors to use when performing audits.

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**Insufficient audit work**

The Department could not demonstrate that the extent of audit work on retailers was sufficient for the five fiscal years 2006 through to 2010. We found that, of the 153 tax-exempt retailers, only 42 were audited during the five year period. We reviewed 8 retailers where 28 audits were performed and found the following:

- 26 of the 28 audits consisted only of reviews of monthly Schedule F returns and the files did not contain any evidence of an audit checklist or program being completed; and

## Gasoline Tax

- While 2 of the 28 audits were more thorough and covered a three year period, including onsite visits and client interviews, one file did not include the audit checklist while the audit checklist in the other file was not fully complete. These two audits resulted in assessments totalling \$52,977, including interest of \$15,939 and penalties of \$3,367.

Furthermore, the Department did not perform any planned audit work on retailers for the 2009 and 2010 fiscal years.

### No standard audit program

Although the Department used an audit checklist for retailer audits, it did not have a standard audit program for retailer audits. A standard audit program would ensure that a consistent level of work is completed across all audits.

### Recommendations

The Department should:

- conduct regular reviews to identify unregistered retailers;
- perform more frequent field audits on retailers: and
- develop a standard audit program for retailer audits.

## 3. Consumers

### Overview

Consumers or “retail purchasers” are defined by the *Act* as a person who acquires gasoline not for resale but for usage. Consumers may apply for a permit to purchase tax-exempt diesel fuel when a valid reason exists. As at 31 March 2010 there were 2,299 consumers with a permit. The main risks facing the Department are consumers with permits purchasing tax-exempt diesel fuel and using them for non-tax exempt reasons, and consumers who obtain this fuel through retailers when they do not have a permit.

The Department has authority under the *Act* to perform random vehicle checks of consumers. The result of these checks is used as a lead to begin a consumer audit.

During our review of consumer audits conducted by the Department for the 2006 to 2010 fiscal years, we found the following:

## Gasoline Tax

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### **Insufficient audit work**

The Department did not perform sufficient monitoring of tax-exempt diesel fuel purchases. During the five fiscal years 2006 to 2010, the Department inspected 3,169 fuel samples of which 173 were identified as tax-exempt. The Department performed only 25 audits. Thirteen of the 25 audits resulted in assessments totalling \$265,812, including interest of \$90,122 and penalties of \$13,850. Furthermore, the Department could not conclude that it did sufficient work because they have not developed any standards as to the extent of testing required.

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### **Lack of follow-up on exception reports**

Report A0120 is an exception report produced from Schedule F returns filed by retailers. It highlights instances where a permit number or name reported for a sale of tax-exempt diesel fuel on a retailer's return does not match a registered permit holder in TAMS. There was no follow-up on exception reports highlighting instances where a permit number or name reported for a sale of tax-exempt diesel fuel on a retailer's return did not match the registered permit holder in the Department's database. We reviewed a report which showed that during March 2010, 16 retailers submitted incorrect information on 32 different consumers who purchased tax-exempt diesel fuel.

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### **No standard audit program**

Although the Department used an audit checklist for consumer audits, it does not have a standard audit program. A standard audit program would ensure that a consistent level of work is completed across all audits.

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## **Recommendations**

The Department should:

- perform more frequent audits on consumers;
- follow-up on issues identified in monthly exemptions reports; and
- develop a standard audit program for consumer audits.

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### Department's Response

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#### Wholesalers

##### **Recommendation:**

The Department should ensure that all wholesalers have been identified and are licensed.

##### **Response:**

*The Department identifies unregistered wholesalers through the review of existing wholesaler returns and new gasoline retailer applications, as well as leads generated through audits and inspections. The Department is not aware any additional sources of information to identify potential unlicensed wholesalers, if any. However, the Department will undertake a review to determine if there are other options available to obtain names of unregistered wholesaler.*

*The report makes reference to an unregistered wholesaler making sales in the province, and who was not registered on a timely basis. This unlicensed wholesaler was providing untaxed fuel to a registered wholesaler who remitted the tax. At no time was the tax at risk.*

##### **Recommendation:**

The Department should ensure that monthly returns submitted by wholesalers are reviewed in an adequate and timely matter and all issues are followed up.

##### **Response**

*A risk analysis approach is utilized in selecting monthly wholesaler returns for review. Staff turnover and unexpected gasoline refund reviews have temporarily interrupted the timeliness of these reviews. It is anticipated that the review of selected wholesaler returns will be completed and current as of March 2011.*

##### **Recommendation:**

The Department should perform more frequent audits on wholesalers.

##### **Response:**

*The Department has been challenged in reaching audit goals as a result of recruitment and retention issues. Human resource allocation is continually reviewed with staff assigned to areas of greatest audit risk and priority. In the last fiscal year, the focus has been on providing newly assigned gasoline tax auditors with training necessary to carry out wholesaler audits.*

**Recommendation:**

The Department should develop a standard audit program for auditing wholesalers.

**Response**

*Standard audit programs are normally developed for routine audits. Where there is a significant degree of complexity and a relatively small pool of taxpayers, a customized risk based approach is taken in the development of audit programs in order to utilize resources effectively.*

**Retailers**

**Recommendation:**

The Department should conduct regular reviews to identify unregistered retailers.

**Response:**

*The Department believes that it is proactive in identifying unregistered retailers through the review of wholesaler and retailer Schedule F returns on an ongoing basis. Also, Gasoline and Tobacco Inspectors check for valid gas retailer licenses when conducting inspections. The Department is of the view that the risk of tax loss in this area is relatively low and further work in this area would not be an effective use of limited resources.*

**Recommendation:**

The Department should perform more frequent field audits on retailers.

**Response:**

*The Department has been challenged in reaching audit goals as a result of recruitment and retention issues. Human resources allocation is continually reviewed with staff assigned to areas of greatest audit risk and priority. However, if an internal review of information leads the Department to believe a retailer was not in compliance with the legislation, or an audit lead was provided from an external source, an audit would be assigned on a priority basis.*

**Recommendation:**

The Department should develop a standard audit program for retailer audits.

**Response:**

*A standard audit program/checklist is utilized in conducting retailer audits. This program/checklist is quite extensive and covers all areas of audit. Further examination may be conducted based on findings included in the initial audit program/checklist.*

### Consumers

#### **Recommendation:**

The Department should perform more frequent audits on consumers.

#### **Response:**

*Tobacco and Gasoline Inspectors were introduced throughout the province in 2004 to assist in the minimization of the occurrence of tax evasion, in particular for gasoline susceptible for misuse by consumers. Inspectors conduct on an average of 400 to 600 gasoline inspections on consumer equipment, annually. In the first few years of operation the Inspectors found exempt product being misused which lead to a large number of consumer audits. As the inspectors continued with inspections, instances of misuse decreased, therefore decreasing the number of consumer audits. Inspection of consumer equipment has provided assurance that consumers are using marked diesel in compliance with the Revenue Administration Act.*

#### **Recommendation:**

The Department should follow-up on issues identified in monthly exemptions reports.

#### **Response:**

*Based on outcomes achieved from the overall review of the Schedule F Reports, a low priority has been assigned to this activity. The reports are reviewed when resources become available. It is anticipated that this activity will be current by March 2011.*

#### **Recommendation:**

The Department should develop a standard audit program for consumer audits.

#### **Response:**

*A standard audit program/checklist is utilized in conducting consumer audits. This program/checklist is quite extensive and covers all areas of audit. Further examination may be conducted based on findings included in the initial audit program/checklist.*

**Gasoline Tax**

**PART 2.6**

**DEPARTMENT OF FISHERIES AND AQUACULTURE**

**FISHERIES COMPLIANCE AND ENFORCEMENT**

### Executive Summary

The Department of Fisheries and Aquaculture (the Department), through its Fisheries Branch (the Branch) is responsible for carrying out inspections of all fish, containers and cartons of fish, vessels and vehicles used to transport fish, and fish establishments. During the fishing season, inspections of fish are carried out from the point where fish are landed, up to the point just prior to processing. Fish processed at sea are not subject to inspection by the Branch. The Branch indicated that there were approximately 70,000 vessel landings totalling 199.9 million kilograms of fish at 425 landing sites during the 2010 fishing season. This fish was processed at 119 processing facilities located throughout the Province.

Inspections for such things as fish stowage and temperature requirements are carried out at fish landing sites, holding facilities, processing facilities and ferry terminals to determine compliance with various regulations under the *Fish Inspection Act* and Department policy. The Branch uses a number of measures to enforce the regulations, including issuing formal warnings and tickets when there are identified instances of non-compliance with ticket-able offences under the regulations. The Branch has 34 Inspector positions situated in 22 offices located throughout three regions of the Province. During 2006 to 2009 there was an average of 3,660 inspections completed each year.

Our review of the Fisheries inspection and enforcement program indicated that the Department is not carrying out inspections in a manner that would maximize fish quality and food safety. We found a number of issues with regard to the inadequate planning and scheduling of inspection activity, with Inspectors not following the required inspection procedures, not completing inspection forms and not issuing warnings and tickets when instances of non-compliance were identified. In addition, the inspection database was significantly inadequate, inaccurate and incomplete. In particular, our findings included the following:

#### **No Inspection Plan or Schedule**

Our review indicated that regional offices did not prepare annual inspection work plans and inspection activity was not scheduled. Officials indicated that the timing and frequency of inspections at sites and facilities was mainly determined by the Inspector in consultation with the Inspection Supervisor, based on their knowledge of activity at landing sites and processing facilities in the Inspector's designated area. Regional Directors have little to no involvement in the planning or scheduling of inspections.

## Fisheries Compliance and Enforcement

### *Inspection Database*

During 2010, a total of 3,575 inspections were recorded in the inspection database. We found the following:

- 1,512 (42% of 3,575) – instances where Inspectors were travelling to landing sites and processing facilities and an inspection was not completed because there were no fish to inspect. Furthermore, 785 (52% of 1,512) of the failed inspections were recorded by five Inspectors.
- 1,764 (49% of 3,575) – instances where fish inspections were performed as follows:
  - 770 (44% of 1,764) inspections of fish occurred at the landing site; and
  - 994 (56% of 1,764) inspections of fish occurred at the processing facility or on a vehicle/trailer.

Officials indicated that the risk of poor fish quality is significantly reduced when there is an inspection of fish immediately upon landing as any non-compliance issues such as improper temperature, handling and stowage of fish can be addressed before the fish arrive at the processing facility. Because the Department has not established any goals or objectives in this area, it could not demonstrate whether the percentage of inspections at the landing site was appropriate.

- 191 (5% of 3,575) – phone calls to processing facilities in connection with instances of poor fish quality reported by Independent Dockside Graders. We found that, other than the phone call, there were no inspections related to 167 of these reported instances.
- 48 (2% of 3,575) – were recorded as an inspection; however, they were activities such as Fisheries development work, training and timekeeping and not related to inspection activity.
- 60 (2% of 3,575) – were inspections related to the licensing of processing facilities.

### *Inspections at Landing Sites*

Inspections of fish at landing sites were not being carried out in a representative and risk-based manner and numerous landing sites with significant volumes of fish landings were not inspected at all. Our review indicated the following:

## Fisheries Compliance and Enforcement

- Although the regional offices maintained listings of landing sites, they did not have any information readily available on the volume and/or value of fish landings for each site. Furthermore, the Branch did not have any information readily available as to the number of inspections at landing sites and inspections were scheduled based Inspectors' personal knowledge instead of a representative and risk-based manner. We obtained information and determined that 770 inspections were carried out at 115 of 425 identified landing sites where there were 199.9 million kilograms of fish landings. We found the following:
  - No inspections were performed at 310 (73% of the 425) fish landing sites where a total of 57.2 (29% of the 199.9) million kilograms were landed. In particular, 15 sites where greater than 1.0 million kilograms of fish were landed accounted for 31.8 (16% of 199.9) million kilograms of fish. One of the 15 sites had a total of 6.6 million kilograms of fish landed.
  - Inspections were not scheduled in a representative or risk-based manner. We found that 192 (or 25% of the 770) of total inspections occurred at 16 landing sites where only 7.0 million kilograms or 4% of total fish landings occurred. Furthermore, of the 16 sites, there was 1 site where 38 or 5% of total inspections were carried out and only 690,000 kilograms or 0.3% of total fish landings occurred.

### *Inspections at Landing Sites and Processing Facilities*

Inspections of fish at landing sites and processing facilities were not being carried out in a representative or risk-based manner with regards to the various species. We found that:

- Although Shrimp landings, which totalled 56.7 million kilograms, had 357 inspections, Cod landings, which totalled only 10.2 million kilograms, had 367 inspections. This shows that, although there were 46.5 million kilograms more Shrimp landed than Cod, the Branch is performing a disproportionate number of inspections in a lower volume species.
- The Branch inspected 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms, and inspected 0.5 million kilograms or approximately 4.9% of the Cod landings totalling 10.2 million kilograms. This shows that the percentage of Cod landings inspected was approximately the same as the percentage of Crab landings inspected, even though there was a greater food safety risk associated with Crab.

## Fisheries Compliance and Enforcement

- The Branch inspected 6.3 million kilograms or approximately 11.1% of the Shrimp landings totalling 56.7 million kilograms, while just 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms were inspected. This shows that the percentage of Shrimp landings inspected was significantly greater than the percentage of Crab landings inspected, even though there was a greater food safety risk associated with Crab.
- The quality of seal pelts produced in the Province is important in order to maintain markets. Although there were approximately 67,000 seal pelts landed in the Province during 2010, the Branch only carried out one inspection of seal pelts. Furthermore, there were no inspections of approximately 33,000 seal flippers landed in the Province during 2010.

The Branch could not demonstrate that these inspection frequencies were appropriate because it had not assessed the risk and determined the inspection frequency required for each species.

### *Inspections of Fish Exported from the Province*

Fish processors export over 90% of the average \$932 million of fish produced each year in the Province. The Branch indicated that almost all fish products are exported on trailers via the Port aux Basques Ferry Terminal where inspections are carried out to determine, among other things, whether the fish product is coming from a licensed processor and meets the minimum processing and labeling requirements. Between 1 January 2010 and 30 November 2010, there were 437 inspections carried out at the Port aux Basques Ferry Terminal. We found:

- None of the 437 inspections were recorded in the inspection database.
- The Branch could not provide information on the total number of trailers leaving the Province each year with fish products. Furthermore, although fish products can be exported out of the Province by air, cargo ship, Marine Atlantic ferries and road (Labrador), the Branch only carried out routine inspections of trailers at the Port aux Basques Ferry Terminal and ad hoc inspections of cargo at the St. John's International Airport. The Branch could not provide evidence to show the quantities, if any, that may be shipped from the Province by other means.
- In 351 or 80% of the 437 trailers the Branch indicated as being inspected, the Inspector did not examine the fish product inside the trailers to determine whether the processor was licensed to export the fish or whether the fish met the minimum processing and labeling requirements.

## Fisheries Compliance and Enforcement

- Inspections of trailers at the Port aux Basques Ferry Terminal were not carried out in a representative manner. For example, we found that no inspections were carried out during 263 days of the 334 days between 1 January 2010 and 30 November 2010. Furthermore, trailers arriving and departing the Province outside of the Branch's normal business hours (i.e. 7 hours per day, 5 days a week) were never inspected.

### *Toll-Free Telephone Line*

The Branch maintains a toll-free telephone line where Independent Dockside Graders (IDGs) can report incidents of dead/weak Crab and tainted, decomposed or unwholesome (TDU) Shrimp. At the time of our review, the Branch had recorded 491 telephone calls from IDGs in 2010, reporting instances of dead/weak Crab or TDU Shrimp.

We found that the telephone line was only monitored by an employee 7 hours per day, 3:00 pm to 10:00 pm from Wednesday to Sunday. Because Inspectors do not generally work evenings and weekends, a significant portion of calls cannot be addressed by Inspectors in a timely manner.

For example, during the period 24 April 2010 to 16 October 2010 there were a total of 491 calls. In 365 (74%) of the 491 calls, the Branch could not provide evidence as to whether an Inspector investigated the report of dead/weak Crab or TDU Shrimp. Furthermore, in 102 (21%) of the 491 calls, the Inspector called the processing facility and determined that the Crab or Shrimp had already been either disposed of or processed.

### *Total Inspections*

During 2010, the Branch conducted 1,432 fewer inspections than in 2009. In 2010, the Branch carried out a total of 2,285 inspections (1,764 fish inspections, 24 inspections of low quality fish reported by IDGs, 60 facility inspections and 437 trailer inspections at Port aux Basques), while in 2009 the Branch carried out a total of 3,717 inspections.

### **Fish Inspection Forms not Completed**

Inspections of fish at the landing site, including fish on vessels and trailers and in containers and holding facilities are focused on ensuring, among other things, that fish storage height and weight does not exceed the maximum allowable and that fish temperature does not exceed the maximum allowable under the *Fish Inspection Operations Regulations*. Inspectors are required to document the results of inspections at the landing site on a Quality Assessment Form (QAF). Inspections of fish at the processing facility are focused on determining the grade and/or quality of fish that is ready for

## Fisheries Compliance and Enforcement

processing. Inspectors are required to document the results of inspections at the processing facility on a Quality Inspection Form (QIF).

We selected 98 of the 1,764 fish inspections recorded in the inspection database and identified the following:

- The Branch could not provide us with an inspection form for 32 of the 98 inspections. Although the Branch provided a copy of the Inspector's inspection notebook in 15 of the 32 inspections, the information in the notebook was not sufficient to conclude whether an appropriate inspection was performed.
- Inspectors were not always completing the Quality Assessment Form (QAF) with the required information. For example, in 43 of the 98 inspections where a QAF was used, Inspectors did not always sample the required number of containers of fish to determine compliance with height, weight and temperature requirements of the legislation, and indicate whether they were issuing warnings or tickets when non-compliance was identified.
- Inspectors were not always completing the Quality Inspection Form (QIF) with the required information. For example, in 23 of the 98 inspections where a QIF was used, Inspectors did not always sample the required number of fish to determine compliance with policy and legislation, and indicate whether they were issuing warnings or tickets when non-compliance was identified. Although the reason for not performing all of the work was not always indicated on the inspection form, in one case, the Inspector indicated they could "*only go 20 fillet end of shift*".

### Enforcement

In 2009, Fisheries Inspectors commenced issuing tickets under the *Provincial Offences Act* for violations of provisions in the *In-Province Retail Fish Establishment Regulations* and the *Fish Inspection Operations Regulations*. The *Fish Inspection Ticket Offences Regulations* prescribes fines for approximately 170 offences in amounts ranging from \$100 to \$500 depending on the provision violated and whether the ticket is a first, second or third offence. When Inspectors identify an offence where a ticket may be issued they are required to complete an incident report and issue a formal warning or ticket. Inspectors may issue a verbal warning in some circumstances. We identified the following issues:

## Fisheries Compliance and Enforcement

- The Branch had not provided Inspectors with any guidelines to assist them in determining whether a verbal warning, formal warning or ticket should be issued when a ticket-able offence was identified.
- Officials indicated they did not know whether the number and nature of formal warnings and tickets issued by Inspectors was sufficient or appropriate. In 2010, there were only 19 formal warnings and 10 tickets issued resulting from 2,285 inspections. In 2009, there were 69 formal warnings and 32 tickets issued resulting from 3,717 inspections. The majority of warnings and tickets were issued to skippers of fishing vessels for failing to comply with temperature and stowage requirements.
- Of the 130 formal warnings and tickets issued in 2009 and 2010, 78 or 60% were issued by just 7 or 23% of the 31 Inspectors on staff during the period. During this period, one inspector did not issue either a formal warning or a ticket.

### Management of the Compliance and Enforcement Program

The Branch did not have a complete and accurate database. Currently, the Branch maintains a spreadsheet to capture inspection and enforcement information. Given the nature and design of the software there are limited data input controls. We experienced significant difficulty analyzing the inspection data in the database because there were many instances where Inspectors either did not enter complete data or the data entered was inaccurate. In addition, none of the 437 inspections of trailers at the Port aux Basques Ferry Terminal were entered into the system. As a result of the lack of complete and accurate information, the Department cannot adequately plan, schedule and monitor inspection activity.

The Branch has not established goals, objectives and performance measures for its inspection and enforcement activities. Furthermore, the Department's annual report for the 2010 fiscal year provided to the House of Assembly did not provide any information on the results of inspection and enforcement activity. As a result, the Department cannot conclude as to whether the inspection and enforcement activities are successful in maximizing fish quality and food safety.

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## Background

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A primary mandate of the Department of Fisheries and Aquaculture (the Department) is to support and promote the development of a sustainable and viable fishing industry, which produces high quality and high value products.

## Fisheries Compliance and Enforcement

During the years 2006 to 2009, an average of 331 million kilograms of fish and 191,000 seals were landed from the ocean annually with a landed value averaging approximately \$468 million. During the same period, the majority of this fish was processed in licensed processing facilities within the Province yielding final products valued at approximately \$932 million annually.

The Department, through its Fisheries Branch (the Branch) is responsible for the licensing of fish processors operating within the Province. The Branch is also responsible for inspections at landing sites, onboard fishing vessels, on transport trailers and at fish processing facilities. Inspection activities are carried out to ensure compliance with Department policies and legislation under the *Fish Inspection Act*, including the:

- *Fish Inspection Administrative Regulations;*
- *Fish Inspection Operations Regulations;*
- *In-Province Retail Fish Establishment Regulations; and*
- *Fish Inspection Ticket Offences Regulations.*

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The Branch has three Divisions as follows:

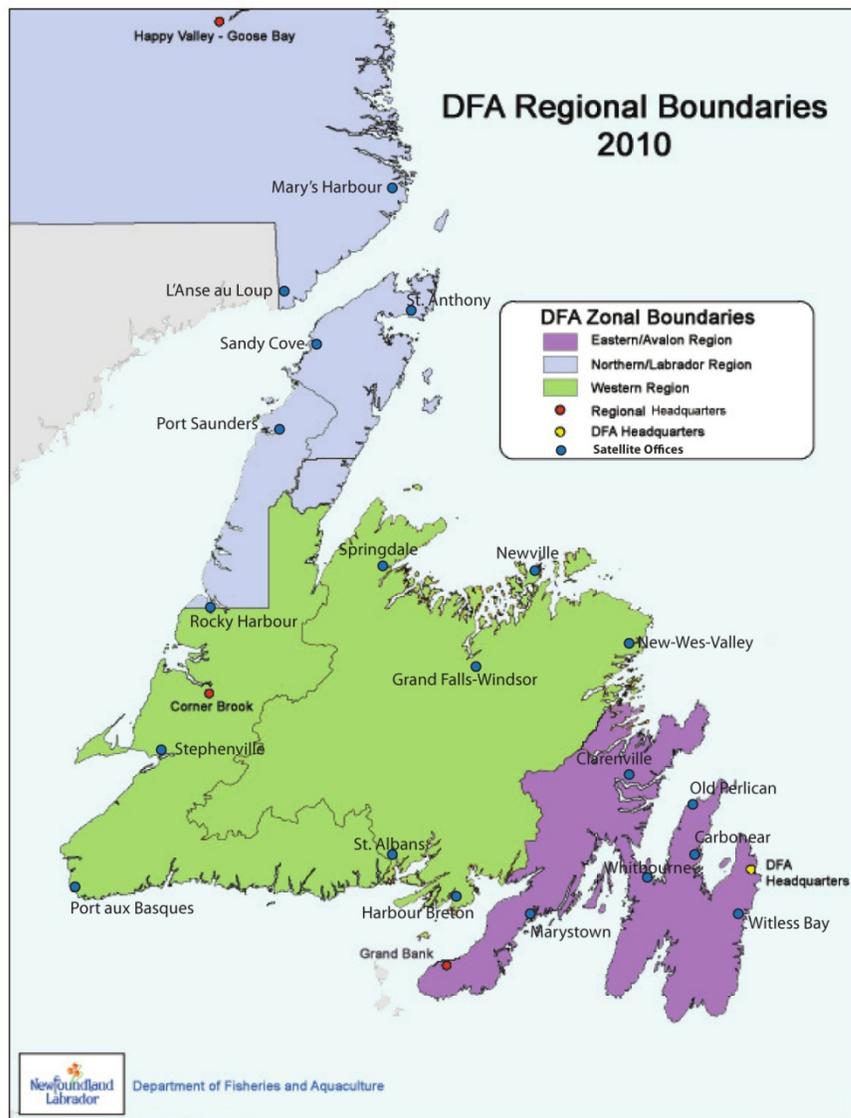
- Licensing and Quality Assurance - responsible for the annual licensing of fish buyers and processors as well as for formulating and implementing policies, procedures and legislation relating to marketing and fish quality. The Division is located at Branch Headquarters in St. John's.
- Compliance and Enforcement - responsible for providing policy/procedure direction and support to Fisheries Inspectors (Inspectors) throughout the Province and for monitoring the overall effectiveness of the inspection program. The Division also audits annual production and employment data reported to the Department by licensed processing facilities. The Division is located at Branch Headquarters in St. John's.
- Regional Services - responsible for carrying out inspections to ensure compliance with Department policies and legislation under the *Fish Inspection Act*. The Division has 34 Inspector positions situated in 22 of the 24 offices located throughout three regions of the Province.

## Fisheries Compliance and Enforcement

Figure 1 shows the number and type of offices that the Branch has located throughout the three regions of the Province.

**Figure 1**

### Fisheries Compliance and Enforcement Number and Type of Branch Offices by Region As at 30 November 2010



Source: Department of Fisheries and Aquaculture

### Audit Objectives and Scope

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#### Audit objectives

The objective of our review was to determine whether the Department was:

- complying with Fisheries inspection and enforcement requirements; and
  - planning, scheduling, and monitoring the Fisheries Compliance and Enforcement Program.
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#### Audit scope

Our review covered the period of 1 January 2009 to 30 November 2010 and included an analysis of the Fisheries inspection and enforcement activities and data at the Department. We reviewed a sample of inspection files to determine compliance with the *Act, Regulations*, policies and procedures. In addition, we held discussions with officials of the Department.

We completed our review in December 2010.

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### Detailed Observations

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

1. Inspections
  2. Enforcement
  3. Management of the Compliance and Enforcement Program
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### 1. Inspections

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#### Overview

The Federal Department of Fisheries and Oceans (DFO) is responsible for the licensing of fish harvesters, including establishing fish quotas and the duration of the fishing season for each species of fish harvested. Generally, the fishing season begins in April/May and ends in November/December with season opening and closing dates varying for each species of fish. DFO monitors the volume and value of fish landed during the fishing season through its Dockside Monitoring Program.

## Fisheries Compliance and Enforcement

The Canadian Food Inspection Agency (CFIA) is responsible for carrying out inspections within processing facilities that export fish, which includes most of the licensed processing facilities in the Province. The CFIA develops and verifies compliance with appropriate product and process standards that contribute to the acceptable quality, safety and identity of fish and seafood products that are processed.

The Department of Fisheries and Aquaculture, through its Fisheries Branch is responsible for carrying out inspections of all fish, containers and cartons of fish, vessels and vehicles used to transport fish, and fish establishments. Inspections are carried out at landing sites, holding facilities, processing facilities, airports and ferry terminals to determine compliance with Department policy, the *Fish Inspection Administrative Regulations*, the *Fish Inspection Operations Regulations* and the *In-Province Retail Fish Establishment Regulations*. Fish quality and food safety is maximized when there is compliance with the Department's policy and legislation.

During the years 2006 to 2009, the Branch reported to the Minister that Inspectors carried out an average of approximately 3,660 inspections each year.

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We reviewed inspection reports and the data recorded in the Branch inspection database in connection with inspections carried out during the period 1 January 2010 to 26 October 2010. We also reviewed data the Branch provided in connection with fish landings during 2010. We held discussions with Department officials. We identified the following issues:

- A. Inadequate Inspection Database
- B. No Inspection Plan or Schedule
- C. Inspection Reports Not Completed as Required

Details are as follows:

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### 1A. Inadequate Inspection Database

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#### Introduction

Prior to 2009, inspection results were input into the Plant Licensing and Notification Tracking (PLANT) database by Regional Offices as inspection reports were received from Inspectors. The Branch abandoned the PLANT database for the recording of inspections because data extraction was limited and unreliable.

## Fisheries Compliance and Enforcement

In 2009, Inspectors commenced inputting data from their inspection reports into a Microsoft Word template on their computers. Each week Inspectors forwarded the completed template to their respective Regional Office where administrative staff consolidated the results for all Inspectors. The Branch abandoned this method of recording inspections because data extraction was time consuming.

In 2010, Inspectors commenced inputting data from their inspection reports into a Microsoft Excel spreadsheet (inspection database) maintained in a shared directory on the Department's computer network. Inspectors input data from their inspection reports each week.

Figure 2 shows a breakdown of the inspection activity recorded in the database and the number of Inspectors that carried out the inspections in each region.

**Figure 2**

### Fisheries Compliance and Enforcement Inspection Activity Recorded by Inspectors in each Region in 2010 As at 26 October 2010

Region	Number of Inspectors	Recorded in the Inspection Database								
		No Inspection Carried Out				Inspections Carried Out				Total
		Other Activity	IDG Call	No Activity at Location	Total	Fish	Facilities	IDG Call	Total	
Eastern	10	30	116	670	816	812	46	13	871	1,687
Western	7	1	27	188	216	240	2	7	249	465
Northern	10	17	24	654	695	712	12	4	728	1,423
<b>Total</b>	<b>27</b>	<b>48</b>	<b>167</b>	<b>1,512</b>	<b>1,727</b>	<b>1,764</b>	<b>60</b>	<b>24</b>	<b>1,848</b>	<b>3,575</b>

Source: Department of Fisheries and Aquaculture Inspection Database

#### Inspection activity not captured in a complete and accurate manner

As Figure 2 shows, Inspectors only carried out 1,848 or 52% of the 3,575 inspections recorded in the inspection database. In addition, 1,727 or 48% of the 3,575 records contained in the inspection database were not actually inspections. With regard to the 1,727 records, we found that:

- 48 or 3% of the 1,727 records were activities unrelated to inspections including Fisheries development work, training and timekeeping.

## Fisheries Compliance and Enforcement

- 167 or 10% of the 1,727 records were the result of phone calls to processing facilities in connection with instances of poor fish quality reported by Independent Dockside Graders.
- 1,512 or 87% of the 1,727 records were inspections that could not be carried out because there was no activity at the location (there was no fish at the landing site or the processing facility when the Inspector arrived).

Furthermore, 437 inspections carried out at the Port aux Basques Ferry Terminal in connection with final product being exported from the Province were not recorded in the database.

### **Data entry controls are inadequate**

The Branch did not have a complete and accurate database to effectively manage its inspection program. We experienced significant difficulty analyzing the inspection data provided by the Branch because there were numerous instances where Inspectors failed to enter data or the data entered was incomplete and inaccurate. Data entry errors included, among other things:

- inspection locations were not entered or were entered incorrectly;
- the species of fish were not identified;
- compliance with legislation and violations were not identified; and
- inspection dates and times were not entered or were incomplete.

We found that there were very few data entry controls to ensure Inspectors entered inspection data in the inspection database in a complete and accurate manner. For example, Inspectors were able to complete data entry without all required fields being populated, and were not required to choose standardized data for entry from drop boxes.

At the time of our review, the Branch indicated that a Request for Proposals had been issued for the provision of software and professional services in connection with a new Inspections, Licensing and Registration System.

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### 1B. No Inspection Plan or Schedule

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#### Introduction

During the fishing season, the Branch is responsible for carrying out inspections of fish from the point where fish are landed up to the point just prior to processing. Inspections may occur in two areas:

- Landing Sites - inspection of fish, fish handling, fishing vessels, containers, trailers and holding facilities. At the time of our review, we identified 425 landing sites in the Province where fish could be landed.
- Processing Facilities - inspection of fish, fish handling, trailers and holding facilities. At the time of our review, we identified 119 processing facilities in the Province where fish could be held prior to processing.

We also identified an additional 5 processing facilities where only aquacultured fish could be processed.

The nature, number and timing of inspections at the landing sites and processing facilities during the fishing season is dependent upon, among other things: the species of fish landed; when the fish are landed; the volume of fish landed; and whether the fish landed was processed at sea. Generally, inspections are more frequent and/or time consuming when larger volumes of fish are landed and/or if the inspection occurs at a processing facility where fish must be sampled for quality and possibly culled for disposal. There are no inspections of fish landings where fish have been processed at sea.

At the time of our review, the Branch indicated there were approximately 70,000 vessel landings totalling 199.9 million kilograms of fish at 425 landing sites during the 2010 fishing season, where the Department could have carried out an inspection of fish.

Figure 3 shows the fish landings by species during 2010, including season, number of sites, total volume, number of inspections, and volume and percentage of total volume inspected.

## Fisheries Compliance and Enforcement

**Figure 3**

**Fisheries Compliance and Enforcement  
Fish Landings by Species during 2010: Season, Number of Sites, Volume, Number of  
Inspections, Volume and Percentage of Total Volume Inspected  
As at 26 November 2010**

Species of Fish	Season		Number of Sites	Total Volume Landed (000's)	Number of Inspections	Volume Inspected (000's)	Percentage of Total Volume Landed Inspected
	Beginning	Ending					
<b>Shrimp</b>	May	November	32	56,722	357	6,321	11.14%
<b>Crab</b>	April	August	200	51,764	476	2,552	4.93%
<b>Mackerel</b>	June	December	74	27,667	39	352	1.27%
<b>Capelin</b>	June	August	57	22,618	53	438	1.94%
<b>Herring</b>	April	December	63	14,176	13	137	.97%
<b>Cod</b>	July	October	351	10,194	367	467	4.59%
<b>Other</b>	January	December	313	6,904	338	767	11.11%
<b>Whelks</b>	June	August	28	5,013	39	168	3.34%
<b>Turbot</b>	July	November	85	4,862	81	287	5.90%
<b>Seal Pelts and Flippers (number)</b>	February	April	49	100,247	1	-	-
<b>Total (excluding number of seal pelts and flippers)</b>				<b>199,920</b>	<b>1,764</b>	<b>11,489</b>	<b>5.75%</b>

Source: Department of Fisheries and Aquaculture

Note: Number of Inspections - as at 26 October 2010

The Branch is also responsible for annual inspections in connection with the licensing of in-Province retail fish establishments and fish processing facilities, and year round inspections of fish products exported from the Province through such means as ferry terminals and airports.

Figure 4 shows the number of inspections of fish, facilities and final product carried out by Inspectors in 2010.

## Fisheries Compliance and Enforcement

**Figure 4**

**Fisheries Compliance and Enforcement  
Number of Inspectors and Inspections of Fish, Facilities and Final Product in 2010  
As at 26 October 2010**

Region	Number of Inspectors	Inspection of Fish				IDG Call	Inspection of Processing Facility for Licence Renewal	Inspection of Final Product at Port aux Basques Ferry Terminal	Total
		At the Landing Site	At the Processing Facility	On Vehicle / Trailer at Site or Facility	Total				
Eastern	10	377	356	79	812	13	46	-	871
Western	7	63	171	6	240	7	2	437	686
Northern	10	330	316	66	712	4	12	-	728
<b>Total</b>	<b>27</b>	<b>770</b>	<b>843</b>	<b>151</b>	<b>1,764</b>	<b>24</b>	<b>60</b>	<b>437</b>	<b>2,285</b>

Source: Department of Fisheries and Aquaculture

Three regional offices within the Regional Services Division are responsible for planning and scheduling all inspections. Inspectors within each region are assigned a geographic area and they are responsible for carrying out inspections at landing sites, processing facilities, ferry terminals and airports located in their designated area.

Our review indicated the following:

**No inspection plan or schedule**

In order for the Fisheries inspection program to be effective there should be an annual work plan that identifies:

- the number of landings sites (sites) and processing facilities (facilities) to be inspected;
- the risks associated with each site and facility, including the vessels arriving at landing sites; and
- the timing and/or frequency of inspections required to reduce identified risks.

Inspections should be scheduled so that sites and facilities are inspected in accordance with the established timing and/or frequency. Regions must have knowledge of when and where fish will be landed and processed, including the species and volume of fish landed as Inspectors travel extensively in order to complete inspections.

## Fisheries Compliance and Enforcement

We found that Regional Offices did not prepare annual inspection work plans and inspection activity was not scheduled. Officials indicated that the timing and frequency of inspections at sites and facilities was mainly determined by the Inspector in consultation with the Inspection Supervisor, based on their knowledge of activity at landing sites and processing facilities in the Inspector's designated area. Regional Directors had little to no involvement in the planning or scheduling of inspections.

As a result, Inspectors were travelling to landing sites and processing facilities when they did not know whether there were any fish at the locations. As Figure 2 indicated, 1,512 or 42% of 3,575 records in the inspection database indicated that an Inspector arrived at a landing site or processing facility but failed to carry out an inspection because no fish had arrived or the fish that had arrived had already been processed. We found that 785 or 52% of these 1,512 failed inspections were recorded by 5 of the 27 Inspectors.

### **Landing sites are not always inspected**

We were advised by the Branch that the risk of poor fish quality is significantly reduced when there is an inspection of fish immediately upon landing as any non-compliance issues such as improper temperature, handling and stowage of fish can be addressed before the fish arrive at the processing facility. However, as Figure 4 indicates, only 770 or 44% of the 1,764 inspections of fish in 2010 occurred at the landing site while the remaining 994 or 56% of the 1,764 inspections of fish occurred at the processing facility or on a vehicle/trailer. The Department could not demonstrate whether these percentages were appropriate as it had not established any goals or objectives in this area.

At the time of our review, the Branch could not readily provide us with a consolidated listing of all fish landing sites in the Province including the region and names of Inspectors responsible for each site and the volume and value of fish landings for each site. At our request, the Branch obtained fish landing information from the Federal Department of Fisheries and Oceans who capture this information as part of their management of the fishery in the Province. The Department, in consultation with Regional Offices, then identified the region and Inspector responsible for each landing site.

Figure 5 shows the number of landing sites, the volume of fish landings and the number of inspections carried out at landing sites in 2010.

## Fisheries Compliance and Enforcement

**Figure 5**

### **Fisheries Compliance and Enforcement**

#### **Fish Landing Sites, Volume of Fish Landings and Number of Inspections in 2010**

**As at 26 November 2010**

<b>Landing Site</b>	<b>Region</b>	<b>Volume of Fish Landings (kg)</b>	<b>Percentage of Total Fish Landings</b>	<b>Number of Inspections</b>	<b>Percentage of Total Inspections</b>
Northern Landing Site 1	Northern	13,117,780	6.56%	55	7.14%
Northern Landing Site 2	Northern	7,066,594	3.53%	36	4.68%
Eastern Landing Site 1	Eastern	6,845,416	3.42%	16	2.08%
Western Landing Site 1	Western	6,572,993	3.29%	0	0.00%
Eastern Landing Site 2	Eastern	6,383,724	3.19%	68	8.83%
Western Landing Site 2	Western	6,305,613	3.15%	5	0.65%
Western Landing Site 3	Western	6,218,918	3.11%	4	0.52%
Eastern Landing Site 3	Eastern	5,741,934	2.87%	11	1.43%
Western Landing Site 4	Western	5,475,540	2.74%	4	0.52%
Northern Landing Site 3	Northern	5,045,210	2.52%	41	5.31%
Eastern Landing Site 4	Eastern	4,966,707	2.48%	12	1.56%
Northern Landing Site 4	Northern	4,624,294	2.31%	7	0.91%
Northern Landing Site 5	Northern	4,310,458	2.16%	7	0.91%
Eastern Landing Site 5	Eastern	4,089,088	2.05%	11	1.43%
Western Landing Site 5	Western	3,464,302	1.73%	2	0.26%
Western Landing Site 6	Western	3,249,446	1.63%	9	1.17%
Western Landing Site 7	Western	3,175,956	1.59%	0	0.00%
Eastern Landing Site 6	Eastern	3,083,377	1.54%	10	1.30%
Western Landing Site 8	Western	2,916,242	1.46%	0	0.00%
Western Landing Site 9	Western	2,857,360	1.43%	16	2.08%
Eastern Landing Site 7	Eastern	2,684,286	1.34%	8	1.04%
Western Landing Site 10	Western	2,662,664	1.33%	0	0.00%
Eastern Landing Site 8	Eastern	2,510,950	1.26%	1	0.13%
Western Landing Site 11	Western	2,449,738	1.23%	0	0.00%
Western Landing Site 12	Western	2,210,079	1.11%	1	0.13%
Eastern Landing Site 9	Eastern	2,052,192	1.03%	8	1.04%
Northern Landing Site 6	Northern	2,045,599	1.02%	1	0.13%
Eastern Landing Site 10	Eastern	2,017,985	1.01%	20	2.60%
Eastern Landing Site 11	Eastern	1,892,043	0.95%	2	0.26%

## Fisheries Compliance and Enforcement

Landing Site	Region	Volume of Fish Landings (kg)	Percentage of Total Fish Landings	Number of Inspections	Percentage of Total Inspections
Northern Landing Site 7	Northern	1,857,258	0.93%	0	0.00%
Eastern Landing Site 12	Eastern	1,758,827	0.88%	0	0.00%
Eastern Landing Site 13	Eastern	1,703,239	0.85%	5	0.65%
Eastern Landing Site 14	Eastern	1,699,184	0.85%	31	4.02%
Northern Landing Site 8	Northern	1,649,488	0.83%	0	0.00%
Western Landing Site 13	Western	1,583,380	0.79%	0	0.00%
Eastern Landing Site 15	Eastern	1,349,147	0.67%	5	0.65%
Eastern Landing Site 16	Eastern	1,323,536	0.66%	13	1.69%
Western Landing Site 14	Western	1,316,770	0.66%	0	0.00%
Eastern Landing Site 17	Eastern	1,266,461	0.63%	0	0.00%
Northern Landing Site 9	Northern	1,217,310	0.61%	0	0.00%
Eastern Landing Site 18	Eastern	1,216,611	0.61%	9	1.17%
Eastern Landing Site 19	Eastern	1,177,977	0.59%	4	0.52%
Western Landing Site 15	Western	1,164,516	0.58%	0	0.00%
Western Landing Site 16	Western	1,154,221	0.58%	8	1.04%
Eastern Landing Site 20	Eastern	1,149,510	0.57%	4	0.52%
Northern Landing Site 10	Northern	1,114,817	0.56%	0	0.00%
Western Landing Site 17	Western	1,079,740	0.54%	4	0.52%
Western Landing Site 18	Western	1,059,459	0.53%	0	0.00%
Northern Landing Site 11	Northern	1,016,723	0.51%	20	2.60%
Remaining Landing Sites (376)		47,025,712	23.53%	312	40.51%
<b>Total (425)</b>		<b>199,920,374</b>	<b>100.00%</b>	<b>770</b>	<b>100.00%</b>

Source: Department of Fisheries and Aquaculture

Note: Number of Inspections – as at 26 October 2010

As Figure 5 shows, there were 770 inspections carried out at various landing sites where there was 199.9 million kilograms of fish landings in 2010.

Our review indicated that inspections of fish at landing sites were not being carried out in a representative manner and numerous landing sites with significant volumes of fish landings were not inspected at all. We found the following:

## Fisheries Compliance and Enforcement

- No inspections were performed at 310 (73% of the 425) fish landing sites where a total of 57.2 (29% of the 199.9) million kilograms were landed. In particular, 15 of the 310 landing sites not inspected had more than 1.0 million kilograms of fish landings and accounted for 31.8 (16% of 199.9) million kilograms of fish. Nine of the 15 landing sites were located in the Western Region and 1 of 9 landing sites had fish landings totalling 6.6 million kilograms.
- Inspections were not scheduled in a representative or risk-based manner. We found that 192 (or 25% of the 770) of total inspections occurred at 16 landing sites where only 7.0 million kilograms or 4% of total fish landings occurred. Furthermore, of the 16 sites, there was 1 site where 38 or 5% of total inspections were carried out and only 690,000 kilograms or 0.3% of total fish landings occurred, and there was 1 site where 5 inspections were carried out and only 181 kilograms of fish landings occurred.

### Inspections carried out not representative of the volume and risk for each species landed

Figure 3 indicates the following:

- Shrimp landings totalling 56.7 million kilograms or 28% of the 199.9 million kilograms of fish landed, had 357 inspections and Cod landings totalling just 10.2 million kilograms or 5% of the 199.9 million kilograms of fish landed, had 367 inspections. As a result, there were 10 more inspections of Cod than of Shrimp when there were 46.5 million kilograms more Shrimp than Cod landed during the year.
- The Branch inspected 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms, and inspected 0.5 million kilograms or approximately 4.9% of the Cod landings totalling 10.2 million kilograms. This shows that the percentage of Cod landings inspected was approximately the same as the percentage of Crab landings inspected, even though there was a greater food safety risk associated with Crab.
- The Branch inspected 6.3 million kilograms or approximately 11.1% of the Shrimp landings totalling 56.7 million kilograms, while just 2.6 million kilograms or approximately 5.0% of the Crab landings totalling 51.8 million kilograms were inspected. This shows that the percentage of Shrimp landings inspected was significantly greater than the percentage of Crab landings inspected, even though there was a greater food safety risk associated with Crab.

## Fisheries Compliance and Enforcement

- The quality of seal pelts produced in the Province is important in order to maintain markets. There were approximately 67,000 seal pelts and 33,000 seal flippers landed in the Province during 2010, however the Branch only carried out one inspection of seal pelts and there were no inspections of seal flippers.

The Department could not demonstrate whether the disproportionate number and percentage of inspections was appropriate because the Branch did not assess the risk and determine the inspection frequency required for these, or any, of the species of fish landed.

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### Inspection activity decreased in 2010

The Branch carried out 2,285 inspections in 2010 as indicated in Figure 4. However, this is 1,432 inspections fewer than the 3,717 inspections the Branch indicated were carried out in 2009.

We found that 686 of the 1,432 fewer inspections were the result of fewer inspections of final product at the Port aux Basques Ferry Terminal in the Western Region. The Branch indicated that this was the result of having just one Inspector at the Port aux Basques Ferry Terminal in 2010, while there were two in 2009.

At the time of our review, the Branch could not explain the remaining 746 fewer inspections. As Figure 4 indicates, Inspectors in the Western Region only carried out 240 or 14% of the 1,764 inspections of fish that were carried out in 2010. Even though the volume of fish landings in the Western Region was comparable to the other two regions, the Branch did not know whether the lower level of inspection activity was acceptable. However, the Branch did indicate that there was significant Inspector turnover in the Western Region during 2010 due to illness, retirements and transfers.

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### Inspections of fish products leaving the Province are inadequate

Fish processors export over 90% of the average \$932 million of fish produced each year in the Province. The Branch indicated that almost all fish products are exported on trailers via the Port aux Basques Ferry Terminal which operates 24 hours a day, year round. Inspector(s) are stationed at the ferry terminal and carry out inspections to determine, among other things, whether the fish product is coming from a licensed processor and meets the required minimum processing and labeling requirements. The Branch indicated that Inspectors carried out 437 inspections of trailers carrying 7.9 million kilograms of fish product at the ferry terminal between the period 1 January 2010 and 30 November 2010. Our review indicated the following:

## Fisheries Compliance and Enforcement

- The Branch could not provide information on the total number of trailers leaving the Province each year with fish products. Furthermore, although fish products can be exported out of the Province by air, cargo ship, Marine Atlantic ferries and road (Labrador), the Branch only carried out routine inspections of trailers at the Port aux Basques Ferry Terminal and ad hoc inspections of cargo at the St. John's International Airport. The Branch could not provide evidence to show the quantities, if any, that may be shipped from the Province by other means.
- In 351 or 80% of the 437 trailers the Branch indicated as being inspected, we found that the Inspector did not examine the 6.4 million kilograms of fish product inside the trailers to determine whether the processor was licensed to export the fish and that the fish met the minimum processing and labeling requirements.
- Inspections of trailers at the Port aux Basques Ferry Terminal were not carried out in a representative manner. As at 30 November 2010, the Branch had carried out the 437 inspections during only 71 of the 334 days where trailers carrying fish products may have departed the Province. As a result, trailers leaving the Province during the remaining 263 days were never inspected.

Furthermore, trailers arriving and departing the Province outside of normal business hours (7 hours per day, 5 days per week) were never inspected.

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### **Calls to the toll free line not always addressed by Inspectors**

The quality of Shrimp and Crab at landing sites are assessed by Independent Dockside Graders (IDGs) who are licensed by the Branch. IDGs are employed by the Association of Seafood Processors (ASP) to assess the quality of Crab and Shrimp which helps determine the price and volume at which harvesters sell to processors. The IDGs are required to alert the Branch when critically weak or dead Crab and tainted, decomposed or unwholesome (TDU) Shrimp are found.

The Branch maintains a 24 hour toll-free telephone line where IDGs can report incidents of dead/weak Crab and TDU Shrimp. The IDGs may speak directly to the toll-free operator during the hours of 3:00 pm to 10:00 pm from Wednesday to Sunday; otherwise a message must be left. The details of all calls received by the operator are emailed to Inspection Supervisors and logged into a Microsoft Excel spreadsheet. Messages left by the IDGs are normally retrieved by an Inspector and subsequently logged into the database by the toll-free operator.

## Fisheries Compliance and Enforcement

During the period 24 April 2010 to 16 October 2010, the Branch had recorded 491 telephone calls from IDGs reporting instances of dead/weak Crab or TDU Shrimp. We reviewed the IDGs' call listing and found the following:

- For 365 or 74% of the 491 IDGs' calls received, the Branch could not provide evidence as to whether an Inspector investigated the call.
- For 126 or 26% of the 491 IDGs' calls, an Inspector recorded the results of their investigation in the inspection database. In 102 of the 126 cases, the Inspector made a telephone call to the processing facility and determined that the Crab or Shrimp had already been either disposed of or processed. In the remaining 24 cases, the Inspector ordered and witnessed the disposal of dead Crab or TDU Shrimp.

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### 1C. Inspection Forms Not Completed as Required

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#### Introduction

Inspections of fish at landing sites, including fish on vessels and trailers and in containers and holding facilities are focused on determining compliance with quality assurance, sanitation requirements and storing, handling and transporting requirements under the *Fish Inspection Operations Regulations*. Key areas of compliance include ensuring that fish storage height and weight does not exceed the maximum allowable and that fish temperature does not exceed the maximum allowable. Inspectors may order the detention or disposal of any fish that is tainted, decomposed or unwholesome (TDU). Inspectors are required to document the results of inspections on a Quality Assessment Form (QAF).

Inspections of fish at the processing facility are focused on determining the grade and/or quality of fish that is ready for processing. Inspectors may order the detention or disposal of any fish that do not meet grade or quality standards. Inspectors are required to document the results of inspections on a Quality Inspection Form (QIF).

We randomly selected a sample of 100 inspections from the 1,848 inspections that were recorded in the inspection database during 2010.

Figure 6 shows the details of our sample from the inspection database.

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## Fisheries Compliance and Enforcement

**Figure 6**

**Fisheries Compliance and Enforcement  
Details of Sample from Inspection Database  
Calendar Year 2010**

Documentation	Number of Inspections	%
Inspections where no inspection report could be provided	32	32
Inspections documented using a Quality Assessment Form (QAF)	43	43
Inspections documented using a Quality Inspection Form (QIF)	23	23
<b>Sub-total (Inspections of Fish)</b>	<b>98</b>	<b>98</b>
Inspections documented using a Trailer Condition Form (TCF)	2	2
<b>Total</b>	<b>100</b>	<b>100</b>

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We identified the following issues:

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**Inspection results are not always documented on the required inspection form**

The Branch did not provide us with an inspection form for 32 or 32% of the 100 inspections we selected for review and as a result, we were unable to determine whether the Inspector carried out the required procedures and that the results recorded in the inspection database were accurate and complete. Our review indicated the following:

- For 15 or 47% of the 32 inspections, the Inspector did not complete an inspection form as required, but recorded the results of their inspection in a notebook. We reviewed the notes provided by Inspectors but could not determine the inspection results.
- For 11 or 35% of the 32 inspections, the Branch indicated that the Inspector did not complete an inspection report as required, but recorded the results of the inspection in a notebook which was destroyed following data entry into the inspection database.
- For 3 or 9% of the 32 inspections, the Inspector did not complete an inspection report as required, but completed an incident report due to the presence of TDU fish. In all 3 cases the Inspector ordered the disposal or re-labeling of the TDU fish. In only one instance did the Inspector issue a ticket for the offence causing the TDU fish.

## Fisheries Compliance and Enforcement

- For 3 or 9% of the 32 inspections, the Branch indicated they could not provide any documentation to support the inspection results recorded in the inspection database.

### Quality assurance inspections not always carried out and documented as required

Our review indicated that for 43 or 63% of the 68 inspections where the Inspector documented the results of their inspection, a Quality Assessment Form (QAF) was used. Where a QAF is used, the Branch requires the Inspector to sample six containers of fish to determine compliance with key temperature and storage requirements under the *Fish Inspection Operations Regulations* as follows:

*“Where unprocessed fish intended for processing is on board a vehicle; being transported; or being held in a holding area or chill room...the fish shall be...*

- *stowed in a container so that the depth of fish and ice does not exceed 90 centimetres...;*
- *in the case of fish other than Shrimp, iced or chilled in a manner so as to maintain the temperature of the fish below 4 ° and in the case of Shrimp, iced or chilled in a manner so as to maintain the temperature of the Shrimp below 3° ;*
- *in the case of Shrimp, stored in bags not to exceed 11.5 kilograms per bag or in 70-litre capacity stackable tote pans not to exceed 25 kilograms per tote pan; and*
- *in the case of Crab, stored in 70-litre capacity stackable tote pans not to exceed 23 kilograms per tote pan.”*

Pelagics, such as capelin, which may be stored in bulk, are not subject to weight and height requirements.

Our review of the Quality Assessment Forms (QAF) completed in connection with the 43 inspections indicated that Inspectors were not always completing the QAF as required, sampling the required numbers of fish to determine compliance with legislation, and issuing warnings or tickets when non-compliance was found. We found the following:

## Fisheries Compliance and Enforcement

- In 21 or 49% of the 43 inspections where the fish inspected was Shrimp or Crab, we found:
  - In 12 of the 21 cases, the Shrimp or Crab was stored in bags or boxes. In most cases, the Inspector did not sample the required number of bags/boxes of fish to determine compliance with weight and height requirements. In 5 of the 12 cases, the Inspector did not sample the required number of fish to determine compliance with temperature requirements. In 4 of the 12 cases where the Inspector recorded non-compliance with weight requirements, in only one instance did the Inspector indicate that a warning or ticket was issued.
  - In 7 of the 21 cases, the Shrimp or Crab was stored in bulk, contrary to legislation and the Inspector issued no warning or ticket. In 2 of the 7 cases, the Inspector did not sample the required number of fish to determine compliance with temperature requirements.
  - In 2 of the 21 cases, the Inspector did not indicate how the Shrimp or Crab was stored. In 1 of the 2 cases, the Inspector did not sample the required number of fish to determine compliance with temperature requirements.
- In 18 or 42% of the 43 inspections where the fish inspected was Groundfish (Cod, Flounder and Turbot), we found:
  - In 10 of the 18 cases, the Groundfish were stored in boxes. In none of the 10 cases did the Inspector sample the required number of boxes of fish to determine compliance with height requirements. In 4 of the 10 cases, the Inspector did not sample the required number of fish to determine compliance with temperature requirements. In 4 cases where the Inspector recorded non-compliance with temperature requirements, in only one instance did the Inspector indicate that a warning or ticket was issued.
  - In 6 of the 18 cases, the Groundfish were stored in bulk, contrary to legislation and the Inspector issued no warning or ticket. In 3 of the 6 cases, the Inspector did not sample the required number of fish to determine compliance with temperature requirements.
  - In 2 of the 18 cases, the Inspector did not indicate how the Groundfish were stored and did not sample the required number of fish to determine compliance with temperature requirements.

## Fisheries Compliance and Enforcement

- In 3 or 7% of the 43 inspections where the fish inspected were multiple species or unidentified species, we found:
  - In 2 of the 3 cases, the fish was stored in boxes and the Inspector did not sample the required number of boxes of fish to determine compliance with weight, height and temperature requirements.
  - In 1 of the 3 cases, the Inspector did not indicate how the fish was stored and did not sample the required number of fish to determine compliance with temperature requirements.
- In 1 or 2% of the 43 inspections where the fish inspected was capelin, we found that the Inspector sampled the required number of fish to determine compliance with temperature requirements.

### **Quality Inspections not always carried out and documented as required**

Our review indicated that for 23 or 34% of the 68 inspections where the Inspector documented the results of their inspection, a Quality Inspection Form (QIF) was used. Where a QIF is used, the Department requires that the Inspector sample a specific number of fish based on the overall volume of fish that is ready for processing. The Inspector is required to take random and representative samples from fish lots to determine compliance with key temperature, quality, liveliness and grading standards established in the legislation and the Department's Enforcement and Inspection Policies and Procedures Manual.

Our review of the Quality Inspection Forms completed in connection with the 23 inspections indicated that Inspectors were not always completing the QIF as required, sampling the required numbers of fish to determine compliance with Department policies and procedures, and issuing warnings or tickets when non-compliance was found. We found the following:

- In 11 or 48% of the 23 inspections, the fish inspected was Crab where Inspectors must order the detention, culling and disposal of Crab when more than 5% of the sampled lot is found to be dead. We found:
  - In all 11 cases, the Inspector did not indicate whether there was any foreign material present such as glass or fuel.
  - In 3 of the 11 cases, the Inspector did not sample the required number of Crab to ensure that no more than 5% of the Crab lot was dead and therefore acceptable for processing.

## Fisheries Compliance and Enforcement

- In 5 of the 11 cases, the Inspector did not sample the required number of Crab to determine compliance with temperature requirements.
- In 3 of the 11 cases where the Inspector recorded non-compliance with temperature requirements, no warning or ticket was indicated as being issued.
- In 6 or 26% of the 23 inspections, the fish inspected was Shrimp where Inspectors must order the detention, culling and disposal of Shrimp when more than 5% of the sampled lot is found to be TDU. In one of the 6 cases we could not determine whether the sample of Shrimp taken by the Inspector was appropriate because the lot weight was not recorded.
- In 4 or 17% of the 23 inspections, the fish inspected was Groundfish where Inspectors must order the detention, culling and disposal of Groundfish when more than 10% of the sampled lot is found to be rejected due to odor. We found:
  - In all 4 cases, the Inspector did not indicate whether there was any foreign material present such as glass or fuel.
  - In 3 of the 4 cases, the Inspector did not sample any fish to determine compliance with temperature requirements. In the other case, the Inspector did not sample the required number of fish to determine compliance with temperature requirements.
  - In 2 of the 4 cases, we could not determine whether the sample taken by the Inspector was appropriate because the volume of the lot was not recorded. In one of the 2 cases, the Inspector indicated he could *“only go 20 fillet end of shift”*.
  - In 2 of the 4 cases, the Inspector did not grade the Groundfish for color, odor, texture, blood clots, and bruising as required.
  - In 1 of the 4 cases, the inspector recorded their inspection on a QIF when a QAF was required.
- In 2 or 9% of the 23 inspections, the fish inspected was Mussels where we could not determine whether the sample taken by the Inspector was appropriate because the Department does not have inspection procedures for Mussels.

## Fisheries Compliance and Enforcement

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**Trailer condition form being used when there are no procedures for its use**

Our review indicated that for 2 or 3% of the 68 inspections where the Inspector documented the results of their inspection of a trailer, a Trailer Condition Form (TCF) was used. We could not determine whether inspection results recorded on the TCF were appropriate because the Department had not developed inspection procedures for Trailers.

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**Inspection policy and procedure manual is incomplete**

The Branch documents its policies and procedures with respect to inspections in an Enforcement and Inspection Policies and Procedures Manual (Manual). The Manual provides guidance to Inspectors in carrying out their day-to-day duties. Our review indicated that the Branch had not developed policies and procedures with respect to many important inspection areas such as:

- inspection procedures for Pelagics;
- inspection procedures for Whelk;
- inspection procedures for Mussels and Scallops;
- inspection procedures for Lobster;
- inspection procedures for trailers carrying fish for processing; and
- inspection equipment checks and usages.

Furthermore, the Manual includes a Corrective Action Report and a Trailer Condition Form which the Manual does not reference as being necessary to complete during any of the documented inspection procedures. The Branch indicated that it has not formulated procedures with respect to the Inspector's required use of these forms; however, it is possible that some Inspectors may be using the forms anyway.

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### Recommendations

The Department should:

- continue with its efforts to develop and implement a new Inspections, Licensing and Registration System;
- implement data entry controls and review inspection reports to ensure that Inspectors are entering inspection data in the inspection database in a complete and accurate manner;
- plan inspections to assess the risk associated with each species of fish, landing site and processing facility and schedule inspections based on the assessed risk;
- work more closely with DFO in order to identify and monitor all fish landing sites in the Province;
- schedule inspection activity at the Port aux Basque Ferry Terminal to ensure they are carried out in a representative manner;
- investigate all telephone calls received from Independent Dockside Graders reporting dead or weak Crab and TDU Shrimp in a timely manner and ensure Inspectors record and report the results of the investigations;
- ensure Inspectors follow established procedures including sampling the required number of fish to determine compliance with weight, height, temperature, quality and grade requirements;
- ensure Inspectors document the results of their inspection on the required inspection form in a complete and comprehensive manner; and
- develop inspection procedures for Pelagics, Whelk, Mussels, Scallops, Lobster and trailers carrying fish for processing.

### 2. Enforcement

#### Introduction

The Branch uses a number of measures to enforce the *Regulations* under the *Fish Inspection Act*, including issuing formal warnings and tickets, the laying of charges, and administrative penalties.

In 2009 Fisheries Inspectors commenced issuing tickets under the *Provincial Offences Act* for violations of provisions in the *In-Province Retail Fish Establishment Regulations* and the *Fish Inspection Operations Regulations*. The *Fish Inspection Ticket Offences Regulations* prescribes fines for approximately 170 offences in amounts ranging from \$100 to \$500 depending on the provision violated and whether the ticket is a first, second or third offence. When Inspectors identify an offence where a ticket may be issued they are required to complete an incident report, and issue a formal warning or ticket. Inspectors may issue a verbal warning in some circumstances.

The Branch indicated that the ticketing system allows Inspectors to deal with less severe fish quality and/or food safety issues in a timely manner, such as:

- failure to protect fish from physical damage, contamination and weather;
- stowage of fish and ice exceeding 90 centimetres;
- failure to maintain temperature of fish as required;
- use of fork, gaff, tool or similar equipment contrary to requirements;
- using unclean ice or ice from an unapproved water source;
- presence of domestic animals contrary to requirements; and
- storage of fish against bulkheads contrary to requirements.

More severe offences are not ticket-able and include, among other things: buying or processing fish without a licence; processing dead shellfish; processing or marketing fish that is tainted, decomposed or unwholesome; harassing or refusing to admit an Inspector; and moving fish under detention. Inspectors refer such offences to the Compliance and Enforcement Division where a formal investigation is carried out to determine whether charges should be laid. If there is a conviction where charges are laid, the offender may be fined \$5,000 to \$100,000 and/or be imprisoned.

## Fisheries Compliance and Enforcement

Certain offences, such as processors failing to report production and other information to the Branch as required, or processors failing to process Snow Crab as required, are enforced through administrative penalties.

We reviewed the Branch Summary Offence Ticket Procedures and the ticket database for the period 1 January 2009 to 30 November 2010. We also held discussions with Branch officials. We identified the following issues:

**Very few formal warnings and tickets are being issued**

Formal warnings and tickets may be issued directly to skippers of fishing vessels, persons handling or offloading fish, truck drivers, fish buyers and fish processors.

Figure 7 shows the number of formal warnings and tickets issued by region for the calendar years 2009 and 2010.

**Figure 7**

### Fisheries Compliance and Enforcement Tickets and Formal Warnings Issued by Region Calendar Years 2009 and 2010

Region	Formal Warnings Issued		Tickets Issued	
	2009	2010	2009	2010
Eastern	22	7	4	2
Western	33	9	24	2
Northern	14	3	4	6
<b>Total</b>	<b>69</b>	<b>19</b>	<b>32</b>	<b>10</b>

Source: Department of Fisheries and Aquaculture

As Figure 7 shows, Inspectors issued a total of 19 formal warnings and 10 tickets during inspections carried out in 2010 and a total of 69 formal warnings and 32 tickets during inspections carried out in 2009. The majority of the warnings and tickets were issued to skippers of fishing vessels for failing to comply with temperature and stowage requirements.

We asked the Branch why there were only 29 instances in 2010 where a formal warning or ticket was issued when there were 2,285 inspections carried out to determine compliance with any number of 170 ticket-able offences that may have been applicable. The Department indicated they did not know whether the number and nature of formal warnings and tickets being issued by Inspectors was sufficient or appropriate.

## Fisheries Compliance and Enforcement

Our review indicated 78 or 60% of the 130 formal warnings and tickets issued during the two year period 2009 and 2010 were issued by just 7 or 23% of the 31 Inspectors on staff during the period. One Inspector on staff during the period never issued a formal warning or a ticket.

### **No guidance for Inspectors in using warnings and tickets**

The Branch provided Inspectors with Summary Offence Ticket Procedures identifying the offences where tickets may be issued, to whom tickets may be issued, how tickets should be completed, and other administrative and accounting procedures. However, the Branch had not provided Inspectors with any guidelines to assist them in determining whether a verbal warning, formal warning or ticket should be issued when a ticket-able offence has been identified. The Branch indicated that Inspectors were provided with enforcement training in 2009 from a member of the Royal Newfoundland Constabulary where it was indicated that issuing a verbal warning, formal warning or ticket was at the discretion of the Inspector.

We held discussions with Branch Officials including Inspectors and received varying responses as to when and under what circumstances a verbal warning, a formal warning, or a ticket should be issued. As a result, we could not determine when an Inspector should issue a verbal warning, a formal warning or a ticket.

### **Information system inadequate**

When an Inspector issues a ticket they are required to create a case file including: a copy of the ticket, a completed incident report; and photographs. This documentation is forwarded to a Case Management Officer with the Compliance and Enforcement Division where it is reviewed, entered into a Microsoft Excel spreadsheet (ticket database) and filed.

For the 2010 inspection year, we had difficulty reconciling the ticket database with the inspection database. We found:

- In 2 or 20% of the 10 cases where a ticket was issued, there was no corresponding inspection in the inspection database.
- In 3 or 16% of the 19 cases where a formal warning was issued, there was no corresponding inspection in the inspection database.
- None of the 25 verbal warnings recorded in the inspection database were captured in the ticket database.

## Fisheries Compliance and Enforcement

### Policy and Procedure Manual incomplete

The Branch documents its policies and procedures with respect to enforcement in an Enforcement and Inspection Policies and Procedures Manual (Manual). The Manual provides guidance to Inspectors in carrying out their day-to-day duties. Our review indicated that the Branch had not documented procedures with respect to carrying out investigations in connection with significant violations under the Fisheries legislation.

### Recommendations

The Department should:

- develop guidelines to assist Inspectors in determining when a warning or ticket should be issued for identified ticket-able offences;
- monitor inspections to ensure that Inspectors are issuing warnings and tickets when a ticket-able offence is identified;
- ensure that all warnings and tickets issued are captured in the inspection database; and
- develop procedures for investigations into significant violations of Fisheries legislation.

## 3. Management of the Compliance and Enforcement Program

### Introduction

In order for any program to be effective, it must be monitored by management to ensure that service standards and performance targets are met.

### Inspection activity not planned, scheduled and monitored

Our review indicated that the Branch had not effectively managed the Fisheries Compliance and Enforcement Program because the Branch:

- had not established goals and objectives for the Compliance and Enforcement Program, including performance measures for inspection and enforcement activity.
- did not plan, schedule and monitor inspection activity to ensure Inspectors were carrying out their duties as required.

## Fisheries Compliance and Enforcement

- did not review inspection forms and reports prepared by Inspectors to ensure they were complete and accurate.
- did not have a complete and accurate inspection database. We found the inspection database to be significantly inadequate, inaccurate and incomplete and information necessary to manage the program could not be readily obtained from this database.

During 2010, inspections were not carried out in a representative or risk-based manner. We found that Inspectors were carrying out inspections without direction from management and were spending a significant portion of their time travelling to landing sites and processing facilities when there were no fish present for inspection. Furthermore, when fish were present for inspection we found that Inspectors were not always completing inspection forms, did not always follow the required inspection procedures and were not always issuing warnings and tickets when there was an identified offence.

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### **Activities not reported in 2010 Annual Report**

The Department did not know whether inspection and enforcement activities were successful in maximizing fish quality and food safety. The Department's annual report for the 2010 fiscal year which was provided to the House of Assembly, did not provide any information on the results of inspection and enforcement activity.

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### **Vacant staff positions**

The Branch has a total of 34 staff positions approved for Fisheries Inspectors to carry out inspections. At the time of our review, five or 15% of the 34 positions were vacant and the Branch indicated that there was significant staff turnover in the Western Region in 2010 due to illness, retirement and transfers. This contributed to the Branch carrying out less inspections in 2010 compared to previous years. The Branch indicated that Inspector turnover/transfer throughout regions has been a challenge and that measures were being taken to address these issues.

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## Fisheries Compliance and Enforcement

### Recommendations

The Department should:

- develop goals and objectives, including performance measures for the Compliance and Enforcement Program;
- plan, schedule and monitor inspection activity to ensure that goals and objectives are achieved;
- report whether inspection and enforcement activities met the established goals and objectives;
- ensure the inspection database captures all required inspection data in a complete and accurate manner; and
- ensure there are sufficient Inspectors to carry out the scheduled inspections.

### Department's Response

*The Department of Fisheries and Aquaculture (the Department) has reviewed the Auditor General's Report (AG Report) of the Fisheries Compliance and Enforcement Program and acknowledges the Auditor General's comment that fisheries inspections are completed with limited planning and no clear goals. While in theory, scheduling of inspections would be desirable, the nature of the Newfoundland and Labrador inshore fishery is very intense and erratic and it does not lend itself to this type of planning. It is impossible to inspect fish landings at every port or fish in every plant, so the Department has deployed inspectors in the areas that have been determined to be priorities and where there is greatest potential for quality-related problems. Within this framework, inspections are performed on a responsive and proactive basis.*

*There are currently two classifications of employees who conduct fish inspections. Fisheries Field Representatives are mostly full-time employees that conduct inspections and also perform other duties throughout the year. Fisheries Inspection Officers are seasonal employees that start in the spring when fisheries become more intense. These employees are located in various areas around the province, allowing them to deal with real time inspection issues. For example, inspectors are able to respond when there is a soft shell problem in crab or in late June and July when crab are molting. When the*

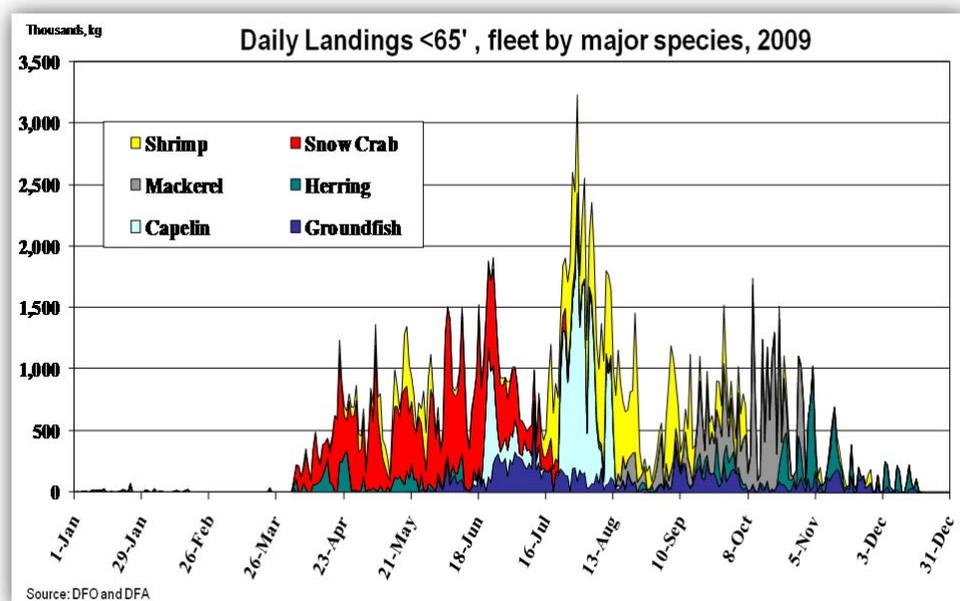
## Fisheries Compliance and Enforcement

fishery is open on the St. Pierre Banks, it is known there will be a soft texture problem and inspectors can be available when fish is landed from this area.

### Overview of Fishing Industry

In Newfoundland and Labrador, in 2010, there were 70,000 landings of fish at 425 landing sites and processed in 124 fish processing plants. Shellfish, mainly snow crab and shrimp, are the province's highest value species and much inspection activity is focused on them. In 2009, crab and inshore shrimp accounted for landings of roughly 99,160 tonnes and \$207 million in landed value.

Most fisheries occur over a very short time period and are landed in very high volumes. Over 60% of crab and shrimp are landed within a six-week period and in high volumes. Pelagic fisheries (capelin, herring and mackerel) are extremely erratic. There are years when mackerel does not migrate to our waters and the timing and extent of mackerel availability is quite variable from year to year. It is also difficult to pinpoint when herring will be available and suitable in a particular fishing area, and often this species is landed over approximately one week in any particular area. Very high volumes of capelin are landed over a one or two-week period and the fishery is dependent on many factors such as size, roe-bearing percentage and red-feed content. Groundfish species, including cod, are landed year round at a large number of landing sites and in very low volumes. The following graph gives a picture of the landing periods and volumes for crab, shrimp, pelagics, and groundfish.



## Fisheries Compliance and Enforcement

### Inspection and Scheduling

*Newfoundland and Labrador has many more landing ports than any of the Atlantic Provinces. Even if the Department had a full complement of 31 fisheries inspectors it would not be possible to effectively cover all landing ports and fish processing plants; therefore, the focus is placed on areas with the highest volumes, most valuable species and known/probable areas of quality-related challenges.*

*The Department has 33 inspection positions, 2 of which are dedicated exclusively to aquaculture inspections. There are also three regional Fisheries Supervisors. The supervisors do not conduct inspections, other than as part of their supervisory/training duties with other inspectors. In 2010, due to staff vacancies (5) and illnesses (4), there were only 22 inspectors available for several months. These 22 inspectors were required to cover the 425 landing sites and the 124 fish processing facilities, plus some coverage of retail operations in the province.*

*As inspectors are located throughout the province; there may be inconsistencies in the numbers of inspections for various species. For example, crab and shrimp are not landed on the southwest coast. An inspector who is assigned to an area with mainly cod landings usually conducts more inspections than an inspector in another area who is dealing with crab or shrimp. There are many more landings of cod than crab and shrimp. In 2010, DFO's preliminary numbers show that for vessels less than 65 feet there were approximately 29,000 landings of cod, 2,400 landings of shrimp and 16,000 landings of crab. Cod is landed in very low volumes and if fished from small boats, many of which may land at the same time, and over a large number of landing sites. An inspector could conduct several inspections of cod per day either at a wharf or a plant if no major issues are detected, whereas the same inspector may only be able to conduct one or two inspections of crab or shrimp per day due to the high volume of individual landings, especially if problems are encountered.*

*Due to the nature and seasonality of the Newfoundland and Labrador fishery it is logistically difficult to schedule inspections; however, the Department is exploring this matter, especially in relation to crab, shrimp and groundfish species to determine if a risk management schedule can be devised. For pelagic species (capelin, herring and mackerel), it is likely not possible to schedule due to the intense, widely dispersed and largely unpredictable nature of these fisheries. The Department of Fisheries and Oceans (DFO) historic landings and DFA production data is somewhat beneficial to aid in scheduling shrimp, crab and groundfish inspections; however, there is significant variability from year to year. These data would not be beneficial in scheduling pelagic inspections due to the opportunistic nature of these fisheries.*

### Performance Indicators

*On [page number], the AG Report indicates the “Branch could not explain the remaining 746 fewer inspections.” It was explained that in 2010 the Branch had 5 vacant inspector positions and 4 inspectors were off for extended periods on sick leave. In addition, in 2009, the supervisors conducted inspections but not in 2010 due to a clarification of their role. This would account for most of the decrease in inspections. The number of inspections is not a good performance indicator of the program’s efficacy. As noted, it takes much longer to inspect crab or shrimp than other species such as cod; especially when problems are found. It is more valuable to the program’s objectives to have quality inspections, rather than quantity. A measure that is monitored closely is the disposal of Tainted, Decomposed and Unwholesome (TDU) fish. This is one of the most important enforcement measures for maximizing fish quality and food safety. There were 644,639 lbs of fish that were ordered to be disposed of by inspectors in 2010, of which 208,261 lbs were crab and 421,393 lbs were shrimp. This is a loss of approximately \$500,000 to harvesters and/or processors, which constitutes an enormous deterrent to those firms and harvesters, as opposed to other enforcement measures such as ticketing.*

### Summary Offence Tickets

*Prior to 2007, the only legal option that could be taken by the Department for infractions of the Fish Inspection Act and regulations was the laying of charges. The Department was reluctant to lay charges for smaller offences due to time and cost. Also, associated fines were excessively high relative to the seriousness of the offence (e.g., minimum fine of \$5,000 for a first offence). In order to deal more effectively with legal requirements related to enforcement activities, the Department has undertaken several initiatives such as intense training for inspectors and the development of a ticketing option.*

*The Department introduced the ticketing system in 2009. The inspectors were trained for the issuance of Summary Offence Tickets (tickets) by the Royal Newfoundland Constabulary. The Department elected to take a go-slow approach to the issuance of tickets for the following reasons:*

- 1. The fishing industry is one of the most highly regulated industries in the province, so there was potential for resistance to regulatory changes and increased enforcement measures.*
- 2. Many of the ticketable offences were related to the new regulations that were established in 2007 and 2008.*
- 3. Industry had to understand the new regulations and that tickets could now be issued.*

## Fisheries Compliance and Enforcement

4. *Inspectors have played an educational role in helping industry understand the new regulations and the ticketing program in preparation for more frequent application of this regulatory tool.*
5. *Inspectors had to learn and adapt to the change, which takes time and training.*

*The ticketing system is a more efficient mechanism to deal with less serious offences and has been a deterrent for industry participants who are non-compliant with seafood handling regulations.*

### *Canadian Food Inspection Agency, Food Safety and Quality Assurance*

*The Canadian Food Inspection Agency (CFIA) is responsible for and mandated to monitor and enforce food safety legislation of all food products that are exported from this province. The Department of Fisheries and Aquaculture does not have a specific mandate to regulate food safety per se. CFIA issues export and health certificates for products being exported to various countries, depending on the countries' import requirements. When there is a food safety issue, CFIA is the responsible agency for issuing food recalls or taking other necessary measures. The Department's mandate is to assist the industry improve the overall quality and consistency of our seafood and to enhance the reputation of Newfoundland and Labrador's seafood in the marketplace.*

*Several years ago, CFIA adopted a self-regulating approach to the monitoring and enforcement of seafood safety. This shift in operational practice by CFIA left gaps that the province's inspection program now covers, particularly with respect to inspections at dockside and in the holding rooms of fish processing facilities. In order to improve efficiency and avoid duplication of effort, the Department's inspectors conduct inspections at dockside and at the plant to the point of processing, whereas CFIA focuses on in-plant activity and final product inspections.*

*The Department's commitment to assist the industry in maximizing the quality of seafood cannot be reached through inspection alone. The regulations only permit our inspectors to deal with product that is TDU, inadequately iced, improperly stored, and so on. Inspectors do not grade product and do not dispose of any product for low grades or quality. The Department has put in place educational programs and projects to help the industry increase its seafood quality; for example, a quality seafood brochure for whelk, a brochure and video of seal harvesting for quality and a shrimp quality project. Anecdotal reports from industry and the marketplace suggest that there has been a significant increase in quality in recent years, in part related to the Department's compliance and enforcement efforts.*

## Fisheries Compliance and Enforcement

*According to the report in 1997 from the Fisheries Association of Newfoundland and Labrador (FANL), A Study into Quality Issues in the Newfoundland Crab Industry, during the 1995 crab fishing season FANL commissioned a study which showed that approximately 40% of crab landed was dead. The 1997 report also indicated that Japanese importers shifted to buying Newfoundland crab in 1995 and 1996 as a replacement for reduced supplies from Alaska. The Japanese ran into quality problems and suffered considerable losses. Based on these concerns, the Department made a decision to begin an intensive inspection and educational program at dockside and in the plants. One of the outcomes of this initiative is that in 2010, the percentage of dead (disposed) crab is negligible at 0.26%.*

*As noted in the 2003 report, Fish Processing Policy Review, by Eric Dunne (Dunne Report), “The Quality Assurance Program was introduced by the Department in 1996 and was an expansion of the province’s inspection activities. The program was initiated in response to concerns raised by the marketplace about product quality. The problem was not whether the product was safe to eat but whether the industry was maximizing earnings from seafood products.” The report stated, “...in the evaluation of the Quality Assurance Program that the industry and government have made substantial progress in improving product quality over the past seven years. This progress has resulted in a substantial increase in product value and the quality reputation of the industry has improved substantially. For the most part, our crab products have become second to none and the quality of our shrimp and groundfish products has improved.” While substantial progress had been made, the report indicated that the program still needed some improvements and modernization.*

### Creation of Compliance and Enforcement Division

*Based on the recommendations of the Dunne Report, the Department created the Compliance and Enforcement Division. The division is responsible for a number of areas including training of inspectors, developing inspection and enforcement policies and procedures, the ticketing system and performing audits of fish processing facilities. The division was formed in 2005 and has pursued a number of measures to bring the inspection and enforcement program (previously part of the Quality Assurance Program) up to the operational standards of other enforcement agencies. New policies and procedures were written, a comprehensive training program was developed and implemented for inspectors, a ticketing system was implemented, inspection supervisor positions were created and staffed, an auditing program was developed and implemented and a new database system was developed. Most of these changes have been completed with full implementation anticipated by the end of 2013.*

## Fisheries Compliance and Enforcement

### Marine Atlantic Terminal, Port aux Basques

*The vast majority of fish exported from NL is shipped through Marine Atlantic in Port aux Basques as this is generally the most cost-effective. For most of 2010, there was only one inspector in Port aux Basques due to a staff vacancy. The vacant position was filled in July; however, the new inspector spent most of the remaining fishing season in training and orientation. In previous years, the two inspectors worked staggered shifts to cover most ferry crossings. In 2010, with only one inspector, fewer crossings were covered and only during normal business hours.*

*All truck drivers must have a Bill of Lading which specifies company information, the type of product and the amount carried. At Port aux Basques, it can be readily determined from the Bill of Lading if a company is licensed for the product being carried. Trucks normally have a small covered opening through which the inspector can observe the product to determine if the cargo is properly labeled or if there are other products on board. If there appears to be an issue, the inspector will remove the bolt seal from the truck, inspect the product and reseal. For this reason, it is not necessary to break the seal on every truck to determine compliance; doing so would create unnecessary delays in product reaching market destinations and would also mean companies exporting to the United States (US) having to submit new documents under the US Food and Drug Act to the US Border Control due to the delays.*

### Bulk Storage

*On [page number], the AG Report states that “In 7 of 21 cases, shrimp or crab was stored in bulk contrary to legislation and the inspector issued no warning or ticket.” This observation arises from a wording issue with the legislation and there was no intent to make bulk shrimp, crab or groundfish storage illegal. This will be corrected as soon as possible.*

### Departmental Initiatives

*The Department has already implemented or commenced a variety of initiatives to address several issues identified in the AG Report. These include:*

- *Three years ago the Department implemented a Quality Compliance and Enforcement Program (QCEP) for inspector training and development in response to a recommendation in the 2003 Dunne Report. The Department worked with the College of the North Atlantic and the Marine Institute, MUN, to develop and implement the program. This training focuses on compliance, enforcement, inspections and handling*

## Fisheries Compliance and Enforcement

of fish products. All inspectors are required to complete this training to enhance their inspection and enforcement techniques. The program consists of 17 modules of 8-10 days in duration. Most inspectors have now completed 10 modules; new staff have completed at least 4 modules.

- The Department is undertaking an Organization Review, part of which focuses on inspection and enforcement. It was determined that inspectors reporting to Regional Directors and Supervisors on operational issues, to the Director of Compliance and Enforcement for inspection and enforcement issues and to the Director of Licensing and Quality Assurance for licensing issues was fragmented and confusing. The organizational review will propose that inspectors report to the Director of Compliance and Enforcement.
- In late 2010, the Office of the Chief Information Officer in conjunction with the Department issued a Request for Proposals (RFP) for a new database for licensing and inspection. The RFP was based on a business review that was undertaken by the consulting firm Deloitte Inc. in 2009. Proposals will be assessed in the near future and it is expected that a new database system will be implemented in 2012. This new system will deal with many of the problems noted in the AG Report.
- The Department implemented the new ticketing (Summary Offence Tickets) system in 2009. As previously indicated, the Department decided to take a “go-slow” approach in the interest of ensuring effective and consistent implementation and industry awareness and acceptance.
- The Fisheries Supervisors positions were created three years ago. The Department is providing training and working to further refine their role and build their supervisory skills.
- The Department has experienced a significant number of inspector vacancies. This has been particularly challenging in the western and northern regions. It is evident that many inspectors take positions in these regions hoping to gain experience so that when a position opens closer to the Avalon Peninsula they will improve their candidacy for these positions.
  - The Department has had several job competitions in the last couple of years to fill vacancies. In 2009, there were seven competitions and in 2010 there were ten. An eligibility list was created each year to help fill vacancies; unfortunately, it is still difficult to fill positions in western and northern areas.
  - The Department is proposing a single classification for inspection personnel, and has requested that Fisheries Inspection Officer positions be reclassified as Fisheries Field Representatives. In addition to allowing for more efficient deployment of staff to address the Department’s inspection requirements in the field, the current two-classification structure appears to be a factor in movement of personnel.

## Fisheries Compliance and Enforcement

### AG Recommendations and Departmental Response

The Department has reviewed the recommendations and, while most actions are already being implemented, the Department wishes to make the following observations:

#### **The Department should:**

- **continue with its efforts to develop and implement a new Inspections Licensing and Registration System;**
  - This is ongoing in conjunction with OCIO.
- **implement data entry controls and review inspection reports to ensure that Inspectors are entering inspection data in the inspection database in a complete and accurate manner;**
  - Data entry controls are being implemented in the current Microsoft Excel database.
  - Data entry controls as recommended in the report will be part of the new Licensing and Inspection System.
- **plan inspections to assess the risk associated with each species of fish, landing site and processing facility and schedule inspections based on the assessed risk;**
  - The Department will further pursue the development and implementation of a risk-based model for operational planning within the context of and confines of the seasonal and operational parameters of the province's fishing industry.
- **work more closely with DFO in order to identify and monitor all fish landing sites in the province;**
  - Buyers issue purchase slips which are submitted to DFO several months later. DFO enters the species landings into their database based on this information. While DFO is working on an electronic monitoring system, it is expected that it will be several years before this is implemented across Canada. Any information received from DFO would be after the fact; however, it may be of benefit in planning for the following year.
  - Opening and closing of fisheries is regulated by DFO and in most cases with only a day's notice.

## Fisheries Compliance and Enforcement

- *Discussions will be held with DFO to determine the practical merits of seeking notification of vessel hail-ins (vessels notify DFO when they will be landing with raw material); however, this will only slightly help as most vessels are not required to hail-in and not all species are dockside monitored.*
- ***schedule inspection activity at the Port aux Basques Ferry Terminal to ensure they are carried out in a representative manner;***
  - *We acknowledge that there was a shortfall of inspections at the terminal in 2010 due to a staff vacancy; however, there are now two inspectors in Port aux Basques; and inspection activity will be scheduled in 2011 in a representative manner.*
- ***investigate all telephone calls received from Independent Dockside Graders (IDG) reporting dead or weak crab and TDU shrimp in a timely manner and ensure inspectors record and report the results of the investigations;***
  - *It has been found that over the last several years when inspectors followed up on the calls it was too late as the product was already processed.*
  - *IDG is retained by industry for grading purposes and not by government. There are limitations as to the directions that may be provided from government on the procedures used by IDG; however, discussions will be held with IDG regarding current procedures and how the issues may be addressed.*
- ***ensure Inspectors follow established procedures including sampling the required number of fish to determine compliance with weight, height, temperature, quality and grade standards;***
  - *The importance of this will be stressed to all inspection staff and will be closely monitored.*
  - *It is important to note that inspectors do not enforce grade standards as these are industry specifications.*
- ***ensure inspectors document the results of their inspection on the required inspection form in a complete and comprehensive manner;***
  - *The importance of this will be stressed to all inspection staff and will be closely monitored.*
- ***develop inspection procedures for Pelagics, Whelk, Mussels, Scallops, Lobster and trailers carrying fish for processing;***
  - *This has commenced and will be completed in the near future.*

## Fisheries Compliance and Enforcement

- ***develop goals and objectives, including performance measures for the Compliance and Enforcement Program;***
    - *This will be explored with a view to developing goals, objectives and proper performance measures that are in line with the Department's strategic and operational plans. Discussions will be held with industry during this process.*
  - ***plan, schedule and monitor inspection activity to ensure the goals and objectives are achieved;***
    - *Planning and scheduling will be explored to determine the best method to do this. Inspection activity will continue to be closely monitored.*
  - ***report whether inspection and enforcement activities met the established goals and objectives;***
    - *This will be undertaken in the upcoming review of the Department's strategic planning process.*
  - ***ensure the inspection database captures all required inspection data in a complete and accurate manner;***
    - *The Department is revamping the current database to capture additional and more accurate data and will continue to work with OCIO on the new database system*
    - *The Department will work closer with inspectors and closely monitor the data that is being entered.*
  - ***ensure there are sufficient Inspectors to carry out the scheduled inspections.***
    - *The Department has initiated a reclassification request to have only one level of inspectors.*
    - *The Department will continue to create eligibility lists.*
    - *The Department and the College of the North Atlantic in Stephenville are also investigating the option of QCEP becoming a public program.*
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**PART 2.7**

**DEPARTMENT OF GOVERNMENT SERVICES**

**REAL ESTATE REGULATION**

### Executive Summary

The Financial Services Regulation Division (the Division) within the Consumer and Commercial Affairs Branch of the Department of Government Services is responsible for regulating individuals and companies that provide financial products and services to the public.

The Division is responsible for licensing and registration, compliance visits, investigations and financial reporting for Provincial financial services activities such as insurance, securities, real estate, mortgage brokers and prepaid funeral services.

The Director of the Financial Services Regulation Division is appointed as Superintendent of Real Estate Agents and Salespersons under the *Real Estate Trading Act*. As Superintendent, the Director has statutory responsibility to regulate the real estate segment of the financial services industry. This would include licensing of agents and salespersons, compliance by agents and salespersons with ongoing and annual requirements, and handling customer inquiries, complaints and investigations. As at 20 October 2010 there were 92 licensed real estate agents (companies) and 646 licensed real estate salespersons.

Our review identified a number of concerns with respect to real estate regulation within the Financial Services Regulation Division. In particular, we identified that: financial reports from real estate agents were not being monitored or analyzed; on-site examinations of real estate agent records were not being performed; and cancelled real estate licences were not being returned to the Department by the licensee as required.

We also found that with regards to the entire Financial Services Regulation Division, complaints were not adequately monitored, there were no performance measures developed (with the exception of financial services activities related to securities), policies and procedures were not adequate and Department officials could not provide updated position descriptions for all Divisional staff resulting from a reorganization in 2004.

Details are as follows:

### *Lack of Financial Monitoring and Analysis*

Although the Department has the authority under the *Real Estate Trading Act* (the *Act*), to request financial information from real estate agents and to perform financial monitoring and analysis activities (either desk reviews or on-site reviews), officials indicated that they have neither requested financial information nor conducted any reviews since 2002.

However, in January 2010 the Department required real estate agents to file unaudited semi-annual trust fund financial statements beginning for year ends on or after 31 December 2009. We found that, of the 92 licensed real estate agents in the Province, 13 indicated to the Department that their statements were not due, 7 were not required (e.g. no trust accounts), 40 provided their semi-annual statement and 32 did not respond. Of the 40 statements received, 15 were late and 3 were not complete. While in August 2010 the Department sent reminder letters to any agents who had not submitted their statements, the database included no evidence of any further action taken.

### *Cancelled Licences Not Returned*

Our review indicated that the Department is not following up on cancelled licences that have not been returned. The *Act* indicates that a licence may be suspended, revoked or cancelled when a licence holder does not pay their annual fee, does not file an annual report, ceases employment with an agent or in cases that are in the public interest. We reviewed 30 files where a licence had been cancelled and found that only 1 licence had been returned.

### *Inadequate Complaint Processing and Resolution*

The consumer complaints register was neither complete nor accurate. The Financial Services Regulation Division is responsible for addressing consumer complaints and either mediating a satisfactory resolution or ensuring that appropriate action (e.g. deposit returned) is taken in relation to concerns. Our review indicated the following:

- The Department had not established guidelines for the time expected to address a complaint, as measured from the time the Division receives a complaint to its resolution. During our review of the consumer complaints register in October 2010 we found that 24 of 34 (71%) registered consumer complaints (4 related to real estate and 30 related to insurance) for the 2010 fiscal year were still open. The register indicated that all 24 complaints were open for more than 6 months and 15 of the 24 were open for more than one year. Officials informed us that most of these complaints were resolved but the register was not up to date.

- The Department's consumer complaints register was incomplete in that there was no status indicated for 5 of the 34 complaints and there was no indication for 8 of the 34 complaints as to how the complaint was acknowledged (i.e. letter, email, phone or in person).
- Not all complainants were notified as to the final resolution of their complaint. We found that for 6 of the 10 closed complaints, the complainants were not notified in writing as to the final disposition of the complaint and the reason for no written notification was not indicated in the complaints register.
- The Department had not established a standard as to how much time it should take to resolve complaints which require an investigation. We found that 16 (70%) of the 23 real estate complaints investigation files being tracked as at 31 March 2010, were still open at the time of our review in November 2010. Of the 16 files, 9 were open for more than one year, 4 of which were open for more than three and a half years.
- Status reports, which could be used by management to monitor the action taken to address either registered consumer complaints or investigations, were not prepared.

### *No Performance Measures or Reporting Requirements*

The Department had not established either performance measures or reporting requirements for the Financial Services Regulation Division (with the exception of financial services activities related to securities). Upon enquiry, the Department could not provide any performance reports for the Division, except for reports related to securities.

### *Policies and Procedures Not Well Defined*

The Department had not developed and communicated comprehensive policies and procedures in all financial services regulation areas. We do note that there was limited information relating to several areas of financial services regulation on the Department's website.

### *Position Descriptions Outdated*

At the time of our review in November 2010, Departmental officials could not provide updated position descriptions for all staff of the Division to reflect changes which may have occurred (e.g. employee duties, reporting relationships) as a result of a reorganization in March 2004.

### Background

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#### Department overview

The Department of Government Services provides a variety of services to the public including licensing and inspections related to public health, public safety, environmental protection, the provision of vital documents and safeguarding consumer interests.

The Department is comprised of three branches:

- Government Services;
- Occupational Health and Safety; and
- Consumer and Commercial Affairs.

The Consumer and Commercial Affairs branch consists of three divisions:

- Financial Services Regulation;
- Commercial Registrations; and
- Consumer Affairs.

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#### Expenditure

In the 2010 fiscal year, the Consumer and Commercial Affairs Branch had a total staff of 59. Total expenditure for the Branch in 2010 was \$4.3 million with a total cost for financial services regulation of \$1.2 million as shown in Figure 1.

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**Figure 1**

**Department of Government Services  
Consumer and Commercial Affairs Branch  
For the Year Ended 31 March 2010  
(000's)**

<b>Expenditure</b>	<b>Financial Services Regulation</b>	<b>Consumer Affairs (Trade Practices)</b>	<b>Commercial Registrations</b>	<b>Total</b>
Salaries and benefits	\$1,121	\$886	\$1,127	\$3,134
Transportation and Communications	38	38	83	159
Supplies	16	8	24	48
Professional Services	31	-	-	31
Purchased Services	18	13	605	636
Property Furnishings and Equipment	3	17	309	329
<b>Total Expenditure</b>	<b>1,227</b>	<b>962</b>	<b>2,148</b>	<b>4,337</b>
Less: Related revenue	-	12	-	12
<b>Net Expenditure</b>	<b>\$1,227</b>	<b>\$950</b>	<b>\$2,148</b>	<b>\$4,325</b>

Source: Public Accounts of the Province of Newfoundland and Labrador

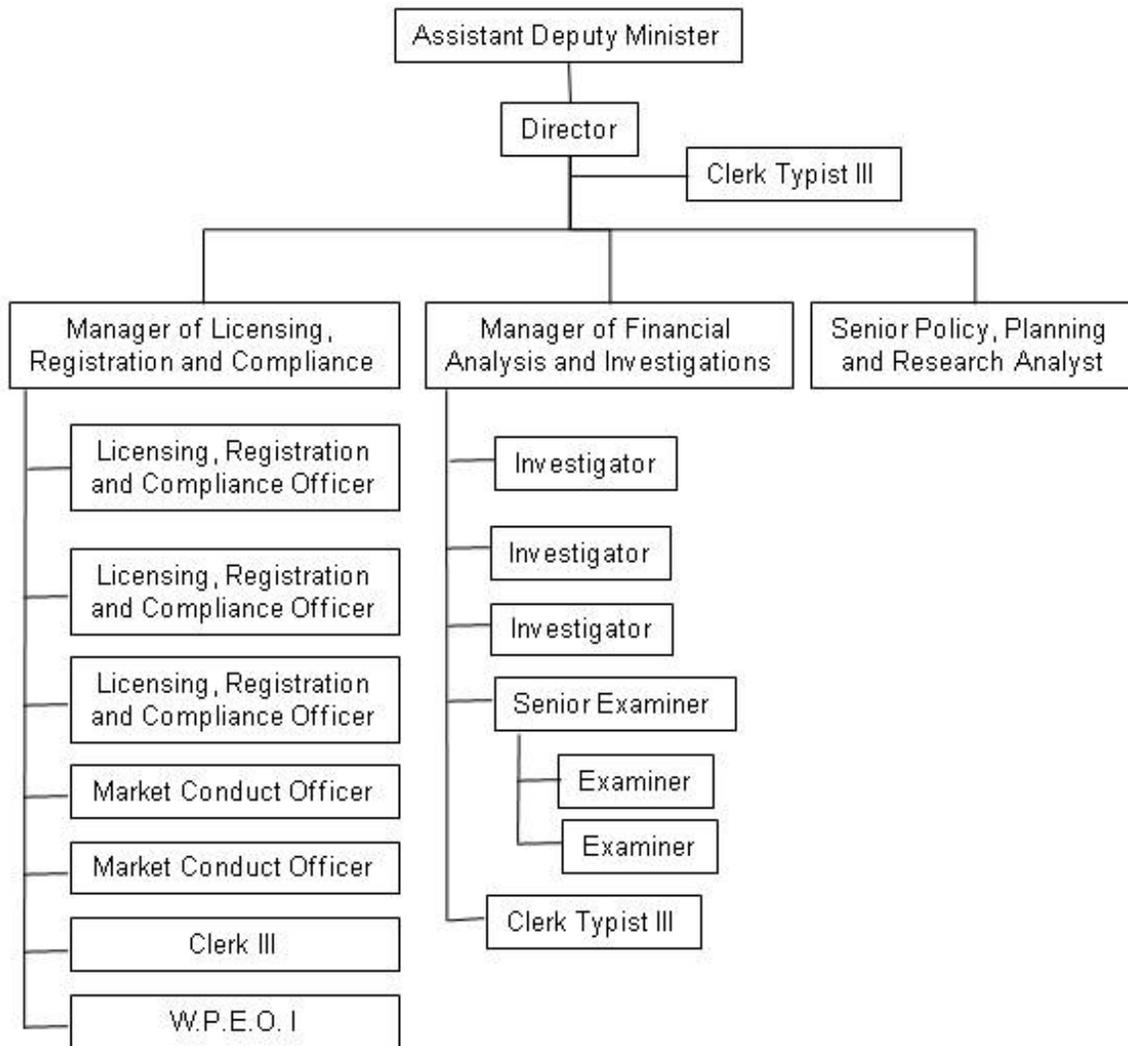
The Financial Services Regulation Division within the Consumer and Commercial Affairs Branch of the Department of Government Services is responsible for regulating individuals and companies that provide financial products and services to the public.

The Division is responsible for licensing and registration, compliance visits, investigations and financial reporting for Provincial financial services activities such as insurance, securities, real estate, mortgage brokers and prepaid funeral services.

The Division has a staff of 19 involved with financial services regulation, with the Director of Financial Services Regulation reporting to an Assistant Deputy Minister, as shown in Figure 2.

**Figure 2**

**Department of Government Services  
Financial Services Regulation Division  
Organizational Chart**



Source: Department of Government Services

The Director of the Financial Services Regulation Division is appointed as Superintendent of Real Estate Agents and Salespersons under the *Real Estate Trading Act*. As Superintendent, the Director has statutory responsibility to regulate the real estate segment of the financial services industry.

## Real Estate Regulation

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The Superintendent has discretionary powers to refuse to issue a licence, to suspend, cancel or revoke a licence or to place conditions on a licence where it is in the best interest of the public to do so. The Superintendent has the powers and immunities of a Commissioner under the *Public Enquiries Act*. Regulation includes licensing of agents and salespersons, compliance by agents and salespersons with ongoing and annual requirements, and handling customer enquiries, complaints and investigations of allegations of improper market conduct. As at 20 October 2010 there were 92 licensed real estate agents (companies) and 646 licensed real estate salespersons.

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### Audit Objective and Scope

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**Audit objective** The objective of this audit was to review the real estate regulation within the Financial Services Regulation Division of the Department of Government Services including such areas as:

- Legislative compliance;
  - Complaints processing and investigation; and
  - Performance measurement and monitoring.
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**Audit scope** Our review covered the fiscal year ending 31 March 2010 and included interviews with key personnel within the Department along with an examination of relevant legislation, policies and procedures, and other documentation within the Department. Our review was completed in November 2010.

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### Detailed Observations

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

1. Legislative Compliance
2. Complaints Processing and Investigation
3. Performance Measurement and Monitoring
4. Other Findings

### 1. Legislative Compliance

#### Overview

The Department of Government Services is responsible for administering a number of Acts and Regulations including the *Real Estate Trading Act* and *Real Estate Licensing Regulations*.

The *Real Estate Trading Act* requires agents to keep proper books and accounts with respect to the agents' trades and maintain on a daily basis a trust account record in which the agent is to enter full details of the receipt and disbursement of trust money.

In addition, the *Real Estate Licensing Regulations* requires every agent to perform trust account reconciliations on a monthly basis showing the reasons for differences between bank statement figures and the trust account records.

The *Real Estate Trading Act* also provides for financial reporting of real estate agents to the Superintendent and examinations of real estate agent records.

Section 31 of the *Act* states “An agent shall, when required by the superintendent, file a certificate satisfactory to the superintendent as to the agent’s financial position signed by the agent... and by an accountant approved by the superintendent.”

Section 30(1) of the *Act* states “The superintendent may authorize a person to, at reasonable times, where it is reasonably necessary to determine compliance with the Act, (a) enter upon the business premises of an agent; and (b) demand the production of and inspect the books of account, cash, bank accounts, vouchers, documents, correspondence and records of the agent....”

Through these provisions of the *Real Estate Trading Act*, the Department is able to perform financial monitoring and analysis activities and on-site examinations to detect, on a timely basis, the improper use of trust funds. Improper market conduct can be subsequently investigated by the Department with recommendations of regulatory sanctions or penalties.

Our review identified the following issues:

## Real Estate Regulation

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### No financial reporting since 2002

Although the Department has the authority under the *Real Estate Trading Act* (the *Act*), to request financial information from real estate agents and to perform financial monitoring and analysis activities (either desk reviews or on-site reviews), officials indicated that they have neither requested financial information nor conducted any reviews since 2002.

We were also informed that there is financial reporting required for real estate agents in 2010 and subsequent years, as described below.

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### Semi-annual reporting required in 2010

In January 2010 all licensed real estate agents and restricted real estate agents were advised that with fiscal years ending on or after 31 December 2009, they were required to file an unaudited semi-annual trust financial statement for the period ended six months after their fiscal year end. The agent is responsible for providing the Department with the report within 30 days of the agent's semi-annual reporting date.

In addition, all licensed real estate agents and restricted real estate agents were advised that for fiscal years ending on or after 31 December 2010, they are required to file an annual audited trust financial statement.

In May 2010, a copy of the financial reporting requirements for real estate agents under the *Real Estate Trading Act* were sent to real estate agents.

In August 2010 real estate agents, who had not filed the semi-annual report by 31 July 2010, were asked to file the required report or indicate their fiscal year-end if it was not 31 December 2009.

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### Unaudited semi-annual reports not filed as required

The Financial Analysis and Investigations section of the Financial Services Division is responsible for maintaining a database for tracking real estate semi-annual reports.

Our review of this database indicated that unaudited semi-annual trust fund reports were not being filed as required. Figure 3 shows the status of these semi-annual trust fund reports as at 20 October 2010.

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**Figure 3**

**Department of Government Services  
Real Estate Regulation  
Status of Semi-Annual Trust Fund Reports  
As at 20 October 2010**

Status of Trust Fund Reports	Number of Agents
Reports not due	13
Reports not required to be submitted	7
Reports submitted and complete	37
Reports submitted but not complete	3
Reports not submitted/no agent response	32
<b>Total</b>	<b>92</b>

Source: Department of Government Services

We found that, of the 92 licensed real estate agents in the Province, 13 indicated to the Department that their statements were not due, 7 were not required (e.g. no trust accounts), 40 provided their semi-annual statement and 32 did not respond. Of the 40 statements received, 15 were late and 3 were not complete. While in August 2010 the Department sent reminder letters to any agents who had not submitted their statements, the database included no evidence of any further action taken. Officials indicated that ongoing follow-up was done by telephone calls.

**On-site  
examinations  
not performed**

The *Real Estate Trading Act* also provides the authority for the Department, through the Superintendent of Real Estate Agents and Salespersons, to inspect the agents' books of account to determine compliance with the *Act*.

The Financial Analysis and Investigation section of the Financial Services Regulation Division is responsible to:

- ensure that financial monitoring and analysis activities and on-site examinations detect, on a timely basis, the improper use of trust funds;
- perform trust account examinations of real estate agents; and

## Real Estate Regulation

- prepare reports outlining examination results, violations of the *Act* or *Regulations* or related policy, and recommended courses of action to be taken by the organization in order to resolve problems and improve financial control procedures.

Officials indicated that they have not conducted any on-site examinations since 2002. As a result, the Department is not ensuring, through on-site examination, if real estate agents are keeping proper books and accounts with respect to the agents' trades and are maintaining the required trust account records in accordance with the *Act* and *Regulations*.

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### Application and licence processing

With the exception of restricted salespersons and agents, a person wishing to trade in Real Estate in the Province must first pass an exam that is administered by the Newfoundland and Labrador Association of Realtors.

After passing the prerequisite exam the applicant completes an application. Salespersons would have their application signed by their sponsor, who has to be a licensed agent. The original application along with an original signed bond in the amount of \$5,000 for a salesperson or \$15,000 for an agent would be forwarded to the Department for processing.

The Licensing Officer would ensure that the educational criteria are met and the application and the bond information are complete. The Licensing Officer would ensure that the licence fee of \$100 for a salesperson or \$300 for an agent has been paid.

The licence certificate is generated and forwarded to the applicant with a copy kept on file. Upon cancellation of the licence, a letter is sent to the licensee requesting the return of the licence. When a cancelled licence is returned it is to be filed in the registry.

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### Cancelled licences not returned

Section 14 of the *Real Estate Trading Act* states “*Where a licence has been suspended or cancelled under this Act, the holder of the licence shall immediately return the licence to the superintendent.*”

Our review indicated that the Department was not following up on cancelled licences that have not been returned. The *Act* indicates that a licence may be suspended, revoked or cancelled when a licence holder does not pay their annual fee, does not file an annual report, ceases employment with an agent or in cases that are in the public interest. We reviewed 30 files where a licence had been cancelled and found that only 1 licence had been returned.

## Real Estate Regulation

As a result, the Department was not ensuring that cancelled licences were being returned in accordance with the *Act*.

### Recommendations

The Department should:

- ensure financial reports from real estate agents are monitored and analyzed to help ensure agents are keeping proper books and accounts in accordance with the *Real Estate Trading Act*;
- conduct on-site examinations of real estate agent accounts to ensure compliance with the *Real Estate Trading Act*; and
- ensure all cancelled or suspended licences are returned to the Department in accordance with the *Real Estate Trading Act*.

## 2. Complaints Processing and Investigation

### Overview

The Licensing, Registration and Compliance section of the Financial Services Regulation Division is responsible for mediating consumer complaints and ensuring that consumer concerns are addressed. The Division regulates licensing and registration for Provincial financial services activities such as insurance, securities, real estate, mortgage brokers, and prepaid funeral services. It is responsible for ensuring that consumers have a mechanism to raise concerns about financial service products and companies selling these financial products. Where concerns are not addressed by market participants, the Division is responsible to ensure that the proper action or investigation is taken in relation to concerns.

This section, through its Market Conduct Officers, is to be the first line of consumer protection as it affords the opportunity for the Division to become aware of possible unethical and improper market place conduct as well as unlicensed or unregistered business activities.

We would expect a database to be in place to track consumer complaints received and their subsequent follow-up. Also, guidelines should be in place to address complaints on a timely basis.

In addition, there should be regular reporting on the status of complaints. The information would be used to help ensure achieving the Department's goal of consumer protection.

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**Information in consumer complaints register not accurate**

The Licensing, Registration and Compliance section of the Financial Services Regulation Division is responsible for maintaining a register of consumer complaints related to financial services regulation, including insurance, securities, real estate, mortgage brokers, and prepaid funeral services.

The register records the following information:

- type of complaint;
- date complaint was opened;
- how the complaint was acknowledged;
- name of complainant;
- who the complaint was against;
- complaint description;
- date complaint was closed;
- status of complaint;
- if the consumer was notified in writing of result; and
- approximate hours on file.

During our review of the consumer complaints register in October 2010 we found that 24 of 34 (71%) registered consumer complaints (4 related to real estate and 30 related to insurance) for the 2010 fiscal year were still open. The register indicated that all 24 complaints were open for more than 6 months and 15 of the 24 were open for more than one year. Officials informed us that most of these complaints were resolved but the register was not up to date.

The Department has not established guidelines for the time expected to address a complaint, as measured from the time the Division receives a complaint to its resolution.

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**Information in consumer complaints register not complete**

During our review, we found that the consumer complaints register was incomplete in that there was no status indicated for 5 of the 34 complaints.

The Department acknowledges consumer complaints by letter, email, phone or in person. For 8 of the 34 complaints, there was no indication in the register as to how the complaint was acknowledged.

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## Real Estate Regulation

### **Complainants not always notified in writing of results**

To help ensure that complaints are properly addressed, all complainants should be notified in writing of the results of the Department's follow up. If written notification is not considered appropriate the reason should be documented.

We found that for 6 of the 10 closed complaints, the complainants were not notified in writing as to the final disposition of the complaint and the reason for no written notification was not indicated in the complaints register.

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### **Real estate complaint investigation**

Officials informed us that matters requiring investigation originate mainly from 5 sources:

- Notice of Termination;
- letter of complaint;
- Application Form or Filing Notice;
- telephone call; and
- background check of applicants.

When a Notice of Termination is received by the licensing staff, indicating that sponsorship was terminated for cause, the matter is brought to the attention of the Manager of Licensing, Registration and Compliance. The Notice is then forwarded to the Manager of Financial Analysis and Investigations.

A letter of complaint is a letter addressed to the Superintendent (sometimes the Minister) alleging that an offence has occurred. After reading the letter of complaint and determining that an offence may have been committed the Superintendent forwards the letter to the Manager of Financial Analysis and Investigations for investigation.

In some instances an Application Form or Filing Notice may indicate a criminal conviction or outstanding charge. The licensing staff brings the matter to the attention of the Manager of Licensing, Registration and Compliance who then forwards the Notice to the Manager of Financial Analysis and Investigations.

A telephone complaint may allege that an agent or salesperson has committed an offence. Upon determining that an offence may have been committed, a telephone complaint is forwarded directly to an investigator.

Licensing staff often request more background information on applicants as a result of previous conduct or because of issues that may arise from the answer to an application question. This request is made by the Manager of Licensing, Registration and Compliance to the Manager of Financial Analysis and Investigations.

The Manager of Financial Analysis and Investigations reviews the Notice of Termination, letter of complaint, Application Form or Filing Notice and determines if the matter requires investigation.

If investigation is warranted the Manager meets with an investigator who assigns a file number and inputs the relevant information into the investigation database.

The investigators carry out their investigation of the matter and upon completion prepares an investigation report. If the matter is an administrative matter the investigation report goes to the Superintendent for an administrative decision. If the matter is a quasi-criminal matter then the investigator meets with the Manager and the Superintendent to obtain approval to proceed with the charge.

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### **Real estate investigations files still open**

The Financial Analysis and Investigations section of the Financial Services Division is responsible for maintaining an investigations database for real estate investigations. The investigations database records the following information:

- file number;
- surname/corporation name;
- date of birth;
- social insurance number;
- licence/registration number;
- sponsoring entity if sponsored;
- complaint - brief note on offence alleged;
- date of offence alleged;
- date if charge filed;
- date if conviction registered;
- name of complainant;
- date investigation file opened and assigned;
- date file concluded;
- remarks - specifics of complaint;
- name of investigator assigned case; and
- disposition status.

## Real Estate Regulation

During our review of the investigations database we found that 16 (70%) of the 23 real estate complaints investigation files being tracked as at 31 March 2010, were still open at the time of our review in November 2010. Of the 16 files, 9 were open for more than one year, 4 of which, related to one complaint, were open for more than three and a half years.

The Department had not established a standard as to how much time it should take to resolve complaints which require an investigation.

### Regular reports not prepared

Regular reports on the status of the complaints were not prepared and reviewed by management.

Status reports, which could be used by management to monitor the action taken to address either registered consumer complaints or investigations, were not prepared.

### Recommendations

The Department should ensure:

- complaints are addressed on a timely basis;
- information recorded in its consumer complaints register is complete and accurate;
- guidelines for the time expected to address a complaint, as measured from the time the Division received the complaint to its resolution, are established and complied with; and
- regular reports on the status of complaints are prepared and reviewed by management.

## 3. Performance Measurement and Monitoring

### Background

We would expect to find well defined performance measures relating to real estate regulation within the Division. These performance measures would be included as part of the performance measures for financial services regulation within the Division. These measures should form part of a divisional operating plan. For example, performance measures may include: expected complaint processing time, expected application processing time, frequency of audits or examinations, and frequency and content of management reports.

A divisional operational plan should contain information specific to the Division. This plan should contain goals, objectives, measures, and indicators for the goals and objectives, actions necessary and reporting requirements.

A divisional operational plan should enable the Division to focus its activities towards achieving strategic goals and objectives. The plan would be necessary to determine whether the Department's Strategic Plan objectives are being met and are a necessary part of a good system of accountability.

We would also expect established reporting standards, within the Division, for such things as:

- who is responsible for reporting;
- nature and content of the reports;
- frequency of reporting;
- deadline for report preparation and submission; and
- who is to receive and review the reports.

Our review indicated the following issues with real estate regulation performance monitoring and reporting.

### No performance measures or reporting requirements

The Department had not established either performance measures or reporting requirements for the Financial Services Regulation Division (with the exception of financial services activities related to securities). Upon enquiry, the Department could not provide any performance reports for the Division, except for reports related to securities.

Furthermore, there was no operational plan in place for the Division.

### Recommendations

The Department should ensure:

- performance measures and reporting requirements are established for all areas of financial services regulation; and
- an operational plan is in place for the Financial Services Regulation Division.

### 4. Other Findings

#### **Policies and procedures not well defined**

We would expect to see well defined policies and procedures within the Department to help ensure compliance with the *Real Estate Trading Act* and *Real Estate Licensing Regulations* and financial services regulation in general.

We would also expect to see well defined, documented policies and procedures relating to the handling of complaints and enquiries within the Division. These procedures would address the receiving, recording, investigation and resolution of complaints and enquiries.

Our review indicated that, although some information relating to several of these areas are on the Department's website, the Department had not developed and communicated comprehensive policies and procedures in all areas of financial services regulation. As a result, there was an increased risk of non-compliance with legislation.

For example, there were no well defined policies and procedures within the Department to help ensure compliance with the *Real Estate Trading Act* and *Real Estate Licensing Regulations*. The *Real Estate Trading Act* outlines the Department's responsibility relating to the regulation of real estate agents in the Province. These areas include application and licensing; on-site examinations and investigations; agent books and records; and financial reporting.

In addition, there were no well defined policies and procedures, within the Division, relating to the receiving, recording, investigation and resolution of complaints.

#### **ALERT operations manual not properly maintained**

The Automated Licensing and Enforcement Registration Tracking (ALERT) system is a customized SQL Windows application used by the Division for application and licence processing.

We would expect to see the application and licence processing system being well documented in an operations manual. This would help ensure that the system is understood by staff and procedures are properly complied with. In addition, the manual should be updated for any changes in policy, processes or procedures.

Our review indicated that an operations manual for the ALERT system was not being maintained by the Division.

### Position descriptions not current

The Financial Services Regulation Division, along with the Consumer and Commercial Affairs Branch, was reorganized in March 2004. We would expect to find current position descriptions in place within the Division to reflect each employee's current job requirements. Without current descriptions in place for all positions within the Division it is not possible to determine the employee's compliance with current job requirements.

At the time of our review in November 2010, Departmental officials could not provide updated position descriptions for all staff of the Division to reflect changes which may have occurred (e.g. employee duties, reporting relationships) as a result of a reorganization in March 2004. We requested current position descriptions for all 19 positions within the Division and found that 14 of the 19 were not current. Eleven were dated prior to the 2004 reorganization and 3 were not dated but officials indicated that they were old.

### Recommendations

The Department should ensure that:

- well defined policies and procedures for all areas of financial services regulation are developed and communicated;
- the application and licence processing system is well documented in a current operations manual; and
- current position descriptions are in place within the Division for all employees.

## Department's Response

### *Lack of Financial Monitoring and Analysis*

*As noted in the report, new financial reporting requirements were implemented in 2010. Real estate agents must now file two financial reports a year. The first is an unaudited financial report covering the first six months of their fiscal year. This is due 30 days after that date. The second is an audited financial report covering the full fiscal year and is due 90 days after the agent's financial year-end.*

*The first financial reports under the new requirements are for the period January 1, 2010 to June 30, 2010 and were due by July 31, 2010. The Department expected there would be compliance issues with the implementation of these new financial reporting requirements and will be working with individual licensees to ensure they understand the requirements and file the required reports. The Department will be establishing policies to ensure financial reports are received and analyzed and appropriate regulatory action is taken against agents who do not comply.*

*With the new financial reporting requirements, the Department will be taking a risk based approach to determining when on-site examinations are warranted similar to that followed with the other financial services regulated by the Division. The Department's focus will be on those agents where we feel there is a risk that the agent may not be complying with legislation such as those who fail to file financial reports, where the auditors have identified issues of non-compliance in their auditor's reports, where our examiners have identified issues in their review of the financial reports filed with the Division and where complaints have been filed by consumers, real estate salespersons or other real estate agents.*

### **Cancelled Licenses Not Returned**

*The Department advises that its current process when suspending or cancelling a licence is to provide a copy of the suspension or cancellation notice to both the agent and the Newfoundland and Labrador Association of Realtors® Inc. (NLAR). The Department believes this provides good disclosure of the suspension or cancellation to the industry as the majority of agents and salespersons are members of NLAR.*

*The Department plans to further address this issue through its Planning and Service Delivery Committee which has identified the Automated Licensing and Enforcement Registration Tracking System, as a priority for updating. The Department would then seek legislative approval to eliminate the requirement for return of cancelled licences. Consumers and marketplace participants would then be able to check on the Department's web site to determine the licensing status of an individual or company.*

### ***Inadequate Complaint Processing and Resolution***

*While there were only four complaints related to the Real Estate industry during the period of this review; the Department agrees that complaints should be addressed on a timely basis and that management review of the status of complaints should be done on a regular basis and documented. Management does regularly discuss open complaint files with staff but these discussions have not been documented. Because of the varied nature of the complaints received, the Department does not feel the establishment of a standard time frame in which all complaints are addressed is appropriate. Rather, a regular documented review of open complaint files to ensure the concerns expressed by consumers are being addressed in as timely a manner as possible would be more appropriate. This regular documented review would also ensure the complaints register is appropriately maintained.*

*In terms of investigations, the Department does not agree with the establishment of a standard as to how much time it should take to complete an investigation. The amount of time needed is dependent upon the complexity of the investigation and the completion of an investigation is often impacted by changing priorities. Rather, the Department believes that a regular, documented review by management of the open investigation files would be more appropriate.*

*The Department will establish policies for regular management review and documentation of open complaints and investigations.*

### ***No Performance Measures or Reporting Requirements***

*Performance and accountability of the Financial Services Regulation Division is overseen through its reporting relationship to the Assistant Deputy Minister for the Consumer and Commercial Affairs Branch. While performance measures and reporting requirements have not been formalized and an operating plan is not in place, performance expectations and operational objectives and achievements have been in place and regularly monitored. The Division's operations and work plans are derived mainly through legislative and regulatory requirements that fall within its responsibility. The Department is satisfied with oversight methods currently in place.*

### ***Policies and Procedures Not Well Defined***

*The Department will initiate a process to document the policies and procedures currently in place within the Financial Services Regulation Division. As noted above, the Department has identified the current licensing system as a priority for updating, which would include addressing the issue regarding the operations manual.*

### ***Position Descriptions Not Current***

*Three management jobs have been updated and submitted for classification review. The Department will consider the need to submit revised position descriptions for the remaining positions based on the significance of any changes in duties.*

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**PART 2.8**

**DEPARTMENT OF GOVERNMENT SERVICES**

**RESIDENTIAL TENANCIES**

### Executive Summary

The Consumer Affairs Division, within the Consumer and Commercial Affairs Branch of the Department of Government Services, administers consumer affairs legislation to ensure a fair and equitable marketplace, protects the interests of consumers, mediates and adjudicates disputes between residential landlords and tenants, and regulates charitable and non-profit organizations' lottery fund-raising activities. It also licenses and regulates the collection agencies, private investigations and security guard industries.

Within the Consumer Affairs Division, the Residential Tenancies Section (the Section) is responsible for regulating residential tenancies as it relates to the *Residential Tenancies Act, 2000*. The Section helps to mediate or adjudicate claims filed by landlords and tenants and, on average, resolves 500 claims per year. Residential tenancies services are provided throughout the Province through three offices (St. John's, Gander and Corner Brook).

Our review indicated that the Department was not doing an adequate job with respect to dealing with claims filed by landlords and tenants. In particular, we identified that: the computerized database system was inadequate; there was no policy in place as to the length of time it should take to resolve a claim; orders were being issued after the 30-day standard; there was no evidence of management review before orders were issued and there were issues with files. We also found a non-compliance with the *Management of Information Act*, identified that performance measures were not developed and were informed that staff safety was compromised. Details are as follows:

#### *Inadequate Computerized Database System*

Our review indicated that the computerized database system in use by the Residential Tenancies Section to keep track of claims received was inadequate. For example, the system was only available to the St. John's office (the Gander and Corner Brook offices maintained claims manually), the system could not generate a list of outstanding claims or monitor the status of claims through their entire life cycle, and it could not produce statistics. We also found that, although the system was implemented in 1997, there was still no systems manual.

### *No Policy in Place as to Length of Time to Resolve Claims*

The Section did not have a policy in place as to how long it should take to resolve a claim. As a result, they could not conclude whether they were handling claims in an effective and efficient manner. We found that, during the 2010 fiscal year, it took, on average, 57 days to resolve claims. We also found 20 claims during the 2010 fiscal year that took longer than 6 months to resolve, with one taking 385 days.

### *Orders Issued After 30-day Standard*

The Section was not always meeting its policy of issuing orders within 30 days from the date of the hearing. In the 2010 fiscal year, 126 of the 383 orders (33%) were issued after the 30-day period, ranging from 31 days to 215 days.

### *No Evidence of Management Review of Orders Issued*

Although officials indicated that orders are reviewed for errors before being issued, we did not find any evidence of a review. We identified an instance where an order was issued with an incorrect last name.

### *Issues With Files*

The Section did not have a policy in place on the signing out of files. The Section could not locate three of the files we requested relating to the 2010 fiscal year. We also found a file which contained information belonging to a different file.

### *Non-Compliance With Legislation*

The Department did not comply with the requirements of the *Management of Information Act*, relating to the Residential Tenancies Section. The Department did not “...develop, implement and maintain a record management system for the creation, classification, retention, storage, maintenance, retrieval, preservation, protection, disposal and transfer of government records.” We do note that the Section has a designated records storage room where residential tenancies claims from prior years are stored. However, our review indicated the following issues relating to information management:

- no documented procedures for adding, removing or returning files;
- no employee(s) assigned to manage incoming and outgoing records, including an inventory of holdings;

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## Residential Tenancies

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- no documented procedures in place to control access to the records storage room;
- no retention schedule for records in place and, as a result, we found several boxes of old records dating back to at least 1995 which were in the records storage room; and
- personnel files were found in the records storage room with unrestricted access.

### *No Performance Measures or Reporting Requirements*

The Department has not established either performance measures or reporting requirements for the Consumer Affairs Division. Upon enquiry, the Department could not provide any performance reports for the Division. We also noted that the annual report of the Department, tabled in the House of Assembly, did not include any information on activities of the Residential Tenancies Section.

### *Risk of Danger to Staff*

Staff safety was compromised in that one of the two hearing rooms used by the Residential Tenancies Section can only be accessed through the staff work area. Officials indicated that this access has posed problems in the past because aggressive clients have threatened staff.

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## Background

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The Department of Government Services enforces legislated requirements in all mandated aspects of public health and safety, occupational health and safety, environmental protection, Provincially-regulated financial services, and consumer protection.

The Department is comprised of three branches:

- Government Services;
- Occupational Health and Safety; and
- Consumer and Commercial Affairs.

## Residential Tenancies

The Consumer and Commercial Affairs Branch consists of three divisions;

- Financial Services Regulation;
- Commercial Registrations; and
- Consumer Affairs.

**Expenditure** In the 2010 fiscal year, the Consumer and Commercial Affairs Branch had a total staff of 59. Total expenditure for the Branch in the 2010 fiscal year was \$4.3 million with a total cost for the Consumer Affairs Division of \$962,000 as shown in Figure 1.

**Figure 1**

**Department of Government Services  
Consumer Affairs Division  
Expenditure  
For the Year Ended 31 March 2010  
(\$000's)**

<b>Expenditure</b>	<b>Financial Services Regulation</b>	<b>Consumer Affairs</b>	<b>Commercial Registrations</b>	<b>Total</b>
Salaries and benefits	\$1,121	\$886	\$1,127	\$3,134
Transportation and Communications	38	38	83	159
Supplies	16	8	24	48
Professional Services	31	-	-	31
Purchased Services	18	13	605	636
Property Furnishings and Equipment	3	17	309	329
<b>Total Expenditure</b>	<b>1,227</b>	<b>962</b>	<b>2,148</b>	<b>4,337</b>
Less: Related revenue	-	12	-	12
<b>Net Expenditure</b>	<b>\$1,227</b>	<b>\$950</b>	<b>\$2,148</b>	<b>\$4,325</b>

Source: Public Accounts of the Province of Newfoundland and Labrador

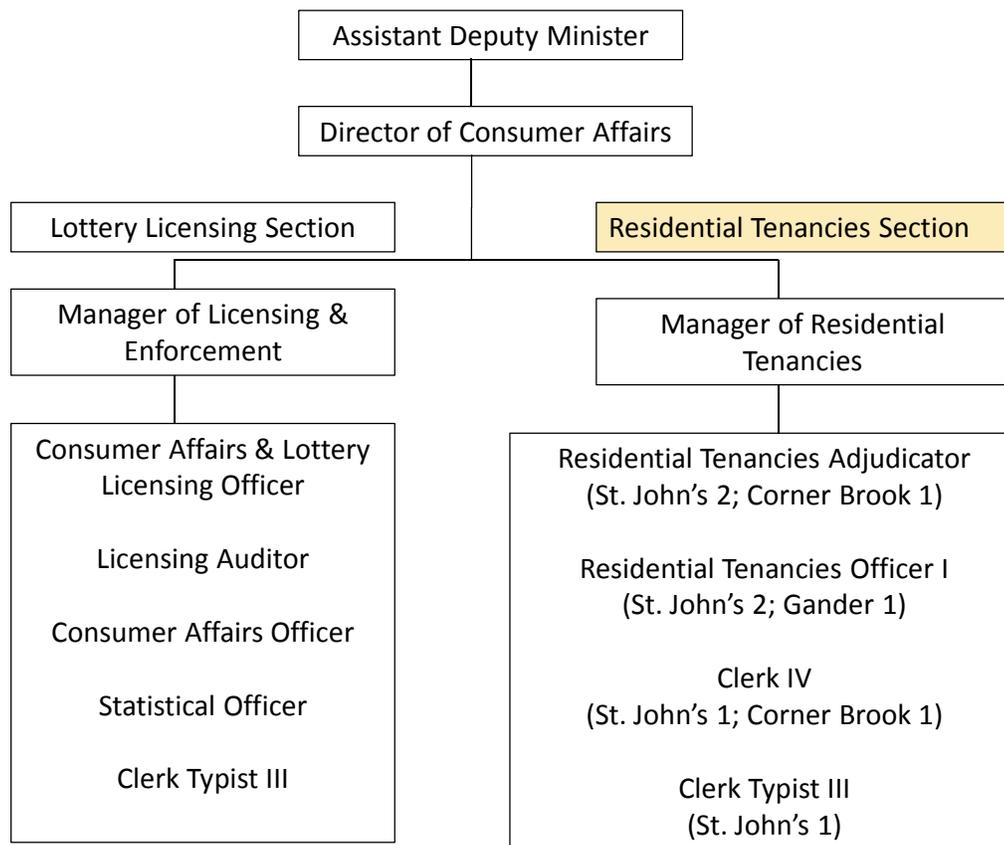
## Residential Tenancies

The Consumer Affairs Division within the Consumer and Commercial Affairs Branch of the Department of Government Services administers consumer affairs legislation to ensure a fair and equitable marketplace, protects the interests of consumers, mediates and adjudicates disputes between residential landlords and tenants, and regulates charitable and non-profit organizations' lottery fund-raising activities. It also licenses and regulates collection agencies, private investigations and security guard industries. These services are provided throughout the Province through offices in St. John's, Gander and Corner Brook.

**Organization** Figure 2 shows the organizational structure of the Consumer Affairs Division.

**Figure 2**

**Department of Government Services  
Consumer Affairs Division  
Organizational Structure**



Source: Department of Government Services

## Residential Tenancies

### ***Residential Tenancies Act***

Within the Consumer Affairs Division, the Residential Tenancies Section is responsible for regulating residential tenancies as it relates to the *Residential Tenancies Act, 2000*. The *Act* sets out the responsibilities of and gives direction to landlords and tenants.

The *Act* applies when there is a relationship of landlord and tenant. This relationship exists when the tenant:

- occupies the rental premises and has paid or agreed to pay rent;
- makes an agreement with the landlord and is granted the right to occupy the premises with the promise to pay rent; and
- has possessed or occupied residential premises and has paid or agreed to pay rent to the landlord.

### **Residential Tenancies Section activities**

The Residential Tenancies Section helps to mediate or adjudicate claims filed by landlords and tenants. Examples of claims include the following:

- vacant possession of property;
- refund of security deposit;
- repairs;
- compensation for inconvenience;
- compensation for work completed;
- compensation for damages;
- return of possessions;
- payment or rebate of rent; and
- payment of utilities.

## Audit Objective and Scope

### **Audit objective**

The objective of this review was to assess whether the Department had adequate systems and procedures in place to ensure compliance with the *Residential Tenancies Act, 2000* through its handling of residential tenancies claims.

## Residential Tenancies

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**Audit scope** Our review covered the fiscal year ending 31 March 2010 and included interviews with key personnel within the Department along with an examination of relevant legislation, policies and procedures, and other documentation within the Department. Our review was completed in December 2010.

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### Detailed Observations

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

1. Handling of Residential Tenancies Claims
  2. Compliance with Legislation
  3. Performance Measurement and Monitoring
  4. Other Findings
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### 1. Handling of Residential Tenancies Claims

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**Overview** The main activity of the Residential Tenancies Section is to mediate or adjudicate disputes between residential landlords and tenants alleging a violation of the *Residential Tenancies Act, 2000*.

In order to protect the rights of landlords and tenants, the Department's goal is to ensure timely and relevant standards in the area of residential tenancies dispute resolution.

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**Claims process** When a landlord or tenant contacts the Residential Tenancies Section with a problem, a Residential Tenancies Officer provides information as it applies to the *Act*. The officer encourages landlords and tenants to try to resolve the problem fairly, quickly and informally. Where a party requires further assistance, the officer provides information on filing a claim.

## Residential Tenancies

Once a claim is received, an application number is assigned and a hearing date is set. The application is then given to the applicant to serve on the other party, known as the respondent. The respondent has the right to file a counterclaim. Prior to the hearing date, the parties to the claim are given the opportunity to mediate on a voluntary basis. If mediation occurs, a mediation agreement is signed and the agreement is binding. If the claim goes to a hearing, the parties present evidence to an adjudicator, who subsequently makes a decision and issues an order. Either party has the option to appeal the decision or request reconsideration.

### Findings

Our review of the Section's processing of claims identified issues in the following areas:

- A. Information Systems
- B. Processing of Claims

Details are as follows:

### 1A. Information Systems

### Introduction

We would expect the Residential Tenancies Section to have a computerized database to keep track of claims received, their status and the subsequent follow-up action. 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 landlords and tenants with multiple instances of claims which would allow the Section to follow-up on these individuals and increase education efforts.

### Inadequate computerized database system

The Residential Tenancies Section has a computerized database system to keep track of the residential tenancies claims received; however, our review indicated that the system was inadequate for the following reasons:

- The system was developed and implemented in 1997; however, it has never been completed. There are modules listed in the menu which are inaccessible since they have never been developed. This results in a system containing very limited information.
- The system had no manual provided.

## Residential Tenancies

- The system was not available to all regional offices. St. John's region was the only office with access to the computerized database system. Gander and Corner Brook offices maintained and accessed information manually.
- The system was limited to assigning an application number, entering addresses of the parties to the claim, assigning a hearing date and time, recording the reason for the claim, assigning an adjudicator and providing the outcome of the hearing. It did not have the ability to include documents pertaining to a claim, such as the claim, the mediation agreement, the order, or other forms and documents required to be part of a claim. These documents were maintained manually.
- The system could not generate statistics and reports to assist in planning and management decision making. The system could not generate statistics for the number of applications, hearings, hearings by adjudicator, mediations, dismissals, reconsiderations, and appeals to the Supreme Court.
- The system could not generate annual statistics. They were compiled manually, increasing the risk of reporting errors.
- The system could not generate a list of outstanding claims. As a result, outstanding claims may not be monitored and addressed in a timely manner.
- The system could not identify landlords and tenants with multiple instances of claims for pro-active follow-up.
- The system was limited in terms of cross-referencing claims with counterclaims. This limits the ability to provide a timely and accurate response to requests from parties to either the claim or counterclaim.
- The system could not monitor the status of a claim throughout its entire life cycle. As a result, information is not readily available to an applicant requesting information about a claim.
- The system could not provide access to prior decisions of a similar nature. This would allow staff to maintain consistency in decisions rendered on similar claims.

## Residential Tenancies

**Errors found** The computer system generates an application number each time a claim is set up in the system. We manually tested all claims filed during the 2010 fiscal year to determine if the electronic files set up in the system accurately reflected the files set up manually. We identified the following errors:

- 10 instances where a file number was assigned by the computer system, but no file existed; and
- 1 instance where a file was assigned two file numbers.

Therefore, the total number of files set up electronically was incorrect and did not represent the total number of files set up manually.

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### 1B. Processing of Claims

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**Introduction** We would expect the Residential Tenancies Section to have processes in place to ensure that claims are dealt with in a thorough and timely manner.

The computerized database system could not generate statistics on the amount of time it took to resolve claims. To obtain these statistics, we gathered the necessary information from all manual files set up during the 2010 fiscal year.

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**No policy in place as to length of time to resolve a claim**

The Residential Tenancies Section has no policy in place as to the length of time it should take to resolve a claim and was unable to indicate how long it took, on average, to resolve a claim. Our review of claims for the 2010 fiscal year indicated that it took, on average, 57 days from the time a claim was filed to the time the claim was resolved through mediation or an order.

The Section did not set any performance targets as to the average time it should take to resolve a claim. As a result, the Section could not conclude whether the 57 day average it took to resolve a claim for the 2010 fiscal year was acceptable.

Furthermore, our review of claims for the 2010 fiscal year indicated that 147 of 485 claims (30%) took over 60 days to resolve. Of these 147 claims, 20 (14%) took longer than 6 months to resolve, with one taking 385 days.

Figure 3 shows the number of days it took to resolve claims.

## Residential Tenancies

**Figure 3**

**Department of Government Services  
Residential Tenancies Section  
Days to Resolve Claims  
For the Year Ended 31 March 2010**

Number of Days	Number of Claims	Percentage of Claims (%)
0-30	211	44
31-60	127	26
61-90	49	10
91-120	44	9
121-150	22	5
151-180	12	2
>180	20	4
<b>Total</b>	<b>485</b>	<b>100</b>

Source: Department of Government Services

**Orders issued  
in excess of 30  
days after  
hearing held**

It is a policy of the Residential Tenancies Section that orders are to be issued within 30 days from date of hearing. We identified 126 of 383 orders (33%) issued after the 30-day period. The processing time on these 126 orders ranged from 31 day to 215 days.

Figure 4 shows the number of days it took to issue an order after the hearing date.

**Figure 4**

**Department of Government Services  
Residential Tenancies Section  
Days Order Issued After Hearing Date  
Year Ended 31 March 2010**

Number of Days	Number of Orders	Percentage of Orders (%)
0-30	257	67
31-60	32	8
61-90	46	12
91-120	33	9
121-150	5	1
151-180	9	2
>180	1	1
<b>Total</b>	<b>383</b>	<b>100</b>

Source: Department of Government Services

## Residential Tenancies

### No evidence of management review before orders are issued

Since orders are binding legal documents, we would expect that a policy would be in place to ensure that management reviews all orders before they are issued.

During our review of files, we found no evidence of orders being reviewed before being issued. Officials indicated that orders are reviewed for errors before being issued; however, there was no indication of this on file, such as initials or signatures of management that the file was reviewed.

During our review, we found that one order was issued with an incorrect last name.

### Issues with files

We reviewed all files for the purpose of generating statistics. During our review, we noticed some missing or incorrect information. We identified the following issues:

- 3 files could not be found;
- 1 file contained information belonging to a different file; and
- 1 file had no response to a request for reconsideration.

The Residential Tenancies Section does not have a policy in place on the signing out of files; therefore, the location of the missing files could not be traced.

Although the Section has a policy in place to ensure that a written response is sent to anyone submitting a request for reconsideration, we found that in one instance, the Section did not meet this policy.

## Recommendations

The Department should:

- obtain an appropriate computerized database system to meet the requirements of the Residential Tenancies Section, accessible to all regions and capable of generating appropriate reports;
- develop a plan to resolve claims on a timely basis;
- ensure orders are issued within the 30-day standard;

## Residential Tenancies

- ensure orders are reviewed before being issued;
- develop a policy on the signing out of files to ensure files can be located when needed; and
- ensure information in each file is complete and accurate.

## 2. Compliance with Legislation

### Overview

The *Management of Information Act* directs that appropriate records management practices be followed by Government departments and supported public bodies. This includes the mandates of Information Protection and the Government's Records Retention and Disposition Process.

The *Management of Information Act* under Section 6(1) and (2) requires that Government departments and public bodies shall "...develop, implement and maintain a records management system for the creation, classification, retention, storage, maintenance, retrieval, preservation, protection, disposal and transfer of government records." Such a system must provide for retention periods and disposition by either destruction or transfer to the Provincial Archives.

### Background

Claims filed by landlords and tenants are handled manually by the Residential Tenancies Section. As a result, a large amount of records is accumulated annually. Examples include forms, correspondence, evidence, compact disc recordings, orders, and transcripts of hearings that are appealed.

We would expect the Department to have an adequate records management system in place to manage its records as mandated by legislation.

### Non-compliance with the *Management of Information Act*

The Residential Tenancies Section has a designated records storage room where residential tenancies claims from prior years are stored. However, our review indicated the following issues relating to information management:

- no documented procedures for adding, removing or returning information;
- no employee(s) assigned to manage incoming and outgoing records, including an inventory of holdings;

## Residential Tenancies

- no documented procedures in place to control access to the records storage room;
- no retention schedule for records in place. As a result, we found several boxes of old records dating back to at least 1995 which were in the records storage room;
- personnel files were found in the records storage room with unrestricted access;
- cassette recordings of hearings were falling out of broken boxes;
- boxes were not organized and categorized in a way that would facilitate easy retrieval of information; and
- boxes were piled haphazardly, posing a threat to workers' safety.

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### Recommendation

The Department should, in accordance with the *Management of Information Act*, develop, implement and maintain a record management system for the creation, classification, retention, storage, maintenance, retrieval, preservation, protection, disposal and transfer of Government records, related to the Residential Tenancies Section.

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## 3. Performance Measurement and Monitoring

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### Overview

Performance measurement and monitoring are important to evaluate the effectiveness of programs and to take corrective action when necessary. We would expect the Consumer Affairs Division to measure and report on the effectiveness of its monitoring of residential tenancies activities. We would expect to find well defined performance measures relating to residential tenancies within the Division. These performance measures would form part of a divisional operating plan. For example, performance measures may include: expected claim processing time and frequency and content of management reports.

A divisional operating plan would contain information specific to the Division. This plan would contain goals, objectives, measures, and indicators for the goals and objectives, actions necessary and reporting requirements.

## Residential Tenancies

A divisional operating plan would enable the Division to focus its activities towards achieving strategic goals and objectives. The plan would be necessary to determine whether the Department's Strategic Plan objectives are being met. This is a necessary part of a good system of accountability.

We would expect established reporting standards, within the Division, for such things as:

- person responsible for reporting;
- nature and content of the reports;
- frequency of reporting;
- deadline for report preparation and submission; and
- person responsible for receiving and reviewing the reports.

Our review indicated the following issues with residential tenancies performance monitoring and reporting.

### No performance measures or reporting requirements

The Department has not established either performance measures or reporting requirements for the Consumer Affairs Division. Upon enquiry, the Department could not provide any performance reports for the Division. We also noted that the annual report of the Department, tabled in the House of Assembly, did not include any information on activities of the Residential Tenancies Section.

Furthermore, there was no operating plan in place for the Division.

### Recommendations

The Department should:

- ensure performance measures and reporting requirements are established for the Consumer Affairs Division;
- ensure accountability by addressing the activities of the Residential Tenancies Section in the Department's annual report; and
- develop and implement an operating plan for the Consumer Affairs Division.

## Residential Tenancies

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### 4. Other Findings

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**Safety of employees**

We would expect the Department to have adequate measures in place to ensure the physical safety of its employees dealing with aggressive clients.

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**Public access to hearing room is through the staff work area**

The Residential Tenancies Section has two hearing rooms, one of which can only be accessed through the staff work area. Officials indicated that this arrangement has posed problems in the past because aggressive clients have accessed the work area and threatened staff. We were informed that outside security had been called in to address these situations and were subsequently hired when hearings were scheduled with aggressive clients.

This situation compromises the safety of all employees in the Section as they all work in the area accessed by individuals entering one of the hearing rooms.

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#### Recommendation

The Department should consider providing an alternate location for hearings so that clients are not accessing the staff work area.

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### Department's Response

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***Inadequate Computerized Database System:***

***Recommendation:*** The Section should obtain an appropriate computerized database system to meet the requirements of the Residential Tenancies Section, accessible to all regions and capable of generating appropriate reports.

***Response:*** The Department is aware of the system limitations as outlined in your report and will be identifying potential Information Management System solutions, such as the possibility of using TRIM.

### *Processing of Claims:*

**Recommendations:** *The Section develop a plan to resolve claims on a timely basis and ensure orders are issued within the 30-day standard.*

**Response:** *The Department is committed to service excellence in the delivery of its programs and services including the processing of claims and the issuing of orders through the Residential Tenancies Division. The establishment of a monitoring plan is currently being considered for this Division.*

**Recommendation:** *The Section should ensure orders are reviewed before being issued.*

**Response:** *Managers have always reviewed orders to ensure consistency and compliance with legislation before the orders are issued, however the review was not noted in the file. Manager's review of orders will continue and, in addition, the Department has commenced the practice of having manager's document and sign the file information sheet as verification of their review.*

### *Issues with Files:*

**Recommendation:** *The Section should develop a policy on the signing out of files to ensure files can be located when needed.*

**Response:** *The Department is aware of its responsibility to ensure that policies and procedures are in place so that records can be located when needed. As an interim measure and pending the development of a permanent solution, an individual has been identified and assigned responsibility for securing the Records Centre. A process for signing out and returning files to the Records Centre has been implemented and all staff have been advised, in writing, of the process and the requirement for compliance.*

**Recommendation:** *The Section should ensure information in each file is complete and accurate.*

**Response:** *The Department agrees that all information contained in its records should be complete and accurate and that ongoing file review and monitoring will be conducted to ensure this expectation is complied with.*

*With respect to the finding that in one instance a written response was not prepared in relation to a request for reconsideration, the department notes that this matter has been addressed to the satisfaction of the applicant.*

### ***Non-compliance with the Management of Information Act:***

***Recommendation:*** The Department should, in accordance with the Management of Information Act, develop, implement and maintain a record management system for the creation, classification, retention, storage, maintenance, retrieval, preservation, protection, disposal and transfer of Government records, related to the Residential Tenancies Section.

***Response:*** The Department is aware of its responsibility and the legislative requirement to comply with the Management of Information Act. In 2009, the Department created a Director of Information Management position and since that time significant information management needs have been identified and plans to address these needs are being developed and implemented.

With respect to the observations noted in your review, the Department advises that the following action has been taken:

- A procedure has been implemented for adding, removing and returning files to the Records Centre;
- An employee has been assigned to oversee, secure and limit access to the Records Centre;
- A Records Retention Schedule for Residential Tenancies files is currently being developed and the Department anticipates that the schedule will be approved over the next year;
- The department has not been able to locate personnel files in the Records Storage Room;
- The issue related to storage of cassette recordings of hearings that were falling out of broken boxes has been addressed and the cassettes have been re-boxed; and
- Concerns regarding lack of organization and stacking of boxes are resulting from the lack of space and the fact that a Records Retention Schedule has not yet been developed and approved. The Department has determined that no additional records will be stored in this area. Storage of inactive records will be addressed, as noted above, over the next year.

### ***Performance Measurement and Monitoring:***

#### ***Recommendations:***

*The Department should:*

- *ensure performance measures and reporting requirements are established for the Consumer Affairs Division;*
- *ensure accountability by addressing the activities of the Residential Tenancies Section in the Department's annual report; and*
- *develop and implement an operating plan for the Consumer Affairs Division.*

***Response:*** *Performance and accountability of The Consumer Affairs Division is overseen through its reporting relationship to the Assistant Deputy Minister for the Consumer and Commercial Affairs Branch. While performance measures and reporting requirements have not been formalized and an operating plan is not in place, performance expectations and operational objectives and achievements have been in place and regularly monitored. The Department is satisfied with oversight methods currently in place.*

#### ***Safety of Employees:***

***Recommendations:*** *The Section should consider providing an alternate location for hearings so that clients are not accessing the staff work area.*

***Response:*** *The Department is continually mindful of ensuring the safety of employees and mitigating risk where potential safety concerns may exist. We are aware of potential issues that may arise with the current location of the hearing rooms and several interim measures are in place such as panic buttons in the hearing rooms and training for staff to assist them in diffusing difficult situations. The Department is planning alternate accommodations for Residential Tenancies beyond the lease term of April 2012 and this issue will be considered in the accommodation design phase.*

**Residential Tenancies**

**PART 2.9**

**DEPARTMENT OF HEALTH AND COMMUNITY SERVICES**

**DIABETES IN NEWFOUNDLAND AND LABRADOR**

### Executive Summary

For the year ended 31 March 2010, expenditures for the Department of Health and Community Services (the Department) totalled \$2.5 billion, an increase of approximately \$900 million or 56% from total health care expenditures of \$1.6 billion at 31 March 2005. Although some of the increase of expenditures can be attributed to the increase in costs of services and supplies, our aging population and the increasing prevalence of chronic diseases are undoubtedly contributing to the increased requests for services. At 31 March 2010, the population demographics show that the population is continuing to age which will further increase the requests for services.

The World Health Organization defines chronic diseases as diseases which begin gradually and progress over long periods of time. They include heart disease, stroke, cancer, diabetes, and chronic respiratory disease. Chronic diseases often share common risk factors such as obesity, unhealthy diet, physical inactivity, and tobacco use. The World Health Organization stated that 89% of deaths in Canada are related to chronic disease and that, if the major risk factors for chronic diseases were eliminated, 80% of heart disease, stroke and type 2 diabetes, and 40% of cancers would be prevented.

While this report refers to chronic diseases generally, the focus of this report was on diabetes and its related health complications. The International Diabetes Foundation (IDF) divides the world into seven regions and has identified the North America/Caribbean region as having the highest prevalence of diabetes in the world at 10.2% for individuals 20 years of age and over. In its 2010 atlas, the IDF indicated that Canada has a prevalence of diabetes at 11.6% for individuals 20 years of age and over. The IDF does not provide provincial prevalence data for diabetes.

#### *Prevalence and Risk Factors Associated with Diabetes*

Our review indicated that the Province has significant issues with regards to the prevalence of chronic disease risk factors, prevalence of diabetes and increasing health care costs related to diabetes as evidenced by information provided by the National Diabetes Surveillance System (NDSS) and the Canadian Diabetes Association (CDA). We found that the Province:

- has the highest prevalence of diabetes (for all ages) of any jurisdiction in Canada, estimated at 9.3% for 2010 and which is expected to increase to 14.4% by 2020. By 2020, it is expected that 73,000 persons in the Province will have diabetes, up from 47,000 persons in 2010.

## Diabetes in Newfoundland and Labrador

- has the highest prevalence of unhealthy diet of any jurisdiction in Canada and the second highest prevalence of obesity and physical inactivity of any jurisdiction in Canada.
- incurred estimated health care costs of \$254 million in 2010 related to diabetes and will incur estimated costs of \$322 million by 2020, an increase of 27%. The Newfoundland and Labrador Centre for Health Information (NLCHI) has estimated that the average length of a hospital stay for persons with diabetes is 4 times higher than persons without diabetes.

We note that the NDSS information used to calculate the prevalence of diabetes and estimate health care costs is based on MCP records from physician claims (fee for service) and hospital files. However, information from salaried physicians (estimated at 33% of all physicians in the Province) relating to diabetes diagnosis and treatment is not tracked. This is further exacerbated because the vast majority of the aboriginal population is serviced by salaried physicians and the aboriginal population is known to have a higher prevalence of diabetes than the non-aboriginal population. As a result, the prevalence and cost information is understated.

### *Role of the Department of Health and Community Services*

Our review indicated that the Department of Health and Community Services (the Department) is not doing a good job in fulfilling its leadership role in preventing and managing chronic diseases including diabetes as evidenced by the following findings:

- Although the Department has issued a Provincial Cancer Control Strategy, the Department does not have either an overall Chronic Disease Prevention and Management Strategy or a strategy for any other chronic disease which would include goals and measurable performance indicators. At the time of our review, the Department was working towards an overall Chronic Disease Prevention and Management Strategy.

As a result, the four Regional Health Authorities (RHAs) have undertaken their own initiatives e.g. the Western RHA has created its own chronic disease strategy while the Central RHA is currently developing its own strategy.

- There is no Province-wide diabetes registry in order to capture patient data such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results.

## Diabetes in Newfoundland and Labrador

As a result, the Department does not have complete statistics related to diabetes which would be necessary in order to adequately manage the disease and its resulting health complications. However, the Western RHA has taken initiative to develop a diabetes registry.

- The Department is no longer coordinating primary health care teams. For the 7 years from 2000 to 2006, the Province received a total of \$9.7 million from the Federal Government to help renew their primary health care systems. The funding was used to create networks of physicians, nurse practitioners, public health officials, social workers and other health care providers to come together as primary health care teams (9 throughout the Province) and provide a continuum of services. One of these services was the treatment and management of chronic diseases such as diabetes, coordinated through the Primary Health Care Office at the Department. However, when the Federal funding ended in 2006, the Province did not continue to fund the Office and as a result, the Office closed and the Department ceased its coordinating role.

As a result of the lack of coordination by the Department, the RHAs are concerned about the lack of consistency throughout the Province in the treatment and management of chronic diseases such as diabetes.

- The Department has not implemented all recommendations contained in its 2008 report entitled *A Review of Chronic Disease Prevention and Management Services (Diabetes) in Primary Health Care Teams*. As a result, the Province has not progressed to the level at which it should be with regards to the management and control of chronic disease. In particular:
  - the Department has not coordinated the roles and activities associated with primary health care with its Health Promotion and Wellness and Board Services Divisions in order to work together to address chronic disease management;
  - there are issues with regard to the capturing and reporting of diabetes patient information, such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results, as follows:
    - with the elimination of the Department's Primary Health Care Office, the Department has not continued to provide support for the maintenance of the diabetes flow sheet which was designed to document results of patient visits;

## Diabetes in Newfoundland and Labrador

- the Department has stopped providing funding for the Provincial Chronic Disease Collaborative Database at the Eastern RHA which was designed to collect and report information documented in the diabetes flow sheets. Officials at the RHAs indicated that:
  - the reporting/viewing features of the Database were never implemented;
  - many primary health care teams are either no longer completing the diabetes flow sheets and/or not entering the data into the Database;
  - the full database was not available to all primary health care teams across the Province; and
  - the diabetes flow sheets have not been updated even though Canadian Diabetes Association guidelines have changed.
- the Department did not complete a Memorandum of Understanding to facilitate sharing data on patient visits across RHAs and the NLCHI.
- Although the CDA has estimated health care costs relating to diabetes care in the Province, albeit knowingly understated as a result of incomplete data, the Department has not made any determination of these costs. In fact, the Department has not determined the health care costs associated with any chronic diseases. Such information would be essential in order to adequately plan, manage and control initiatives. As a result of not having this information, it is more difficult for the Department to demonstrate whether any initiatives are having the desired effect.

### *Insulin Pumps*

Since Government introduced funding for insulin pumps in 2007, an estimated 450 individuals have availed of the program. From 2007 to 2010, insulin pumps were provided to qualifying individuals up to the age of 18. None of the RHAs indicated that they have been provided with any additional resources which would be required in order to adequately manage and monitor these individuals. As a result, the RHAs indicated that they had to reallocate resources to deal with these pumps and still have some concern about the level of diabetes care that they can provide.

## Diabetes in Newfoundland and Labrador

In March 2010, Government expanded coverage for the insulin pump therapy to include individuals aged 18 to 25 and provided an additional \$797,700 in the 2010-11 budget to cover this expansion.

It should be noted that an official at the Eastern RHA indicated that persons with insulin pumps, while representing only 1% of persons with diabetes, are consuming 50% of resources under its diabetes education program.

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### Audit Objectives and Scope

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#### Audit objectives

The objectives of our review of chronic disease were to determine if the Department of Health and Community Services (the Department) has:

- Identified:
  - the chronic diseases affecting the people of the Province;
  - the risk factors of chronic diseases; and
  - the complications of chronic diseases.
- documented:
  - the prevalence of diabetes in Newfoundland and Labrador; and
  - comparisons of the prevalence of diabetes in Newfoundland and Labrador to other provinces, and in Canada to other countries.
- a chronic disease prevention and management strategy; and
- identified the costs associated with chronic diseases and related complications in the Province and in particular with regards to diabetes.

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#### Audit scope

We commenced our review in February 2010. We interviewed staff at the Department of Health and Community Services, as well as at each of the four Regional Health Authorities (RHAs) in the Province. We completed our review in October 2010.

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## Background

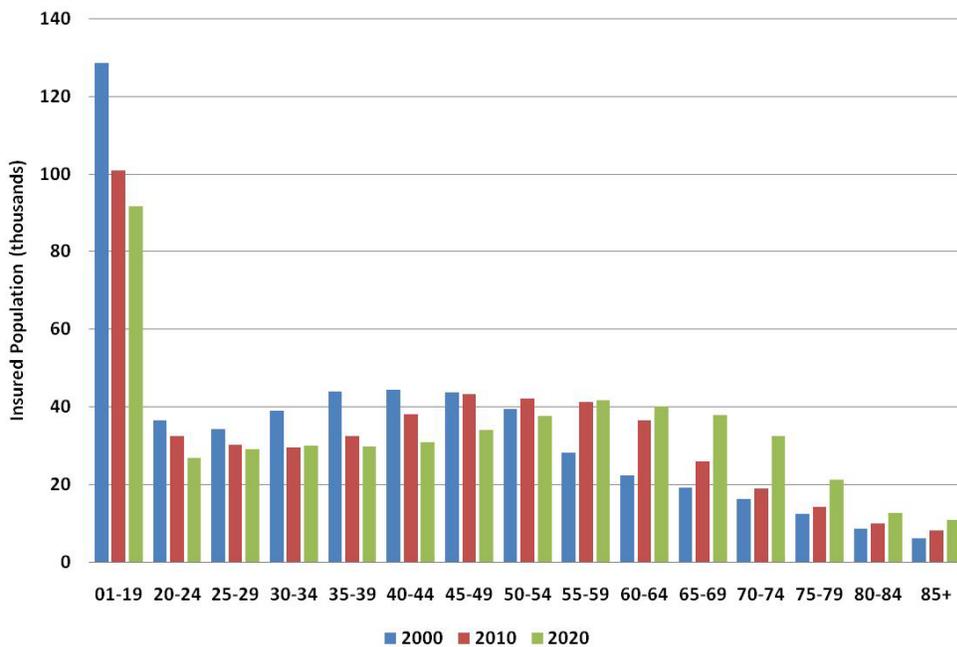
The Department, through the four RHAs, is responsible for the delivery of health care in the Province. The Department identified chronic disease management as one of the strategic issues in its Departmental Strategic Plan for 2008-11.

For the fiscal year ended 31 March 2010, expenditures for the Department totalled \$2.5 billion, an increase of approximately \$900 million or 56% from total health care expenditures of \$1.6 billion at 31 March 2005. Although some of the increase of expenditures can be attributed to the increase in costs of services and supplies, our aging population and the increasing prevalence of chronic diseases are undoubtedly contributing to the increased requests for services.

**Demographics** Figure 1 shows demographic information relating to the aging population in Newfoundland and Labrador as at 2000, 2010 and estimated for 2020.

**Figure 1**

### Population by Age Group - Newfoundland and Labrador 2000, 2010 and estimated for 2020



Source: Canadian Diabetes Association: *The Cost of Diabetes in Newfoundland and Labrador*, (2010).

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As Figure 1 shows, the Province's population will continue to age, resulting in further increases in requests for health care services. These increased requests for services are, for the most part, the result of the increase in the prevalence of chronic diseases associated with an aging population.

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### Chronic diseases

The World Health Organization defines chronic diseases as diseases which begin gradually and progress over long periods of time. They include heart disease, stroke, cancer, diabetes, and chronic respiratory disease. Chronic diseases often share common risk factors such as obesity, unhealthy diet, physical inactivity, and tobacco use.

The World Health Organization stated in 2005 that 89% of deaths in Canada are related to chronic disease and that, if the major risk factors for chronic diseases were eliminated, 80% of heart disease, stroke and type 2 diabetes, and 40% of cancers would be prevented.

The prevalence of chronic diseases is evident from statistics released by the Health Council of Canada. According to their 2007 report *Population Patterns of Chronic Health Conditions in Canada*, one in three Canadian youth and adults have one or more chronic conditions, and chronic conditions are more common among older Canadians and among women.

According to the Newfoundland and Labrador Centre for Health Information (NLCHI), chronic diseases are the leading cause of death in Newfoundland and Labrador. The most prevalent chronic diseases resulting in death are diseases of the circulatory system, cancer and respiratory disease. In this Province, these three diseases accounted for 74.7% of all deaths in 2000.

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### Diabetes

Diabetes is a chronic disease whereby the body either does not produce or is unable to properly use insulin. Typically the body converts the food we eat into glucose, which provides energy. When the glucose level in the body increases, the pancreas produces insulin which allows the body to use the glucose for energy, store glucose in the liver for use later, and to convert the excess glucose into fat.

The first symptoms of diabetes which manifest are related to the high blood glucose levels, a condition known as hyperglycemia. The high glucose levels usually leave the body through urine. The kidneys produce extra water to dilute the high levels of glucose, causing excess urination and leads to abnormal thirst.

## Diabetes in Newfoundland and Labrador

Diabetes has received world-wide attention in recent years as a result of its increase in prevalence. Diabetes can be categorized as type 1, type 2 and gestational as follows:

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**Type 1 diabetes** - where the body does not produce insulin (because insulin producing beta cells in the pancreas are worn out or destroyed.) It has been formally known as insulin-dependent or juvenile diabetes. The onset usually occurs in childhood. It accounts for about 10% of all diabetes. The body breaks down fats and proteins as a source of energy. This protein/fat breakdown also produces acids or ketones which can change the blood pH-level. The onset is usually quite sudden and the symptoms include frequent urination, excessive thirst and hunger, in addition to weight loss and fatigue, all related to the inability for the body to use glucose for energy. While not preventable, it is manageable.

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**Type 2 diabetes** - where the body either does not produce enough insulin, is unable to use insulin in the way it is supposed to, or a combination of both. Because the body is not able to use the insulin properly and glucose is not absorbed, blood glucose levels increase. Often the body will produce more insulin to attempt to counteract, but beta cells start to fail, thereby requiring injections of insulin. Type 2 diabetes accounts for about 90% of all diabetes. The onset can be as early as age 40. Symptoms can manifest as they do with type 1, but not always. Often, complications from type 2 occur before a diagnosis is made. If detected early enough, type 2 diabetes is preventable, or at least can be delayed.

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**Gestational diabetes** - where a woman develops diabetes during pregnancy. It happens in about 5% of pregnancies. The mother's blood sugar levels usually return to normal after the baby is born. However women who have gestational diabetes and children of mothers who had gestational diabetes are at a higher risk for obesity and type 2 diabetes.

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### Pre-diabetes

Pre-diabetes is a condition known as dysglycemia where the blood sugar levels are elevated, but not enough for a diagnosis of diabetes. There are two components to pre-diabetes:

- impaired glucose tolerance, which is higher than normal blood sugar levels found after ingesting a standard amount of glucose in a glucose tolerance test; and

## Diabetes in Newfoundland and Labrador

- impaired fasting glucose, which is higher than normal blood sugar levels found after fasting, usually overnight.

Both conditions are significant risk factors for developing diabetes.

### Complications of diabetes

The long-term complications associated with diabetes relate to issues with the effect of high blood glucose levels on blood vessels. Complications resulting from diabetes include heart disease and stroke, kidney disease, amputations, blindness, and numbness and tingling sensations in the lower limbs.

### Diabetes practices and centres

The four RHAs have established 36 diabetes practices, including 8 diabetes education centres, throughout Newfoundland and Labrador. The locations of these practices and centres are outlined in Figure 2.

**Figure 2**

### Diabetes Practices and Centres As at March 2008

Type of Site	Eastern	Central	Western	Labrador-Grenfell
Primary Health Care Site Practices	- St. John's - Bonavista - Placentia	- Twillingate/New World Island - Harbour Breton	- Bonne Bay - Deer Lake / White Bay	- Goose Bay - St Anthony
Other Local Collaborative Practices	- St. Mary's - Whitbourne - Carbonear - Burin - Clarenville	- Kitiwake Coast - Green Bay - Lewisporte - Baie Verte - Exploits - Buchans	- Port Saunders	- Charlottetown - Port Hope - Simpson - St. Lewis - Mary's Harbour - Forteau - Flower's Cove - Roddickton
<b>Sub-total:</b>	<b>8 practices</b>	<b>8 practices</b>	<b>3 practices</b>	<b>9 practices</b>
Diabetes Education Centre	- Health Sciences Centre - Janeway - St Clare's Mercy Hospital	- Gander - Grand Falls/Winsor	- Corner Book - Stephenville - Port Aux Basques	
<b>Sub-total:</b>	<b>3 centres</b>	<b>2 centres</b>	<b>3 centres</b>	<b>0 centres</b>
<b>Total</b>	<b>11 sites</b>	<b>10 sites</b>	<b>6 sites</b>	<b>9 sites</b>

Source: Department of Health and Community Services

## Diabetes in Newfoundland and Labrador

### Sources of diabetes information

There are many organizations involved in collecting and analyzing the data related to diabetes in the Province: the Public Health Agency of Canada, the Newfoundland and Labrador Centre for Health Information, the Canadian Institute for Health Information and Statistics Canada.

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### Public Health Agency of Canada

The Public Health Agency of Canada (PHAC) is the main Government of Canada agency responsible for public health in Canada. The Centre for Chronic Disease Prevention and Control (CCDPC) falls under the Health Promotion and Chronic Disease section of the PHAC. The CCDPC maintains several surveillance databases, such as the Chronic Disease Surveillance System (CDSS) and the National Diabetes Surveillance System (NDSS).

The PHAC also uses information from Statistics Canada and the Canadian Institute for Health Information (CIHI).

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### NDSS

The NDSS was an initiative of the Canadian Diabetes Strategy of the Government of Canada in 1999. The system is populated by information from three specific provincial data sources – health insurance registry files, physician claims, and hospital files. In Newfoundland and Labrador, the Provincial component of the NDSS was developed and is maintained by the Newfoundland and Labrador Centre for Health Information (NLCHI).

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### NLCHI

The NLCHI collects and analyzes health information data from various sources in order to evaluate areas such as the Electronic Health Records initiative, health performance indicators and chronic diseases. They are responsible for ensuring health data from different sources is consistent in definition, measurement, collection, and interpretation. Their sources of data include Statistics Canada (for census and population), research data, hospitalization files, and the Medical Care Plan (MCP) database. They perform research and provide reports to Government and the RHAs.

As noted, the NLCHI collects data for the CDSS and the NDSS. Most of the population of the country is covered by publically funded health insurance, and each person is assigned a unique health insurance number. This number is used when physicians make a claim for services, or if the individual is admitted to a hospital. The NDSS uses the insurance registry file for demographic information and as a denominator for many statistics it calculates. However in the case of Newfoundland and Labrador, the denominator factor is based on census information from the Vital Statistics Division of the Department of Government Services.

## Diabetes in Newfoundland and Labrador

The physician files were used to determine the number of diabetes related physician claims while the hospital files were used to determine the number of hospitalizations for an insured individual, the average number of days spent in the hospital, the rate of co-morbid hospitalizations, and the number of amputations.

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### CIHI

The CIHI collects data from a number of sources, including government health departments, hospitals, and other health care centres or organizations. The data is mostly abstracts of information, not the full client record. Approximately 85% of their data comes from hospitals. The data usually relates to the services provided by hospitals, trends regarding health care professionals, and how much money is spent on health services.

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### Statistics Canada

Statistics Canada is a source of information for many of the organizations already mentioned. In addition to census data, Statistics Canada conducts a Canadian Community Health Survey which targets all Canadians 12 and older and asks them core and optional health information questions. The core information relates to general health, height and weight, chronic conditions, physical activity, fruit and vegetable consumption, and income. The optional questions are chosen by provinces and include diabetes care and health care system satisfaction.

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## Detailed Observations

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

1. Prevalence and Risk Factors Associated with Diabetes
2. Prevention and Management of Chronic Diseases, including Diabetes

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### 1.0 Prevalence and Risk Factors Associated with Diabetes

In reviewing the prevalence and risk factors of diabetes in Newfoundland and Labrador, we identified issues in the following areas:

- A. Prevalence
- B. Risk Factors
- C. Health Implications of Diabetes
- D. Cost Implications of Diabetes

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### 1A. Prevalence

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#### Introduction

The International Diabetes Federation (IDF), an organization of over 200 national diabetes associations in over 160 countries, promotes diabetes care and prevention worldwide. The IDF divides the world into seven regions and has identified the North America/Caribbean region as having the highest prevalence of diabetes in the world at 10.2% for individuals 20 years of age and over.

The IDF indicated that Canada has a prevalence of diabetes at 11.6% for individuals 20 years of age and over, one of the highest prevalence in the world. The IDF also indicated that the prevalence for impaired glucose tolerance (IGT) or pre-diabetes for Canadians 20 years old and older is 12.9%. This means that approximately 1 in 4 Canadians has either diabetes or pre-diabetes.

The Canadian Diabetes Association (CDA) stated in 2009 that Canada has a diabetes epidemic with over 3 million Canadians living with the disease. This is expected to reach 3.7 million by 2020.

Information provided by the NDSS indicates that Newfoundland and Labrador has the highest prevalence of diabetes (for both sexes combined) of any other jurisdiction in Canada.

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#### Prevalence and cost information is understated

We note that the NDSS information used to calculate the prevalence of diabetes and estimate health care costs is based on MCP records from physician claims (fee for service) and hospital files. However, information from salaried physicians (estimated at 33% of all physicians in the Province) relating to a diabetes diagnosis and treatment is not tracked.

The lack of information from salaried physicians is very significant in statistics for the Labrador-Grenfell RHA because the vast majority of the aboriginal population of Labrador-Grenfell is serviced by salaried physicians (estimated by the NLCHI to be seven times greater than the number of fee for service physicians for the Labrador-Grenfell region). In addition, the aboriginal population is known to have a higher prevalence of diabetes than the non-aboriginal population. For instance, the prevalence of diabetes for the Innu population in one of the aboriginal communities (collected by the Labrador-Grenfell RHA) is between 27% and 30%.

As a result, the prevalence and cost information available for the Province related to diabetes is understated.

## Diabetes in Newfoundland and Labrador

Figure 3 shows the prevalence of diabetes in Newfoundland and Labrador compared to the prevalence in other jurisdictions in Canada as provided by the NDSS.

**Figure 3**

**Age-Standardized<sup>1</sup> Prevalence (%) of Type 1 and Type 2 Diabetes  
Among Individuals Aged 1+, by Sex, for Canada<sup>2</sup> by Jurisdiction  
Fiscal Year 2007**

Province/Territory	Females	Males	Both
Yukon	6.0	4.9	5.5
Northwest Territories	5.4	5.0	5.2
British Columbia	4.4	5.4	4.9
Alberta	4.2	5.2	4.7
Saskatchewan	4.6	5.6	5.1
Manitoba	5.2	6.0	5.6
Ontario	5.2	6.2	5.6
Quebec	4.2	5.4	4.7
New Brunswick	5.1	6.0	5.6
Nova Scotia	5.3	6.4	5.8
Prince Edward Island	4.6	6.1	5.3
Newfoundland and Labrador	5.7	6.1	5.9
<b>Canada</b>	<b>4.7</b>	<b>5.8</b>	<b>5.2</b>

Source: Public Health Agency of Canada: *Report from the National Diabetes Surveillance System: Diabetes in Canada*, (2009)

<sup>1</sup>Age-standardized to 1991 Canadian Population; <sup>2</sup>Data for Nunavut were unavailable

### **Highest prevalence of diabetes in Canada**

As Figure 3 shows, the Province has the highest prevalence of diabetes for both sexes combined, for the entire country.

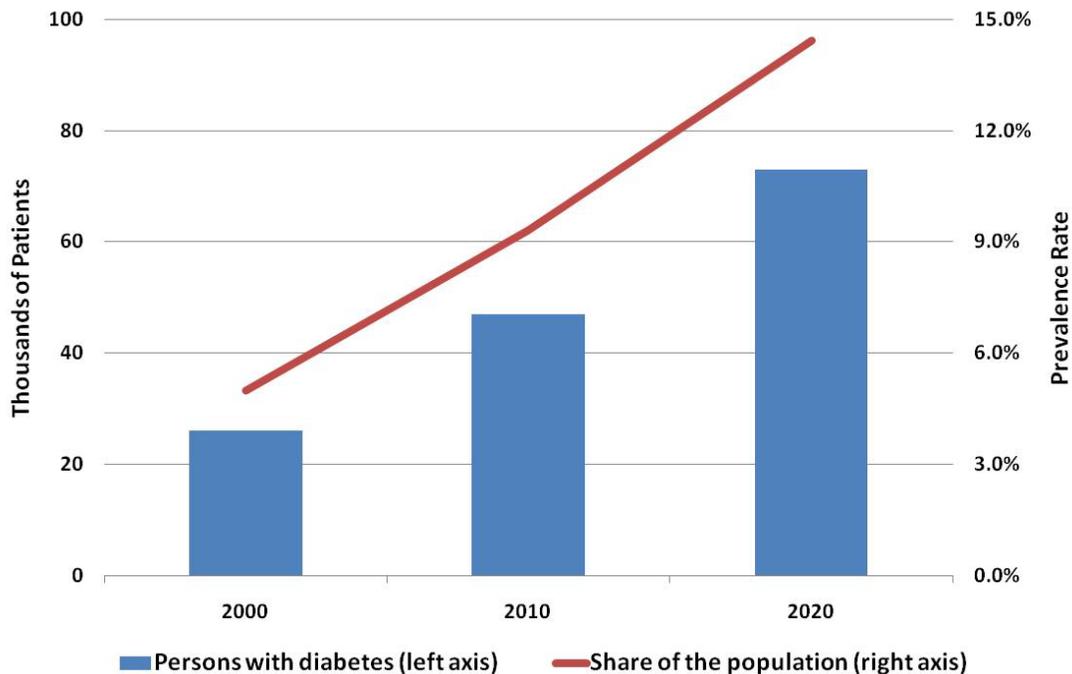
Figure 3 also shows that the male population in Nova Scotia and the female population in the Yukon have the highest prevalence of diabetes in the country.

## Diabetes in Newfoundland and Labrador

Figure 4 shows the total number of persons with type 1 and type 2 diabetes in the Province and the prevalence for 2000, 2010 and estimated for 2020.

**Figure 4**

### Type 1 and Type 2 Diabetes in Newfoundland and Labrador 2000, 2010 and estimated for 2020



Source: Canadian Diabetes Association: *The Cost of Diabetes in Newfoundland and Labrador*, (2010)

#### Prevalence of diabetes expected to increase

As Figure 4 shows, the prevalence and number of persons with type 1 and type 2 diabetes has increased and will continue to increase significantly. It is expected that by 2020, 14.4% (73,000 persons) of the Province's population will have diabetes, an increase from the 9.3% (47,000 persons) with diabetes in 2010.

#### Prevalence increases with age

Diabetes prevalence increases with age. As the population gets older, there will be more people at risk or suffering from complications due to diabetes. Figure 5 shows the increase in prevalence with age.

## Diabetes in Newfoundland and Labrador

**Figure 5**

**Age-Specific Diabetes Prevalence (%) by Sex, Individuals Aged 1+ Newfoundland and Labrador  
Fiscal Year 2007**

Sex	Age 1-19	Age 20-39	Age 40-64	Age 65+
Male	0.55	1.78	9.66	26.54
Female	0.53	2	8.51	24.83
<b>Total</b>	<b>0.54</b>	<b>1.89</b>	<b>9.08</b>	<b>25.60</b>

Source: Newfoundland and Labrador Centre for Health Information

As Figure 5 shows, the prevalence of diabetes increases with age. Given that the population of our Province is also getting older, on average, the potential number of people affected with the disease increases, as does the cost of managing the disease. As a person gets older, the complications from the disease increase, and the cost of keeping this person in a relatively healthy state increases.

### Diabetes prevalence within the Province

Figure 6 provides the prevalence of diabetes per region within the Province, for persons 1 to 19 (primarily type 1 diabetes) and 20 years of age and older (primarily type 2 diabetes).

**Figure 6**

**Prevalence (%) and Number of Prevalent Cases of Diabetes Among Those Age 1 to 19 Years (Primarily Type 1) and Those Aged 20+ Years (Primarily Type 2) Newfoundland and Labrador and Regional Health Authorities  
Fiscal Year 2007**

Region	Age 1 to 19 Years (Primarily Type 1)		Age 20+ Years (Primarily Type 2)	
	Prevalence (%)	Prevalent Cases	Prevalence (%)	Prevalent Cases
Eastern RHA	0.53	326	9.3	21,533
Central RHA	0.60	117	11.1	8,411
Western RHA	0.58	94	10.2	6,309
Labrador-Grenfell RHA	0.40	39	5.2	1,483
<b>Province</b>	<b>0.54</b>		<b>9.6</b>	

Source: Newfoundland and Labrador Centre for Health Information

## Diabetes in Newfoundland and Labrador

### Central RHA has the highest prevalence of diabetes

As Figure 6 shows, the Central RHA has the highest reported prevalence of diabetes among those on the island portion of the Province aged 19 and younger and for those aged 20 and older. Given the extent of omitted statistics for Labrador-Grenfell, it is not possible to draw any conclusion for that region.

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### 1B. Risk Factors

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#### Introduction

The common risk factors for diabetes are related to:

- background - increasing age, ethnicity; family history of diabetes, including personal history of gestational diabetes;
- behaviour - physical inactivity, obesity and unhealthy diet; and
- intermediate category - high blood pressure (hypertension), high cholesterol (hyperlipidemia) and high blood glucose (hyperglycemia).

While some risk factors are genetic and cannot be changed, many are related to behaviour and lifestyle and can be either modified or reduced. Research has shown that an integrated approach to chronic disease prevention and management is essential in order to influence behaviour and lifestyle.

Three of the major risk factors are obesity, physical inactivity and unhealthy diet. Our review of these risk factors in relation to the population of Newfoundland and Labrador identified the following:

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#### Obesity

If a person is above a healthy weight, they are at a higher risk for developing type 2 diabetes. Excess fat interferes with the body's ability to effectively use insulin, while exercise and weight loss increase its effectiveness.

Figure 7 shows the rate of obesity in Canada by jurisdiction.

## Diabetes in Newfoundland and Labrador

**Figure 7**

**Rate of Obesity (%) for Canada by Jurisdiction  
Body Mass Index of 30 or Greater; Self Reported  
2005**

Province/Territory	Females	Males	Both
Yukon	20.9	14.8	17.8
Northwest Territories	25.1	24.0	24.5
British Columbia	12.2	14.1	13.2
Alberta	13.9	17.6	15.8
Saskatchewan	18.2	23.0	20.6
Manitoba	16.4	19.8	18.1
Ontario	13.9	16.3	15.1
Quebec	12.7	15.7	14.2
New Brunswick	22.5	22.6	22.5
Nova Scotia	20.6	20.8	20.7
Prince Edward Island	21	24.1	22.5
Newfoundland and Labrador	22.3	25.4	23.8
<b>Canada</b>	<b>14.2</b>	<b>16.8</b>	<b>15.5</b>

Source: Public Health Agency of Canada: *Report from the National Diabetes Surveillance System: Diabetes in Canada*, (2009)

**The Province has the second highest rate of obesity**

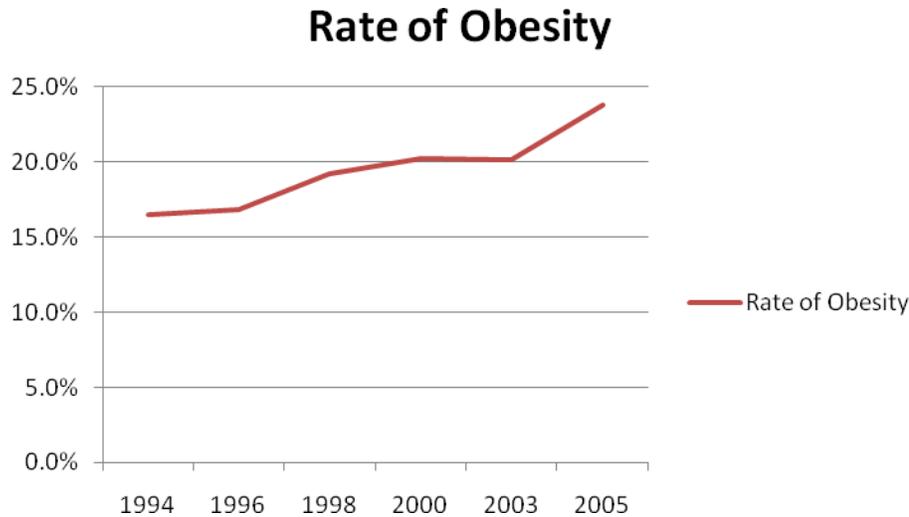
As Figure 7 shows, Newfoundland and Labrador has the second highest rate of obesity in the country for both sexes combined. The obesity rate for males is the highest in the country while the obesity rate for females is the third highest in the country.

Figure 8 shows the obesity rate in Newfoundland and Labrador from 1994 to 2005.

## Diabetes in Newfoundland and Labrador

**Figure 8**

**Rate of Obesity (%) for Newfoundland and Labrador  
Body Mass Index of 30 or Greater; Self Reported  
1994 through to 2005**



Source: Public Health Agency of Canada

**Obesity rates  
are increasing  
in the Province**

As Figure 8 shows, the rate of obesity in Newfoundland and Labrador is on the rise, putting an increased proportion of the population at risk for developing diabetes. Obesity in the Province has increased from 16.5% in 1994 to 23.8% in 2005, an increase of 8% in 11 years.

The Public Health Agency of Canada (PHAC) reports that people can significantly reduce their risk of developing diabetes by a weight reduction of only 5% to 10%. A 2006 study completed by an American research organization found that for every kilogram of weight loss, the risk of developing diabetes was reduced by 16%, after adjustment for changes in diet and activity.

## Diabetes in Newfoundland and Labrador

### Physical inactivity

Another risk factor which is directly related to obesity is the level of physical inactivity. The PHAC states that less than half of all Canadians participate in a minimum level of leisure time physical activity which would be needed to acquire the health benefits.

The rate of physical inactivity for Canada by jurisdiction is shown in Figure 9.

**Figure 9**

### Physical Inactivity Rates (%) for Canada by Jurisdiction Leisure Time - Physical Inactivity; Self Reported 2005

Province/Territory	Females	Males	Both
Yukon	44.3	37.4	40.8
Northwest Territories	50.0	44.8	47.3
British Columbia	41.1	39.0	40.1
Alberta	43.8	45.4	44.6
Saskatchewan	50.2	46.8	48.5
Manitoba	53.5	46.8	50.2
Ontario	49.0	42.4	45.8
Quebec	54.2	46.8	50.6
New Brunswick	55.6	49.1	52.4
Nova Scotia	51.5	47.6	49.6
Prince Edward Island	56.2	53.7	55.0
Newfoundland and Labrador	57.9	48.3	53.2
<b>Canada</b>	<b>49.3</b>	<b>44.1</b>	<b>46.7</b>

Source: Public Health Agency of Canada: *Report from the National Diabetes Surveillance System: Diabetes in Canada*, (2009)

### The Province has the second highest rate of inactivity in Canada

As Figure 9 shows, Newfoundland and Labrador has the second highest rate of physical inactivity in the country for both sexes combined. The physical inactivity rate for females is the highest in the country while the physical inactivity rate for males is the third highest in the country.

## Diabetes in Newfoundland and Labrador

**Unhealthy eating** Another risk factor which the PHAC reports on is unhealthy eating. The patterns (geographical and frequency) of fruit and vegetable consumption across the country are closely paralleled with prevalence of chronic diseases such as diabetes.

Figure 10 shows the percentage of the Canadian population by jurisdiction who consumes less than five servings of fruits and vegetables per day.

**Figure 10**

### Nutrition Rates (%) for Canada by Jurisdiction Consumption of Fruits and Vegetables < 5 Times per Day; Self Reported 2005

Province/Territory	Females	Males	Both
Yukon	50.1	55.6	52.9
Northwest Territories	64.6	73.4	69.2
British Columbia	48.2	59.4	53.7
Alberta	52.0	63.5	57.8
Saskatchewan	53.2	65.0	59.0
Manitoba	55.9	65.6	60.7
Ontario	47.5	59.5	53.4
Quebec	37.6	53.2	45.3
New Brunswick	54.6	68.2	61.2
Nova Scotia	58.7	66.6	62.5
Prince Edward Island	57.9	71.4	64.4
Newfoundland and Labrador	68.2	77.3	72.7
<b>Canada</b>	<b>46.7</b>	<b>60.0</b>	<b>53.3</b>

Source: Public Health Agency of Canada: *Report from the National Diabetes Surveillance System: Diabetes in Canada*, (2009)

**The Province has the highest rate of unhealthy eating** As Figure 10 shows, Newfoundland and Labrador has the highest percentage of the population who consumes less than 5 servings of fruits and vegetables per day. In addition to having the highest both sex combined percentage, Newfoundland and Labrador also has the highest percentage for males and females.

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### 1C. Health Implications of Diabetes

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#### Introduction

Diabetes can lead to complications later in life. These complications can be quite costly to the health system and to the patient. The long-term complications associated with diabetes relate to issues with the effect of high blood glucose levels on blood vessels. There are three types of complications:

- Macrovascular - has to do with medium to large blood vessels and can lead to heart disease and stroke.
- Microvascular - has to do with smaller blood vessels and causes Nephropathy (kidney disease), foot problems (including amputations) and retinopathy (cataracts, glaucoma, blindness). In fact, according to International Diabetes Federation (IDF):
  - diabetic retinopathy is the leading cause of vision loss in adults of working age (20 to 65 years) in industrialized countries, and about 2% of all people who have had diabetes for 15 years become blind, while about 10% develop a severe visual impairment.
  - Diabetes is the most common cause of amputation that is not the result of an accident. People with diabetes are 15 to 40 times more likely to require lower-limb amputation compared to the general population.
- Neuropathy - impacts the nervous system, especially the peripheral, in the lower limbs, and can cause pain, numbness and tingling sensations.

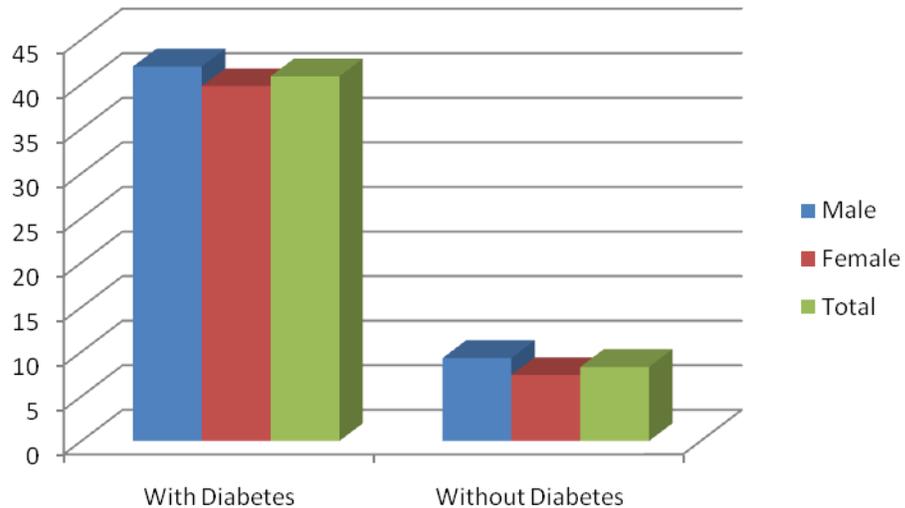
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In most cases, death from diabetes will be as a result of the complications of the disease. Figure 11 shows the mortality rates by sex and diabetes status.

## Diabetes in Newfoundland and Labrador

**Figure 11**

**Mortality Rates<sup>1</sup> by Sex and Diabetes Status,  
Individuals Aged 20+, Newfoundland and Labrador,  
Fiscal Year Ended 31 March 2007**



Source: Newfoundland and Labrador Centre for Health Information  
<sup>1</sup>Per 1000 Population

**Persons with diabetes have higher mortality rates**

As Figure 11 shows, in Newfoundland and Labrador, the combined mortality rate for both sexes with diabetes is approximately five times higher than those without diabetes.

The National Diabetes Surveillance System 2009 Report on Diabetes concluded that the average reduction in life expectancy for a male with diabetes at age 20 to 29 is 8 years, while for a woman, the reduction in life expectancy is 9 years.

Figure 12 shows the rates of individuals hospitalized for select co-morbidities with and without diabetes. The Figure shows statistics on chronic diseases such as cardiovascular disease (CVD), ischemic heart disease (IHD), acute myocardial infarction (AMI), heart failure, stroke and renal disease. The Figure also shows the rates of hospitalization for amputation for both groups.

## Diabetes in Newfoundland and Labrador

Figure 12

**Rate of Individuals Hospitalized<sup>1</sup> for Select Co-morbidities With and Without Diabetes, Aged 20+, Newfoundland and Labrador Fiscal Year 2007**

Diabetes Status	CVD	IHD	AMI	Heart Failure	Stroke	Renal Disease	Amputation
With Diabetes	83.3	75.2	15.8	24.6	10.2	24.3	2.1
Without Diabetes	12.9	9.9	2.5	2.5	1.6	2.0	0.1
<b>Total</b>	<b>19.7</b>	<b>16.1</b>	<b>3.8</b>	<b>4.6</b>	<b>2.4</b>	<b>4.1</b>	<b>0.3</b>

Source: Newfoundland and Labrador Centre for Health Information

<sup>1</sup>Per 1000 population

**Higher hospitalizations for diabetes patients**

As Figure 12 shows, the hospitalization rate for persons with select co-morbidities is much higher for those with diabetes than those without diabetes.

In addition, the Newfoundland and Labrador Centre for Health Information (NLCHI) has estimated that the average length of hospital stay for persons with diabetes is 4 times higher than persons without diabetes, meaning that they will cost the health care system even more money to manage their diseases. As type 2 diabetes is, for the most part, preventable, and complications can be delayed by getting it under control, reducing the prevalence of diabetes will go a long way to reducing health care costs.

### 1D. Cost Implications of Diabetes

**Introduction**

According to the Canadian Institute for Health Information (CIHI), the cost of chronic diseases in Canada is significant. Hospitals in Canada, outside of Quebec, spent a total of \$17 billion on inpatient acute care in 2004-05, relating to 2.4 million inpatient stays. \$4.6 billion or 27% of this total related to complications from chronic diseases and secondary illnesses present when patients were admitted or that developed during their stay.

## Diabetes in Newfoundland and Labrador

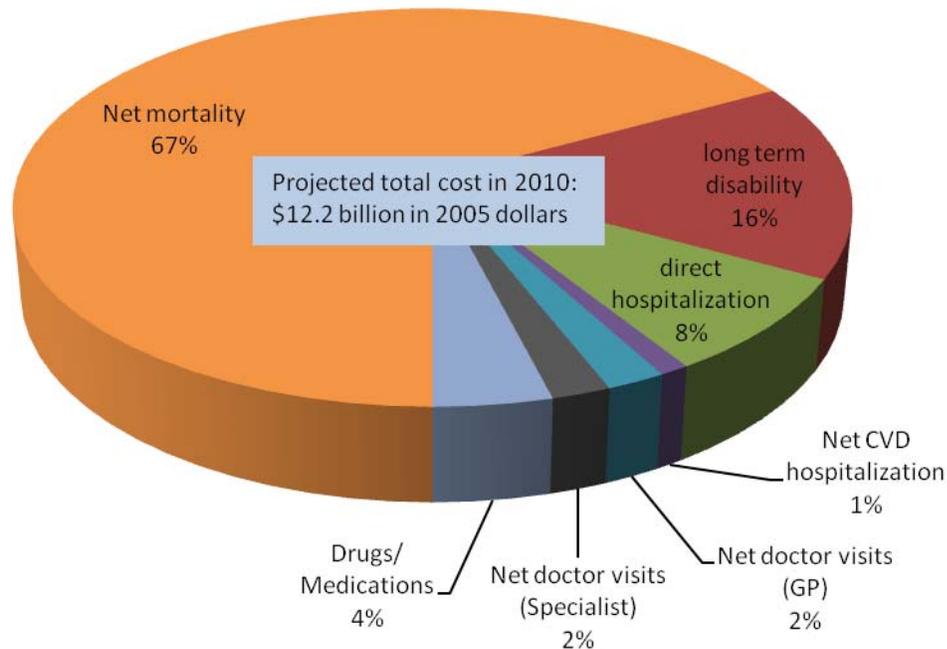
### Economic burden of diabetes

There are both direct and indirect health care costs associated with diabetes. Direct costs include hospitalization, general practitioner visits, specialist visits, and medication, while indirect costs include the cost of lost productivity due to either long-term disability or death.

Figure 13 shows the economic burden of diabetes in Canada as determined by the Canadian Diabetes Association Diabetes Cost Model, estimated for 2010 to be approximately \$12.2 billion.

**Figure 13**

### Economic Burden of Diabetes in Canada 2010



Source: Canadian Diabetes Association, *An economic tsunami: The cost of diabetes in Canada* (2009)

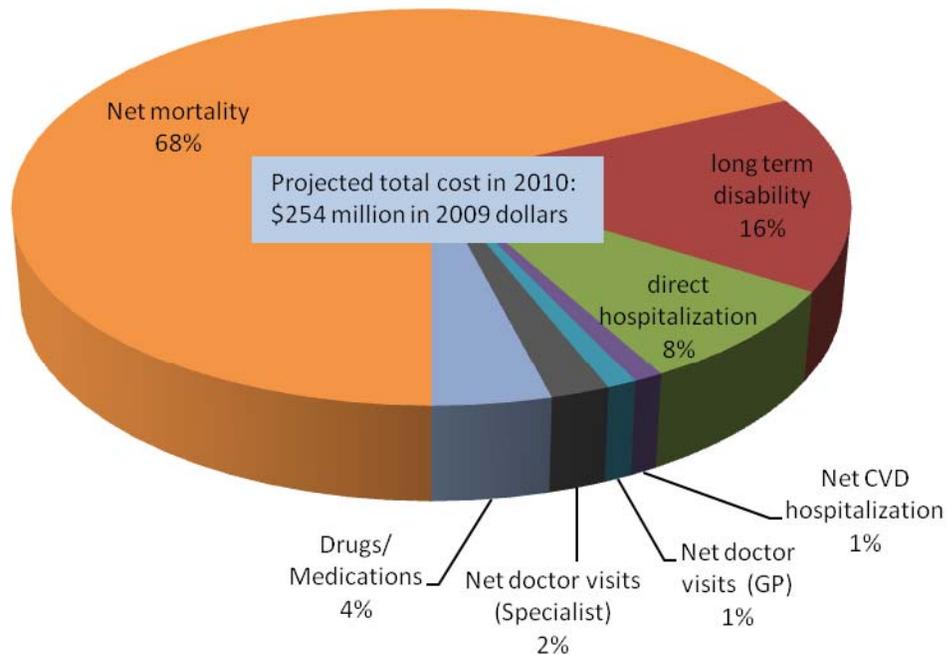
Figure 13 shows a total of \$12.2 billion related to the costs of diabetes in Canada. The \$12.2 billion includes \$2.1 billion or 17% relating to direct costs and \$10.1 billion (83%) relating to indirect costs. The \$10.1 billion (83%) of indirect costs is comprised of \$8.2 billion or 67% related to death and \$1.9 billion or 16% related to long-term disability.

## Diabetes in Newfoundland and Labrador

The CDA applied their Diabetes Cost Model to Newfoundland and Labrador. Figure 14 shows the economic burden of diabetes in Newfoundland and Labrador, estimated for 2010 to be approximately \$254 million.

**Figure 14**

### Economic Burden of Diabetes in Newfoundland and Labrador 2010



Source: Canadian Diabetes Association, *The Cost of Diabetes in Newfoundland and Labrador* (2010)

#### Diabetes costs the Province \$254 million

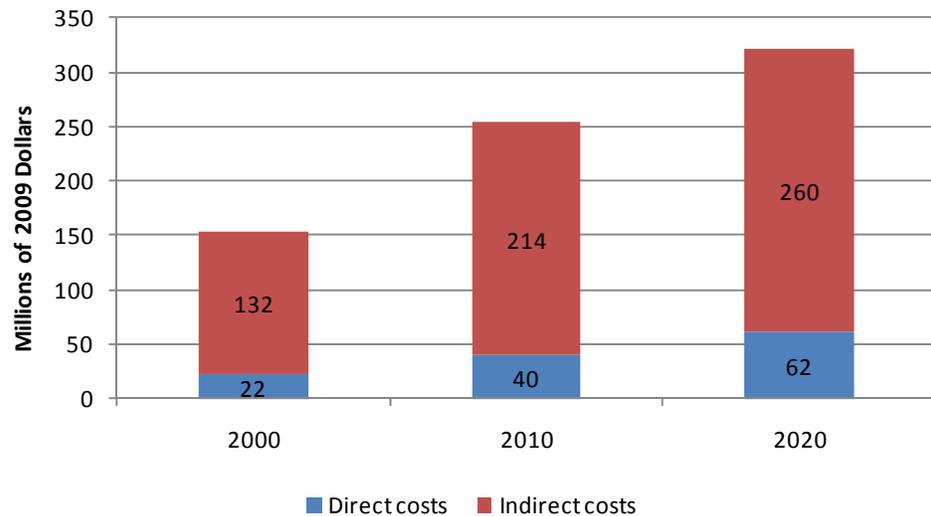
Figure 14 shows a total of \$254 million related to the costs of diabetes in Newfoundland and Labrador. The \$254 million includes \$40 million or 16% relating to direct costs and \$214 million (84%) relating to indirect costs. The \$214 million (84%) of indirect costs is comprised of \$173 million or 68% related to death and \$41 million or 16% related to long-term disability.

Figure 15 shows the increased cost of diabetes in Newfoundland and Labrador from 2000 to 2010 and the expected increase in costs from 2010 to 2020.

## Diabetes in Newfoundland and Labrador

Figure 15

### Cost of Diabetes in Newfoundland and Labrador 2000 to 2020



Source: Canadian Diabetes Association, *The Cost of Diabetes in Newfoundland and Labrador* (2010)

#### The cost of diabetes in the Province increasing

As Figure 15 shows, the cost of diabetes in Newfoundland and Labrador has increased and will continue to increase. The Province incurred estimated health care costs of \$254 million in 2010 related to diabetes and will incur estimated costs of \$322 million by 2020, an increase of 27%.

#### Out-of-pocket cost of diabetes

The CDA issued its Diabetes Report 2005 wherein it provided annual out-of-pocket cost information by Canadian jurisdiction. Out-of-pocket costs consist of prescription medication and supplies. Figure 16 provides annual out-of-pocket costs by jurisdiction for a typical individual with type 1 or type 2 diabetes.

## Diabetes in Newfoundland and Labrador

**Figure 16**

**Annual Out-of-Pocket Costs by Jurisdiction for Persons with Diabetes  
2005**

Province/Territory	Annual Out-of-Pocket Costs Type 1	Annual Out-of-Pocket Costs Type 2
Newfoundland and Labrador	\$3,639	\$3,895
Nova Scotia	3,586	3,442
New Brunswick	3,355	3,674
Prince Edward Island	3,116	3,225
Alberta	2,359	1,734
Saskatchewan	1,451	2,226
Quebec	963	1,460
Ontario	948	2,046
North West Territories	550	40
British Columbia	396	1,897
Manitoba	336	2,224
Yukon	250	290
Nunavut	0	40

Source: Canadian Diabetes Association: *Diabetes Report* (2005)

**The Province has the highest annual out-of-pocket costs per person with diabetes**

As Figure 16 shows, Newfoundland and Labrador has the highest annual out-of-pocket costs for both type 1 and type 2 diabetes. The annual out-of-pocket costs for type 1 diabetes were approximately \$3,600 per person, while the annual out-of-pocket costs for type 2 diabetes were approximately \$3,900 per person.

In Newfoundland and Labrador, not all individuals with diabetes have Government medical coverage related to required supplies such as testing strips, meter, insulin, or insulin pump. However, with the exception of insulin pumps, there is coverage available through the Newfoundland and Labrador Prescription Drug Program for individuals who meet low income thresholds. Government has a program which provides insulin pumps to individuals with diabetes aged 25 or younger.

## Diabetes in Newfoundland and Labrador

### The Department has not determined the cost related to diabetes care

Although the CDA has estimated health care costs relating to diabetes care in the Province, albeit knowingly understated as a result of incomplete data, the Department has not made any determination of these costs. In fact, the Department has not determined the health care costs associated with any chronic diseases. Such information would be essential in order to adequately plan, manage and control initiatives. As a result of not having this information, it is more difficult for the Department to demonstrate whether any initiatives are having the desired effect.

### Recommendation

The Department should determine the cost of chronic health care in the Province, including diabetes.

## 2.0 Prevention and Management of Chronic Diseases including Diabetes

### Overview

According to the then Minister of the Department of Health and Community Services, “... *decreasing the prevalence of chronic disease is key to sustaining the health care system*”. This statement came about from a stakeholder session held in 2008 and it indicates that the Department is well aware of the issue of chronic diseases and that it should be working towards a strategy to deal with the prevention and management of chronic diseases in order to control health care costs.

### Primary prevention

Primary prevention focuses on addressing the risk factors and working to reduce them. The strategies aim to reduce the incidence or number of new cases of the disease. This should happen at multiple levels, with the individual taking responsibility for their own health, and the community taking responsibility to create healthy public policies, services and environments that promote health and support the prevention of disease. In addition, it involves the health care provider and health care system developing policies and practices to guide behaviours in order to reduce the risk of anyone developing the disease.

## Diabetes in Newfoundland and Labrador

### Secondary prevention

Secondary prevention focuses on identifying and detecting the disease before it progresses into complications. Strategies are aimed at early identification and treatment of the disease so as to minimize long-term costs. This should happen at the Provincial level whereby initiatives are developed to identify pockets of the population who are at a higher risk so as to reduce incidence and ease prevalence levels.

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### Tertiary prevention

Tertiary prevention focuses on management of people once they have the disease. Strategies at this level aim to improve the outcomes for those who have already been diagnosed. Both the Department and RHAs are responsible for keeping the general population healthy and improving quality of life for those with the disease.

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In reviewing prevention and management activities of the Department, we identified issues in the following areas:

- A. Overall Chronic Disease Strategy
  - B. Primary Prevention Initiatives
  - C. Secondary Prevention Initiatives
  - D. Primary Health Care
  - E. Insulin Pumps.
- 

## 2A. Overall Chronic Disease Strategy

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### Introduction

Prevention and management of any chronic disease is complex, and involves multiple levels of care and service. Prevention and management are key because if you are successful in slowing down the development of risk factors and complications, you extend a person's quality of life and decrease the cost to the patient and to the health care system. Chronic disease management involves knowing who has the disease, and tracking their progress and offering initiatives to address the potential for prevention and dealing with the complications.

Many provinces have implemented chronic disease prevention and management strategies. Some provinces have developed specific strategies to deal with the prevention and management of diabetes. These strategies assist the provinces by establishing a framework, including guiding principles and strategic directions to monitor who has the disease or is at risk of getting it, providing province-wide initiatives for prevention and management, and strengthening capacities for services in all areas.

## Diabetes in Newfoundland and Labrador

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### Need for Provincial strategy

As part of developing a strategy, the Province needs data to determine the current status of chronic diseases and the economic and social impact they are having on the Province. The nature, type, quantity and quality of this data can be found by researching what other provinces and countries have done in this area. There are also guidelines and policies that exist in the medical field which relate to appropriate diabetes prevention and management.

The Province should serve in its leadership role with the RHAs by providing them with clear direction and goals so that they can either implement this strategy, or develop their own strategy which is in line with that of the Department.

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### Department identified need for strategy

The Department identified chronic disease management in its strategic plan for 2008-2011. Its plan was to develop a comprehensive chronic disease control strategy. The Department stated three annual objectives:

- *“By March 31, 2009 the Department of Health and Community Services will have started to develop a provincial chronic disease management strategy that includes policy directions to support an integrated and comprehensive approach to manage selected chronic diseases.”*
- *“By March 31, 2010 the Department of Health and Community Services will have implemented policy directions and developed guidelines for management of selected chronic diseases and approved aspects of the strategy.”*
- *“By March 31, 2011 the Department of Health and Community Services will have implemented a monitoring mechanism to measure the integration of the provincial chronic disease strategy into practice for the management of chronic diseases and conditions.”*

Two of the indicators that the Department defined in the strategic plan included implementing the strategy and developing provincial guidelines and standards for selected chronic diseases. However, they admit progress has been slowed by other departmental priorities.

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## Diabetes in Newfoundland and Labrador

### Province does not have a strategy

The Province has not yet developed a strategy to deal with the prevention and management of chronic diseases such as diabetes. Although the Department has issued a Provincial Cancer Control Strategy, the Department does not have either an overall Chronic Disease Prevention and Management (CDPM) Strategy or a strategy for any other chronic disease which would include goals and measurable performance indicators. At the time of our review, the Department informed us that it was working towards an overall Chronic Disease Prevention and Management Strategy.

### Reviews conducted by RHAs

Officials at the RHAs have noticed a lack of Provincial leadership in the area of chronic disease prevention and management, and diabetes care in particular. As a result, RHAs have undertaken their own initiatives. In particular:

- The Western RHA has developed its own diabetes strategy, and the RHA has adopted the Expanded Chronic Care Model. In collaboration with the Central RHA, the Western RHA has received Provincial funding to implement the Stanford Chronic Disease Self Management Program. The Western RHA also conducted a Review of Diabetes Prevention and Management in 2008. They interviewed patients, held focus groups and surveyed stakeholders. The RHA has identified enhanced service delivery in the area of chronic disease prevention and management as a strategic goal. Recommendations from this report centered on areas such as collaborative partnerships, the necessity for leadership and resources, information management, and monitoring and evaluation of outcomes. These recommendations formed the basis of a regional Chronic Disease Prevention and Management Plan with identified actions that were achievable within existing resources.
- The Central RHA is developing its own strategy for chronic disease prevention and management, and the RHA also has adopted the Expanded Chronic Care Model and will focus on self-management. The Central RHA conducted a Diabetes Care Program Review in 2010, whereby they met with diabetes educators and policy personnel to identify threats and challenges as well as strengths and opportunities facing the region. They also met with residents of the region living with diabetes in preparation for the implementation of a self-management approach. The RHA has hired a Chronic Disease Prevention and Management Consultant and are currently recruiting for a Self-Management Coordinator. They have received funding from the Public Health Agency of Canada to complete projects focused on the prevention of diabetes as well as to do some preliminary work to prepare for the implementation of a self-management approach to service/care provision. Many of the recommendations they arrived at relate to data collection,

electronic analysis tools, regional coordination, and effecting change by “...creating more awareness, involving the communities to full capacity and most importantly integrating disease prevention initiatives into every health interaction”.

- The Labrador-Grenfell RHA has drafted a work plan which will address the issues of diabetes prevention and management; however, they are reluctant to put it into action until they have the appropriate resources in place, namely the diabetes education staff in the region. This is an area where they have been significantly lacking in the past. In 2010, the RHA significantly changed its organizational structure to a matrix leadership model.
- The Eastern RHA has seconded a manager to develop the framework strategy for CDPM, and they have engaged the Eastern RHA directors who are responsible for the continuum of health services to initiate an assessment of current services provided related to chronic disease prevention and management. The RHA’s intent is to align their activities with the Department strategy.

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### 2B. Primary Prevention Initiatives

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#### Introduction

Primary prevention involves addressing the underlying causes of type 2 diabetes, which means changes in behaviour and social and physical aspects of people’s lives. It is clear that adopting a healthier lifestyle, lowering obesity levels and increasing physical activity will lead to a healthier population. A change in social behaviour and attitude, similar to that for smoking, would have lasting effects on the population health. These changes to behaviour, while simple, are not easy to accomplish and can be quite costly to an individual. In addition, the results are not immediate; however, they can be long-lasting, and are an integral part of prevention.

#### Provincial Wellness Plan

The Province released a Provincial Wellness Plan in 2006 which outlined the Province’s actions for wellness. The plan focused on four areas: healthy eating, physical activity, tobacco use, and injury prevention. The Province has many wellness initiatives on-going in the schools and the community. For example, the Healthy Students, Healthy Schools; and Kids Eat Smart programs which promote healthy eating and healthy living. However, these are not directly linked with disease prevention, and the goals are not related to disease prevention.

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**Lack of coordination of efforts**

While the Province has a Provincial Wellness Plan, the links between wellness and disease prevention are weak at the Departmental level. In addition, the Department has not yet released any indicators for the Plan. The Wellness Plan is guided by principles which are collaborative and integrated in nature, yet Department officials indicated that chronic disease management and the Health Promotion and Wellness Division are not working together to achieve results.

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### 2C. Secondary Prevention Initiatives

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**Introduction**

The key to secondary prevention is identifying individuals who are at a high risk of developing diabetes. Without reliable information, it is not easy to reduce or slow down the development of the disease for those who are at risk or who have already developed pre-diabetes.

One of the ways to identify high risk individuals and to monitor those with pre-diabetes is to complete and monitor some basic test procedures on a regular basis. There are screening tests which will identify individuals who are more susceptible to the disease.

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**Population at high risk of pre-diabetes**

We have already noted that the statistics related to prevalence of diabetes are underestimated due to the non-inclusion of patient information from salaried physicians. We also know that:

- 23.8 % of individuals in our Province report that they are obese,
- 53.2% of individuals in our Province report that they are physically inactive, and
- 72.7% of individuals in our Province report that they do not eat the daily recommended intake of fruits and vegetables.

Therefore, we know that there is a high percentage of the population that either have the disease or are at risk of developing diabetes. In order to identify people who are at risk of having the disease, there is a need to screen the population, record their information, and track their progress.

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## Diabetes in Newfoundland and Labrador

### Key screening tests not conducted

One of the ways to identify high risk individuals is to complete and monitor some basic test procedures on a regular basis. Medical research has identified four basic screening tests, the results of which can identify those with pre-diabetes or who are at a risk of developing diabetes. These recommended care components are:

- One or more HgA1C tests in the last year;
- A urine test for protein in the last year;
- A dilated eye exam in the last two years; and
- A foot exam by a health care professional in the last year.

The results of these tests should be monitored to ensure complications from diabetes are delayed or stopped. Figure 17 shows the standard tests, and the frequency of their occurrence in Newfoundland and Labrador compared to Canada as reported in the CIHI report *Diabetes Care Gaps and Disparities*.

**Figure 17**

### Age Standardized Percentage of Adults 18 and Older Who Received Four Standard Care Tests 2007

Recommended Screening Test	Newfoundland and Labrador	Canada
HgA1C level testing at least once in last year	75	81
Urine protein test once per year	73	74
Eye exam every 1 to 2 years	49	66
Foot exam once per year	41	51
<b>All Four Tests Completed</b>	<b>21%</b>	<b>32%</b>

Source: Canadian Institute for Health Information: *Diabetes Care Gaps and Disparities* (2009)

As Figure 17 shows, only 32% of Canadian adults diagnosed with diabetes reported receiving all four main tests. The report also indicated that British Columbia had the highest rate of receiving these standards of care at 39%, while Newfoundland and Labrador had the lowest rate in the country at 21%.

## Diabetes in Newfoundland and Labrador

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### Importance of regular screening

If the Province knows who is at high risk (e.g. who has been hospitalized for hyperglycemia, hypertension, renal failure, amputations, or eye surgery), and are attempting to reduce or mitigate those risks, they are also addressing other chronic disease risk factors, and the benefits are therefore two-fold.

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### Diabetes registry in NS

The Diabetes Care Program of Nova Scotia developed a diabetes registry in 1994. The purpose of a registry is to monitor trends in diagnosis and time sensitive information related to the care of a diabetes patient. The registry can be used to generate reports, and to develop and track program targets. The registry is housed centrally and used by 8 of the 9 District Health Authorities to track indicators of care, physician referrals, and daily statistics.

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### Manitoba Diabetes Reporting Act

The Province of Manitoba has a *Diabetes Reporting Act* whereby every physician who diagnoses a patient with diabetes has to report them to the Public Health Officer. In the case of persons under the age of 16, the diagnosis must be reported to the parents as well. This allows the Province of Manitoba to track with certainty how many people have the disease and how many have been newly diagnosed. This *Act* provides the Province of Manitoba with valuable information to assist in tracking patients and assess whether initiatives are working.

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### No registry in Newfoundland and Labrador

There is no Province-wide diabetes registry in Newfoundland and Labrador to capture patient information such as personal information, health complications, risk factors, diagnosis of multiple diseases, and test results. Also, there is no legislated requirement to track all those who are diagnosed with the disease each year. In addition, the Province does not have a complete electronic health record which could be used to track diabetes patient information. As a result, the Department does not have complete statistics related to diabetes which would be necessary in order to adequately manage the disease and its resulting health complications.

Furthermore, the Western RHA has taken initiative to develop a diabetes registry using Meditech system information. Central RHA has also started a registry of diabetes patients in their region at the Twillingate/New World Island site. The other two RHAs, Eastern and Labrador-Grenfell, track statistics on diabetes patients but do not have a registry as of yet.

### 2D. Primary Health Care

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#### Introduction

The Primary Health Care Transition Fund was a Federal initiative announced in 2000 to help provinces renew their primary health care systems. The Province's share was \$9.7 million which was used to create networks of physicians, nurse practitioners, public health officials, social workers and other health care providers to come together as health teams and provide a continuum of services known as collaborative care. One of these services was the treatment and management of chronic diseases such as diabetes.

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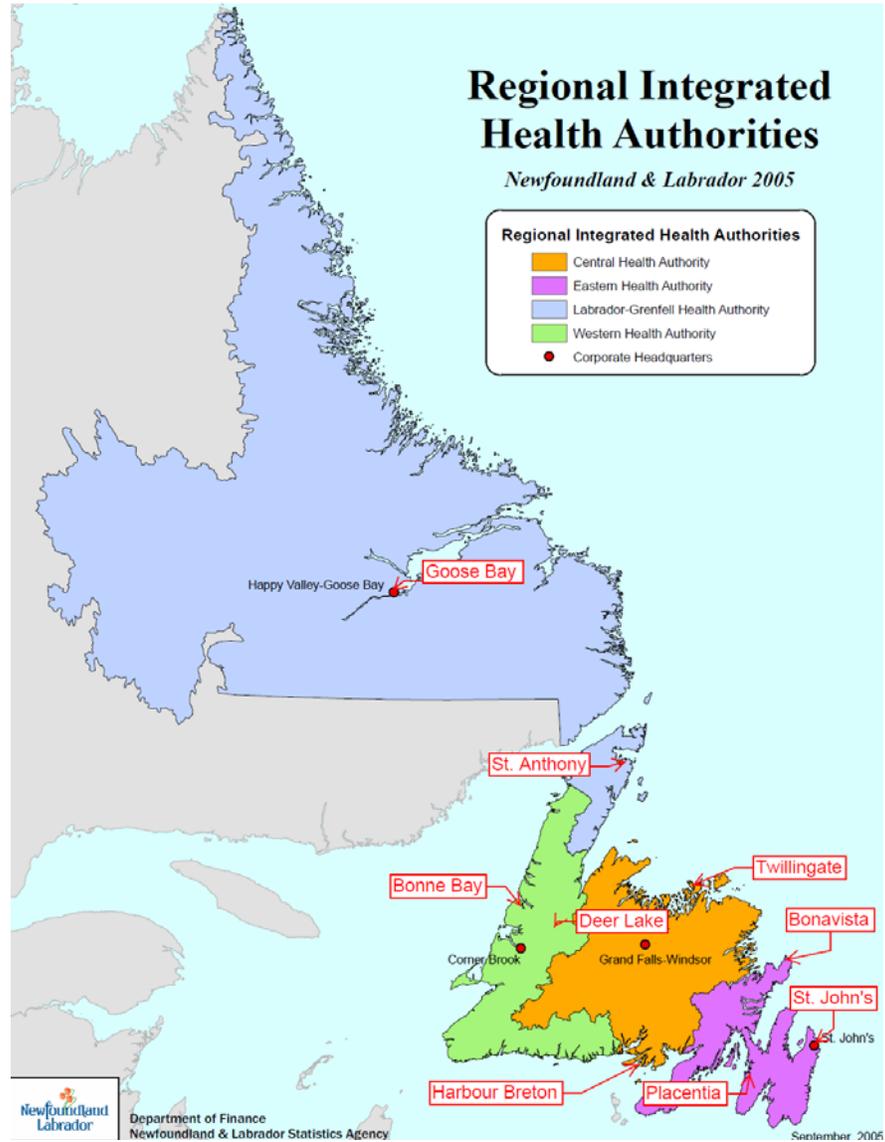
#### Primary Health Care Framework

The Primary Health Care Framework is detailed in the Department's 2003 report *Moving Forward Together: Mobilizing Primary Health Care*. As indicated in this report, the Department established the Office of Primary Health Care to provide Provincial policy direction, and overall implementation and evaluation of the Framework. One of the objectives of this Framework was "to establish, within existing resources, primary health care teams and networks". Figure 18 shows the location of the 9 primary health care sites in Newfoundland and Labrador which were established in the RHAs through this funding.

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Figure 18

## Primary Health Care Sites in Newfoundland and Labrador As at March 2008



Source: Department of Health and Community Services

The intention of these health care sites was to be the first level of contact with health services in the Province. Teams were to work in collaborative partnership with patients to determine how to best meet the needs of the patient.

## Diabetes in Newfoundland and Labrador

### Diabetes collaboratives

The Department specifically established diabetes collaboratives at primary health care sites in the Province. The collaborative care concept is well supported in research. According to the Health Council of Canada, collaboratives are a process in which teams of health care providers receive external support, and support one another to adopt best practices and improve outcomes for their patients. The teams included, where possible, nurse practitioners, dietitians, and other staff who would work together to provide care to diabetes patients in the region. In addition to the primary health care sites, and in some cases operating in isolation, there are Diabetes Education Centres (DECs) staffed by diabetes nurse educators and dietitians which offer support services for persons living with diabetes.

In addition to the primary health care sites, collaborative diabetes practices were set up at various locations identified in Figure 2.

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### Collecting patient information

Patients were seen at clinics and specific data was obtained and tracked in a diabetes flow sheet. The information to be collected in the flow sheet was based on the CDA clinical practice guidelines. The patient information to be captured and reported included personal information, health complications, risk factors, diagnosis of multiple diseases, and test results such as HgA1C levels and other blood work results. Not all of the sites participated in the use of the flow sheet.

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### Recording patient information

The Eastern RHA, in conjunction with the Office of Primary Health Care, and in consultation with the NLCHI, developed a database which would be used to collect the information contained in the flow sheets. The Provincial Chronic Disease Collaborative Database was maintained by the Eastern RHA as they had the necessary tools and resources to do so.

The database had two parts – the data collection and the reporting piece. The intention was to link the information collected in each of the RHAs across the Province and to use the information to better manage diabetes patients. The Department had developed a memorandum of understanding (MOU) to be signed among the RHAs and the NLCHI to address confidentiality and privacy issues related to patient information stored in the database.

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## Diabetes in Newfoundland and Labrador

### Primary Health Care Office closed

The Federal funding for the Primary Health Care (Framework) ended in 2006 and the Province did not continue to fund the Office of Primary Health Care. As a result, the Office closed and the Department ceased its coordinating role. The Department is no longer coordinating primary health care teams.

As a result of the lack of coordination by the Department, the RHAs are concerned about the lack of consistency throughout the Province in the treatment and management of chronic diseases such as diabetes.

### Review of Collaborative Care

A report entitled *A Review of Chronic Disease Prevention and Management Services (Diabetes) in Primary Health Care Teams* was completed for the Department in March 2008. The report looked at collaborative diabetes care in the Province and summarized the successes and challenges faced by each RHA and provided recommendations on many areas for improvement including policy environment and capacity, health system reorientation, information management and decision support.

### Recommendations not followed up

The Department has not implemented all recommendations contained in the 2008 report. As a result, the Province has not progressed to the level at which it should be with regards to the management and control of chronic diseases such as diabetes. In particular:

- the Department has not coordinated the roles and activities associated with primary health care with its Health Promotion and Wellness and Board Services Divisions in order to work together to address chronic disease management.
- there are issues with regard to the Provincial Chronic Disease Collaborative Database established at the Eastern RHA which was designed to collect and report information documented in the diabetes flow sheets and capture patient information, as follows:
  - with the elimination of the Department's Primary Health Care Office, the Department has not continued to provide support for the maintenance of the diabetes flow sheet which was designed to document results of patient visits. Also, the flow sheet has not been updated to reflect the most recent changes to CDA clinical practice guidelines
  - the Department has stopped providing funding for the database. Officials at the RHAs indicated that:

## Diabetes in Newfoundland and Labrador

- the reporting/viewing features of the database were never implemented;
  - many primary health care teams are either no longer completing the diabetes flow sheet and/or not entering the data into the database; and
  - the full database was not available to all primary health care teams across the Province.
- the Department did not complete an MOU to facilitate sharing data on patient visits across RHAs and the NLCHI. According to staff at the Eastern RHA, they have been waiting on a response from the Department with respect to the most recent proposal for the database. They also indicated that there has been no useful assessment of the data collected to date. The RHAs would like to see a consolidation of records among all RHAs; however, without an MOU, this consolidation will not happen.

### 2E. Insulin Pumps

#### Diabetes services in the Province

Since the Office of Primary Health Care has closed, each of the RHAs have continued operations at the primary health care sites and many of the other collaborative practices. They continue to offer services to diabetes patients using a collaborative approach where possible, including at the DEC's.

All of the RHAs have nurses, diabetes educators, and dietitians in place at the various health care sites. Figure 19 shows the current human resources available in the Province which are devoted to diabetes education.

**Figure 19**

#### Diabetes Services in the Province As at 31 March 2010

Region	Diabetes Nurse Educators	Dietitians	Diabetes Education Centres (DEC)
Eastern	8.5 FTE <sup>1</sup>	3 FTE	2
Central	6 FTE	2 FTE	2
Western	3 FTE	1.75 FTE	3
Labrador-Grenfell	3	3	0
<b>Total</b>	<b>20.5</b>	<b>9.75</b>	<b>7</b>

Source: Regional Health Authorities

1: FTE = Full time equivalent position

## Diabetes in Newfoundland and Labrador

Each of the RHAs indicated that the services available in their region are not sufficient to offer the level of care needed to provide optimal care to diabetes patients. One area which has seen an increase in demand is support for the insulin pump. The pump is used most often to treat type 1 diabetes, which is more prevalent in youth. In most cases, referrals for starting a patient on the insulin pump come to the DEC's from doctors once a patient has been diagnosed with diabetes. The DEC's offer information sessions to new patients, as well as ongoing support services for those who have the pump. Diabetes education staff must receive training on the use of the insulin pump before they are able to offer services to patients.

### Insulin pumps covered by the Provincial Government

In 2007, the Province announced that it would provide funding of \$1.4 million for insulin pumps and supplies for individuals in the Province who were under the age of 18. In March 2010, the Province expanded coverage for the insulin pump therapy to include individuals aged 18 to 25 and provided an additional \$797,700 in the 2010-11 budget to cover this expansion.

Since 2007, an estimated 450 individuals have availed of the program. Figure 20 provides the number of individuals in each RHA who are being supported in the Province with the pump, and whether they are covered by the Provincial program.

### Figure 20

#### Diabetes Patients with Insulin Pumps by RHA As at 30 November 2010

Region	Youth Aged 25 Years or Younger	Persons Older Than 25 Years	Total Per RHA
Eastern	200	175	375
Central	59	41	100
Western	32	47	79
Labrador-Grenfell	26	43	69
<b>Total</b>	<b>317</b>	<b>306</b>	<b>623</b>

Source: Regional Health Authorities

## Diabetes in Newfoundland and Labrador

### Insulin pump usage highest in Eastern RHA

As Figure 20 shows, the number of individuals on the insulin pump is highest in the Eastern RHA. Officials at the Eastern RHA indicated that they estimate an additional 150 patients with diabetes within the RHA are using the insulin pump under the direct care of a general physician in conjunction with a research project. Also, the RHA is unable to provide any statistics regarding patients who may be using an insulin pump from a private company and who are managed by their own physician.

### Insulin pumps require significant resources

From 2007 to 2010, insulin pumps were provided to qualifying individuals up to the age of 18. None of the RHAs indicated that they have been provided with any additional resources which would be required in order to adequately manage and monitor these individuals. As a result, the RHAs indicated that they had to reallocate resources to deal with these pumps and still have some concern about the level of diabetes care that they can provide.

Staff at the Eastern RHA have stated that they do not have the qualified staff available to meet the demand for the support required. They also indicated that persons with insulin pumps, while representing only 1% of persons with diabetes, are consuming 50% of resources under its diabetes education program.

## Recommendations

The Department should:

- develop a chronic disease prevention and management strategy.
- Follow-up on the recommendations in the 2008 report *A Review of Chronic Disease Prevention and Management Services (Diabetes) in Primary Health Care Teams*. In particular, they should:
  - pursue the further development of the database; and
  - obtain a memorandum of understanding with the NLCHI and the RHAs to facilitate data sharing.

### Department's Response

*In response to your letter dated December 23, 2010, I have reviewed the report completed by your office entitled Diabetes in Newfoundland and Labrador. The Department of Health and Community Services generally concurs with the observations and recommendations noted in the report and provides the following comments on the three recommendations noted from your review.*

#### **Recommendation No. 1**

**The Department should determine the cost of chronic health care in the province, including diabetes.**

#### *Department's Response*

*The Department agrees with the Auditor General's recommendation. Where it can, the Department identifies costs for some elements of chronic diseases. In other cases, the Department uses costing information produced by reliable sources such as Health Canada, the Public Health Agency of Canada, the Health Council of Canada and national non-government organizations such as the Canadian Diabetes Association or the Canadian Stroke Strategy. The Department will continue its efforts in improving data collection through such means as the electronic health record, which in turn will improve its capacity to estimate costs.*

#### **Recommendation No. 2**

**The Department should develop a chronic disease prevention and management strategy.**

#### *Department's Response*

*The Department agrees with the Auditor General's recommendation and has initiated the development of a strategy. In April 2010, a division of Chronic Disease Control was established in the Department with the mandate to work with partners to develop a chronic disease prevention and management strategy. The Regional Health Authorities and community partners have been engaged in discussions to identify priority areas and to ensure alignment with other regional and provincial strategies. A jurisdictional scan has been completed to assess strategies in other provinces and territories in Canada. As well, the new division of Chronic Disease Control is working closely with other divisions in the Department such as Health Promotion and Wellness, Board Services, Public Health, and the Office of Aging and Seniors to ensure*

*a comprehensive and collaborative approach to chronic disease prevention and management in the Department and throughout the province.*

### **Recommendation No. 3**

**The Department should follow up on the recommendations in the 2008 report *A Review of Chronic Disease Prevention and Management Services (Diabetes) in Primary Health Care Teams*. In particular they should:**

- **Pursue the further development of the database**
- **Obtain a memorandum of understanding with the NLCHI and the RHAs to facilitate data sharing.**

### ***Department's Response***

*The Department agrees in principle with the Auditor General's recommendation to follow up on the recommendations in the 2008 Primary Health Care report. However, the Department also recognizes that this report is limited in that it only focused on initiatives implemented by the Office of Primary Health Care during the transition funding period. As a result, the full scope of programs and services available for individuals with chronic diseases, particularly diabetes, was not assessed.*

*As the Department develops the provincial chronic disease prevention and management strategy the recommendations from the 2008 report will be considered and addressed as necessary.*

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**PART 2.10**

**DEPARTMENT OF HEALTH AND COMMUNITY SERVICES**

**ROAD AMBULANCE SERVICES**

### Executive Summary

The Road Ambulance Program (the Program) is a critical component of the health care system and is often the first point of contact for individuals in an emergency situation. The Department of Health and Community Services (the Department) takes a high level but crucial role within the Program.

The Department is responsible for developing policies, procedures and standards, and for negotiating contracts with ambulance operators, while the four Regional Health Authorities (RHAs) are responsible for monitoring the adherence to contracts by operators within their respective regions. The Eastern RHA is responsible for adjudicating payments and enforcing the registration policies for ambulance attendants and the registration of ambulances on behalf of all RHAs.

As at 31 March 2010, there were 61 ambulance operators comprised of 28 private operators, 22 community operators and 11 operated by hospitals, with a total of 171 ambulances. In addition, there were 859 registered ambulance attendants and 63,592 patient transports during 2010. The total cost of the Road Ambulance Program for the 2010 fiscal year totalled \$45.8 million comprised of \$27.7 million for private operators, \$5.1 million for community operators and \$13 million for hospitals.

As a result of our review, we determined that road ambulances operating in the Province may not be safe, attendants may not have the required level of training and contract provisions with the operators are not being adequately monitored. As a result, patient care could be compromised and there may be a risk to public safety. This situation exists because:

- Road ambulances were sometimes dispatched with attendants who do not have the level of training required by Departmental policy. Also, officials indicated that the current training requirements in Newfoundland and Labrador were lower than the requirements in other provinces. Notwithstanding this, the Department had effectively circumvented its own training policy by introducing another policy allowing what it terms as “best efforts” by ambulance operators to provide appropriately trained attendants, thereby lowering the level of patient care available on the ambulance. “Best efforts” relates to a concept of allowing operators a reasonable amount of time to either have attendants trained or hire attendants with the required training. However, there was no monitoring of whether operators have made any progress towards obtaining attendants with the required training.

## Road Ambulance Services

In 2010, there were a total of 63,592 transports of which 5,942 (9.3%) were transports where attendants did not have the level of training required by Departmental policy.

- The required semi-annual mechanical inspections of road ambulances were not always provided by the operator to the Motor Registration Division (MRD) of the Department of Government Services.

We selected 36 ambulance files and found that 28 (78%) had the required semi-annual mechanical inspection forms on file for a 2-year period i.e. 4 inspection forms were required to be on file. Of the remaining 8 ambulance files, 2 were missing 2 inspection forms and 6 were missing 1 inspection form.

- The semi-annual ambulance inspections (e.g. medical equipment) that were to be completed by MRD Highway Enforcement Officers were not always performed.

We selected 36 ambulance files and found that 19 (53%) had semi-annual ambulance inspection forms on file for a 2-year period i.e. 4 inspection forms were required to be on file. Of the remaining 17 ambulance files, 3 were missing 3 inspection forms, 8 were missing 2 inspection forms and 6 were missing 1 inspection form.

- Thresholds (i.e. age and/or kilometres) established by the Department are significantly higher than thresholds established for other provinces. In Newfoundland and Labrador, ambulances are required to be taken out of service after they reach either 10 years in service or 500,000 kilometres. In Quebec, ambulances are required to be taken out of service when they reach either 4 years in service or 200,000 kilometres. Most provinces use a range of between 200,000 to 300,000 kilometres or between 4 and 8 years.

We found one example where an ambulance was in service for three months after the 10 year threshold and 3 of the 36 ambulance files we reviewed contained no evidence on file to support the in-service date.

- Although contracts allow for an RHA to perform on-site visits and conduct evaluations, inspections and assessments of ambulance operators and their equipment and premises, we found that during our review of the Eastern RHA, they had never performed this work.

## Road Ambulance Services

- Sometimes road ambulances operated even though they had been designated as “inactive” by MRD. A common reason for an inactive designation by MRD relates to an operator not providing a copy of the required semi-annual mechanical inspection. An inactive designation at MRD means that the ambulance is not licensed and is not authorized to be driven.

We identified 13 of the 36 ambulances reviewed where, although the ambulance had been designated by MRD as inactive, claims were submitted and payments were made totalling \$156,785 relating to inactive periods.

- The Eastern RHA did not always determine whether the ambulance operators were in compliance with all provisions of the Ambulance Service Agreement in that not all provisions of the contract were monitored. For example, although contracts state that operators are required to maintain a certain number of ambulances per base, this was not being monitored by the RHA. As a result, operators could be operating with fewer ambulances than they are obligated to have, which could result in the operator not being able to respond to an emergency situation.
- The Province does not have contracts with ambulance operators based on performance and preparedness-based funding; instead, “level-of-effort” contracts with volume-based funding (i.e. based on the number of trips and kilometres driven) are used. As a result, the Department’s contracts do not place an emphasis on the quality of care provided to patients in the delivery of ambulance services.

We also identified weaknesses in the administration of the Road Ambulance Program as follows:

- Newfoundland and Labrador is the only province that does not have legislation to specifically govern the operation of road ambulances and related services. Without legislative authority, it is more difficult for the Department to regulate the Program and enforce its policies and procedures.

## Road Ambulance Services

- Officials at the Eastern RHA indicated that the Department sometimes directs the Eastern RHA to override established policy. For example, the Eastern RHA rejected the registration of an attendant with a previous criminal conviction. However, the Eastern RHA indicated that when a clear certificate of conduct was obtained, the attendant could be registered. The Eastern RHA became aware that the attendant had knowingly made false claims on the certificate application and informed the Department of their decision to not register the attendant. Under the Department's policy, knowingly providing false information excludes an attendant from registering for a period of 10 years. In spite of this information, the Department directed the Eastern RHA to register the attendant.
- Officials at the Eastern RHA indicated that the Department sometimes also overrides claims from operators that were rejected by adjudicators at the Eastern RHA for non-compliance with established policies and procedures. For example, an operator was paid \$8,403 for ambulance service even though, contrary to Departmental policy, the ambulance was not registered with the Eastern RHA. The operator claimed a total of \$17,063 for service provided during the period 10 November 2008 to 19 January 2009. In this case, the adjudicators at the Eastern RHA rejected the claim; however, the Department directed that \$8,403 of the claim be paid.
- Although all operators submit a Patient Care Report to the Eastern RHA in support of a claim, other than the database input assessment rules and a review of exceptions by an adjudicator, there was no verification work on the legitimacy of the information included in the Report. The RHA could, for example, confirm that the visit to the hospital occurred or confirm that the official indicated on the Report had authorized the transport.

### Background

The Road Ambulance Program (the Program) is a critical component of the health care system and is often the first point of contact for individuals in an emergency situation. Road ambulance providers deliver pre-hospital medical services to the public. While the primary mandate of ambulances is to respond to patients in emergency situations, they are also used for the conveyance of routine patients requiring medical attention or under medical care who are unable to be transported by alternate means. Ambulances are staffed with trained personnel capable of responding to emergency calls and providing pre-hospital care while transporting the patient to the most appropriate medical facility for more assessment and treatment.

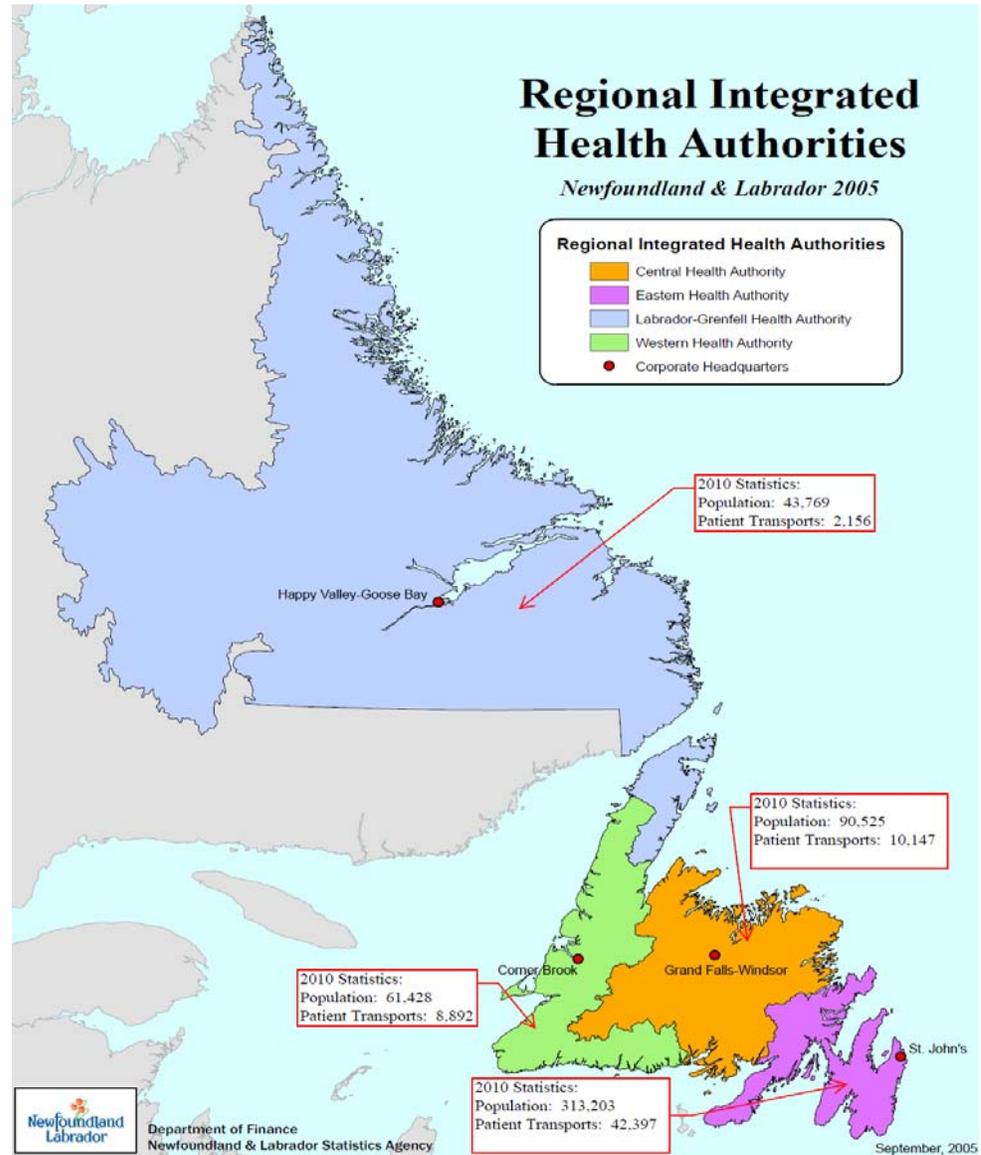
The Department of Health and Community Services (the Department) takes a high level but crucial role within the Program. The Department is responsible for developing policies, procedures and standards, and for negotiating contracts with the private and community operators. Prior to April 2006, the Department was responsible for all facets of the Program but since then the delivery of the Program has been devolved to the Regional Health Authorities.

The four Regional Health Authorities (RHAs), Eastern, Central, Western, Labrador-Grenfell, are responsible for monitoring the adherence to contracts by operators within their respective regions. The Eastern RHA is responsible for adjudicating claims submitted by ambulance operators, registering attendants and registering ambulances for the entire Province.

Figure 1 shows the Province by RHA and provides details concerning the population and the number of patient transports for each region for the 2010 fiscal year.

Figure 1

**Regional Integrated Health Authorities Population and Number of Patient Transports by RHA**



As Figure 1 shows, in 2010 there were a total of 63,592 patient transports in the Province.

## Road Ambulance Services

### Eastern RHAs Paramedicine and Medical Transport Division

The Paramedicine and Medical Transport (PMT) Division is a division within the Emergency and Paramedicine Program of the Eastern RHA.

The PMT Division is organized into two sectors with departments of specialized functions within each sector:

#### A. Standards Sector

The Standards Sector is responsible for ensuring overall system performance and improvement through auditing, review, and development of system standards, regulations, and guidelines. The sector is comprised of two departments:

1. Provincial Medical Oversight (PMO) – This department is responsible for the implementation of the PMO program which includes Provincial practitioners' registration and treatment protocols. The PMO department is entrusted as the guardian of public safety by ensuring standardization of paramedic care, and enforcement of paramedic registration and practice standards.
2. Regional Services - This department provides oversight of all ground ambulance contract operations within the borders of the Eastern RHA, and provides operations support to the paramedic service operated by the Eastern RHA for the Carbonear General Hospital. Through the Regional Services Department, the PMT monitors compliance and performance to Provincial ambulance policies, and adherence to the ambulance service contract.

#### B. Operations Sector

The Operations Sector provides direct services at local and regional levels within the boundaries of the Eastern RHA. The other RHAs are responsible for providing these services within their own regions.

In addition, through this sector, the Eastern RHA is responsible for providing Provincial air ambulance service (approximately 1,200 transports for 2010) and limited road ambulance dispatching (approximately 1,500 transports for 2010).

## Road Ambulance Services

### Provincial Medical Oversight

The PMO program was implemented in January 2010 and has aligned Newfoundland and Labrador with the National Occupational Competency Profiles for paramedicine. A full set of PMO policies were developed to support the administration of the PMO program. It is through these policies that the PMO department governs the registration of ambulance personnel throughout the Province.

Figure 2 shows the number of ambulance attendants per category registered with the PMO department within the Province as at 31 March 2010.

**Figure 2**

### **Ambulance Attendants per Category As at 31 March 2010**

<b>Category</b>	<b>Number of Ambulance Attendants</b>
Critical Care Paramedic (CCP)	1
Advanced Care Paramedic (ACP)	25
Primary Care Paramedic (PCP)	379
Emergency Medical Responders (EMR)	422
Medical First Responders (MFR)	12
Emergency Medical Dispatchers Provisional	20
<b>Total Ambulance Attendants</b>	<b>859</b>

Source: Eastern RHA – PMT Annual Report 2009-10

Besides being responsible for the approximately 859 ambulance attendants registered within the Province, the PMO department is also responsible for the registration of approximately 170 road ambulances which complete approximately 60,000 patient transports each year.

### Financial Services Division at the Eastern RHA

The Financial Services Division within the Eastern RHA is responsible for processing mileage/attendant claims for the entire Province. Operators from all RHAs send claims to the Financial Services Division at the Eastern RHA where the claims go through an adjudication process. Based on the results of this process, the RHAs are instructed on how much they are to pay to the operator.

## Road Ambulance Services

### Road Ambulance Program information

Road ambulance services are provided by 3 types of operators within the Province:

1. Private Ambulance Operators – private businesses that provide road ambulance service to assigned areas in exchange for payment;
2. Community Ambulance Operators – volunteer or not-for-profit organizations that provide ambulance services to assigned areas in exchange for payment; or
3. Hospitals.

Figure 3 shows the number of private, community and hospital ambulance operators along with the number of ambulances per RHA for the year ending 31 March 2010; these numbers were the same for 2009.

**Figure 3**

### Private and Community Ambulance Operators per RHA and Number of Ambulances per RHA As at 31 March 2010

Regional Health Authority	2010				Number of Ambulances
	Private Operators	Community Operators	Hospitals	Total	
Eastern	16	6	2	24	84
Central	5	8	5	18	40
Western	5	7	2	14	36
Labrador-Grenfell	2	1	2	5	11
<b>Total</b>	<b>28</b>	<b>22</b>	<b>11</b>	<b>61</b>	<b>171</b>

Source: Eastern Health – PMT Division

Private and community ambulance operators receive various types of funding to provide road ambulance services. They are outlined in Figure 4.

## Road Ambulance Services

**Figure 4**

### Types of Funding, Who Receives Funding and the Intended Purpose

Type of Funding	Who Receives this Funding	Intended Purpose
Operational Block Funding	Private and Community Operators	To cover the costs of daily operations; calculated using a formula, incorporates workload history, number of ambulances, etc.
Mileage/Attendant Subsidy	Private and Community Operators	Subsidy that is based on the number of kilometres driven and the level/ experience of attendants on board.
Training Funding	Private and Community Operators	Funding provided to train new staff or upgrading staff to higher levels.
Supplies Funding	Private and Community Operators	Medications and supplies that are provided by the RHAs for each approved ambulance.
Patient Fees	Private and Community Operators	Legislated that anyone who avails of the use of an ambulance is required to pay a fee. The fee amount is set by the Department of Health and Community Services and is currently \$115. For individuals in receipt of income support, this fee is paid by the RHAs and reimbursed by the Department of Human Resources, Labour and Employment.
Garage Funding	Private Operators	For operators who have ambulance bays used for regular ambulance storage and meet the standards set by the Department. Compensation per bay is \$10 per square foot to a maximum of \$3,360 per year.
Dispatch Funding	Private Operators	To provide persons to act as call takers and dispatch ambulances. Required to take call takers course and register with the PMO department as a dispatcher. Compensation is \$209 per ambulance per month.
Incentive Funding	Community Operators	Additional funding that the operator can receive if they hire Primary Care Paramedics (PCPs) practicing to full scope of practice with medical control. For fiscal year 2009 this amount was \$5,000 while for 2010, it increased to \$6,000.

Source: Eastern RHA

## Road Ambulance Services

Figure 5 shows the amount of Government funding provided to private and community operators during the 2009 fiscal year within each RHA for each category of funding.

**Figure 5**

**Funding Provided to Ambulance Operators per  
Category and by RHA for the 2009 Fiscal Year  
(\$ Millions)**

	Eastern		Central		Western		Labrador-Grenfell		Total
	Private	Community	Private	Community	Private	Community	Private	Community	
Operational Block Funding	\$ 6.4	\$0.7	\$2.4	\$0.9	\$2.4	\$0.7	\$0.6	\$0.1	<b>\$14.2</b>
Mileage/Attendant Subsidy	3.2	0.1	1.6	0.2	1.4	0.1	0	0	<b>6.6</b>
Training Funding	0.1	0	0	0	0	0	0	0	<b>0.1</b>
Supplies Funding	0	0	0	0	0	0	0	0	<b>0</b>
Patient Fees	1.0	0	0.3	0	0.3	0.1	0.1	0	<b>1.8</b>
Garage/Dispatch	0.2	N/A	0.1	N/A	0.1	N/A	0	N/A	<b>0.4</b>
Incentive	N/A	0	N/A	0	N/A	0	N/A	0	<b>0</b>
<b>Total</b>	<b>\$ 10.9</b>	<b>\$0.8</b>	<b>\$4.4</b>	<b>\$1.1</b>	<b>\$4.2</b>	<b>\$0.9</b>	<b>\$0.7</b>	<b>\$0.1</b>	<b>\$23.1</b>

Source: Regional Health Authorities

N/A: Not Applicable

0: Indicates that while funding was provided, the number rounds to 0

In addition, information provided by the Department of Health and Community Services (the Department) indicated that during the 2009 fiscal year, the 4 RHAs spent a total of \$11.5 million (Eastern \$6.3 million, Central \$2.8 million, Western \$0.9 million and Labrador-Grenfell \$1.5 million) on road ambulance services operated by hospitals.

Figure 6 shows the amount of Government funding provided to private and community operators during the 2010 fiscal year within each RHA for each category of funding.

## Road Ambulance Services

**Figure 6**

**Funding Provided to Ambulance Operators per  
Category and by RHA for the 2010 Fiscal Year  
(\$ Millions)**

	Eastern		Central		Western		Labrador-Grenfell		Total
	Private	Community	Private	Community	Private	Community	Private	Community	
Operational Block Funding	\$10.5	\$1.3	\$3.7	\$1.7	\$4.1	\$1.3	\$0.9	\$0.2	<b>23.7</b>
Mileage/Attendant Subsidy	3.4	0.2	1.5	0.2	1.1	0.1	0	0	<b>6.5</b>
Training Funding	0.1	0	0	0	0	0	0	0	<b>0.1</b>
Supplies Funding	0	0	0	0	0	0	0	0	<b>0.0</b>
Patient Fees	1.2	0.1	0.3	0	0.3	0	0.2	0	<b>2.1</b>
Garage/Dispatch	0.2	N/A	0.1	N/A	0.1	N/A	0	N/A	<b>0.4</b>
Incentive	N/A	0	N/A	0	N/A	0	N/A	0	<b>0</b>
<b>Total</b>	<b>\$15.4</b>	<b>\$1.6</b>	<b>\$5.6</b>	<b>\$1.9</b>	<b>\$5.6</b>	<b>\$1.4</b>	<b>\$1.1</b>	<b>\$0.2</b>	<b>32.8</b>

Source: Regional Health Authorities

N/A: Not Applicable

0: Indicates that while funding was provided, the number rounds to 0

In addition, information provided by the Department indicated that during the 2010 fiscal year, the 4 RHAs spent a total of \$13 million (Eastern \$7.5 million, Central \$3.1 million, Western \$0.9 million and Labrador-Grenfell \$1.5 million) on road ambulance services operated by hospitals.

## Audit Objectives and Scope

### Audit objectives

The objectives of our review were to determine whether:

- the Eastern RHA had mechanisms in place to ascertain that ambulance operators were in compliance with the Ambulance Service Agreement and the standards, policies and procedures pertaining to the provision of road ambulance services within the Eastern RHA; and
- files pertaining to ambulances contained sufficient documentation to ensure that they were registered and inspected in accordance with policies and procedures and legislation.

## Road Ambulance Services

**Audit scope** Our review included an examination of a sample of files for ambulances that were registered with the Provincial Medical Oversight (PMO) department at the Eastern RHA. It also included discussions with staff members from various areas of Government, including, the Department, the Financial Services and the Paramedicine and Medical Transport (PMT) Division of the Eastern RHA, and the Motor Registration Division of the Department of Government Services. Our discussions encompassed the PMT Division within the current Emergency and Paramedicine Program as well as prior to April 2010, the Emergency/Ambulatory Care Program.

In addition, our review included an examination of the contract, standards, policies and procedures that govern the provision of ambulance services for community, private operators and hospital based ambulances. While testing within the registration and inspection functions was completed at a Provincial level, our work regarding operator contract compliance was limited to the Eastern RHA. We completed our review in December 2010.

## Detailed Observations

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

1. Governing Legislation
2. Contract Management
3. Program Delivery
4. Registration of Ambulances
5. Inspection of Ambulances

### 1. Governing Legislation

**Overview** The provision of road ambulance services and the oversight of various pre-hospital care providers, collectively known as paramedicine, are not regulated through legislation in the Province of Newfoundland and Labrador; instead, it is regulated through a contract and policy framework. However, all the other provinces within Canada have some form of legislation governing this area.

Figure 7 shows the legislation related to ambulance services in other provinces.

**Figure 7**

**Ambulance Legislation per Province**

<b>Province</b>	<b>Legislation</b>
Alberta	<i>Emergency Health Services Act Ambulance Vehicle Standards Code</i>
British Columbia	<i>Emergency and Health Services Act</i>
Manitoba	<i>Ambulance Services Act Ambulance Services Amendment Act</i>
New Brunswick	<i>Ambulance Services Act</i>
Nova Scotia	<i>Ground Ambulance Services Act</i>
Ontario	<i>Ambulance Act</i>
Prince Edward Island	<i>Emergency Medical Services Regulations (under the Public Health Act)</i>
Quebec	<i>Act Respecting Pre-Hospital Emergency Services</i>
Saskatchewan	<i>Ambulance Act</i>

Source: Eastern RHA- PMT Division

The Province has some legislation that impacts ambulances, such as the *Motor Carrier Act* and the *Highway Traffic Act*; however, the *Acts* deal mainly with the vehicles themselves and the geographical licensed areas of ambulance services. While the *Regional Health Authorities Act* and *Regulations* states that each RHA is responsible for providing road ambulance services within their region, it does not give any specific direction with regard to paramedicine within the Province.

## Road Ambulance Services

### Lack of governing legislation

Without legislative authority, it is more difficult for the Department to regulate the Road Ambulance Program and enforce its policies and procedures. As a result, often the only recourse the Eastern RHA has for non-compliance is to withhold payments from the ambulance operators.

In addition, officials at the Department indicated that there are gaps between the existing legislation that impacts ambulances and the more current policies, procedures and standards developed by the Department. For instance, currently there is no legislation that states that an ambulance is required to have a stethoscope or a defibrillator on board or that there needs to be two attendants on board every ambulance; however, Departmental policies do state this. Having legislation that addresses these issues would provide the Department and the Eastern RHA with the means to regulate the Road Ambulance Program and enforce its policies and procedures.

### Recommendation

The Department of Health and Community Services should review the need for legislation that governs paramedicine within the Province.

## 2. Contract Management

### Overview

The provision of road ambulance services is regulated through a contract and policy framework. The contract is called the Ambulance Service Agreement and it is a tri-party contract that is made between the ambulance operator, the corresponding RHA and the Department.

The contract contains various clauses that the ambulance operators are required to comply with. Specifically, it contains clauses that state that the ambulance operators:

- are to adhere to all aspects of the Ambulance Operations Standards Manual;
- shall at all times operate and provide services in accordance with the Road Ambulance Policies and Procedures Manual; and
- shall adhere to all aspects of the Provincial Medical Oversight (PMO) program and applicable PMO policies and procedures.

## Road Ambulance Services

Although hospitals that operate ambulances are not required to sign a contract, they are expected to adhere to the same standards, policies and procedures.

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In reviewing the Ambulance Service Agreement, the Road Ambulance Policies and Procedures Manual and the Ambulance Operations Standards Manual with officials from the Eastern RHA we identified the following issues:

- A. Departmental Override
- B. Opportunity for Manipulation/Trust-Based Process
- C. Conflicting Policies
- D. Lack of Enforcement

Details are as follows:

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### 2A. Departmental Override

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#### Introduction

In order to ensure compliance with the majority of the policies contained within the Ambulance Service Agreement and the various manuals, these policies, known as adjudication rules, have been built into the Emergency Health Information System (EHIS), the system used to adjudicate claims submitted by the ambulance operators. As of November 2010, there were 93 adjudication rules within the EHIS. Ambulance operators submit information pertaining to a transport on the required Patient Care Report (PCR), the information is entered into the EHIS and, if the information does not meet the parameters of the applicable adjudication rule, it is rejected for payment. These rejects are reviewed by adjudicators, who try to resolve the reason for rejection. At this point, the operators have the opportunity to amend their claims by providing the correct information. As a result, the withholding of payments becomes a mechanism for contract/policy enforcement.

If the operator disagrees with the outcome of the adjudication process, the Ambulance Service Agreement includes a dispute resolution mechanism which allows the operator to appeal the RHA's decision to the Minister of Health and Community Services. This may result in the Department overriding policies and directing payments to be made.

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## Road Ambulance Services

### Department overriding policy enforcement

Even though the withholding of payments has become a mechanism for contract/policy enforcement, officials from the Eastern RHA indicated that the Department sometimes directs them to allow exceptions to established policy and override the rejection of claims. The following are examples of the Department overriding various policies:

- In May 2008 an attendant was denied registration by the PMO department due to a previous criminal conviction. The attendant was informed that they would be able to register when they received a clear record of conduct as per policy. In July 2008, the attendant provided the PMO department with a clear certificate of conduct. However, PMO department officials became aware that the attendant had knowingly made false claims on the declaration of conduct application and informed the Department of their decision to not register the attendant. Under the Department's policy, knowingly providing false information would prohibit the attendant from registration with the Province as a pre-hospital provider for a period of 10 years. In spite of this information, the Department directed that the PMO department register the attendant.
- In June 2008, there was an ambulance that was noted as being put in service in June 1998 but did not have an exact in-service date. Departmental policy states that for used ambulances when there is no written documentation confirming the original in-service date, the ambulance should be removed from service on 31 March of the tenth year from the model year or 500,000 kilometres, whichever comes first. However, the Department indicated to the PMO department that they were willing to extend registration of the ambulance to 30 June 2008. This was in violation of the policy and kept the ambulance in operation 3 months longer than it should have been.
- In November 2008, an operator began using an ambulance that was not properly registered with the PMO department, which is in direct violation of Departmental policy. Subsequently, payments began to be rejected by the adjudicators at the Eastern RHA for the use of the ambulance for the period of 10 November 2008 to 19 January 2009. The operator requested the PMO department to back date the registration of the ambulance, claiming it was just an oversight. The PMO department refused this request and the operator then contacted the Department. The Department directed the Eastern RHA to approve the invoices for payment, citing it was an unintentional error on the part of the operator. However, the Department requested that the penalty that would normally be used when ambulance personnel are working with suspended cardiopulmonary resuscitation credentials be imposed on the payments. Thus, the operator received \$8,403 out of total of \$17,063 when they should not have been paid any monies.

- In April 2009, invoices were rejected for payment because the attending ambulance personnel had been suspended; specifically, because the attendant did not submit proof of training to the Eastern RHA as per policy. However, the Department instructed the Eastern RHA that based on past practices of back-dating registration to the date of training, these invoices should be paid.

When we asked if there were any more recent email correspondence from the Department requesting policy to be overridden, the PMT staff indicated that the Department now communicates mainly via telephone. The Department provided direction that emails be limited and not used to debate specific cases.

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### 2B. Opportunity for Manipulation/Trust-Based Process

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#### Introduction

Ambulance operators submit information pertaining to the payment of transports using a Patient Care Report (PCR). A PCR is a paper-based document that is filled out manually by ambulance personnel and attendants. Some of the information contained on the PCR is as follows:

- vendor number;
- base;
- license plate number;
- odometer in;
- odometer out;
- ambulance response code;
- mechanism of injury;
- attendant signature and registration number;
- driver signature and registration number; and
- authorizing official signature.

#### Payments system based on trust

Although there are 93 adjudication rules (database input assessment rules) built into the Emergency Health Information System (EHIS) and an adjudication process for exceptions, there is no process in place to verify the accuracy of the information provided. The majority of the information that the rules are applied to is provided by the claimant and is not verified. Thus, the success of the adjudication process, with regard to some of the policies it is designed to enforce, is dependent on the legitimacy of the information provided. In addition, some of the policies have no mechanism in place to ensure compliance at all. The following are examples of both types:

## Road Ambulance Services

- **Mandatory Reporting of Ambulance Out-of-Service or Temporarily Loaned to Another Service:** States that ambulance operators are to report to the PMO department when ambulances are out-of-service or when loaned to another service. This is dependent on whether the operator provides the information or not. Therefore, an operator could be using an ambulance that should not be in service (did not pass inspection) but the Eastern RHA would not know.
- **Base Service Areas Coverage Requirements:** States that at any given time, the base service area should have an ambulance in place to perform transports of an emergency nature. However, per the PMT staff, the EHIS only has a mechanism in place to ensure this policy is followed for single ambulance bases. Therefore, for multi-ambulance bases, there would be no way of knowing whether this policy is being followed.
- **Authorization/Proper Authorization of Non-emergency Services and/or Transports:** States that proper authorization for these types of services is to be indicated on the Patient Care Report. This policy is meant to prevent abuse of ambulance services. However, there is no mechanism in place within the EHIS to ensure there is proper approval. The only mechanism is if an adjudicator takes initiative and inquires of the indicated authorizer. PMT staff indicated that at one time, an actual signature was required but this has evolved into only writing a name in the required field.
- **Transportation of Emergency Patients to Closest Facility:** States that emergency patients are to be transported to the nearest facility. There is no mechanism in place within the EHIS to ensure that this is the case. Whether the rule is followed is based on the honesty of the ambulance operators. There is the possibility that patients may be transported to facilities further away to increase the number of kilometres for the transport and thus increase claim amounts.

These scenarios leave Program delivery open for potential manipulation and abuse by the ambulance operators, thus, reducing the effectiveness of providing the service overall. The Eastern RHA could take steps to verify some of the information, for example, confirm that the visit to the hospital occurred or confirm that the official indicated on the PCR had authorized the transport.

### 2C. Conflicting Policies

**Introduction** The Ambulance Operations Standards Manual contains guidance relating to minimum staff requirements that ambulance operators are required to adhere to when responding to calls. These requirements are highlighted in Figure 8.

**Figure 8**

#### Minimum Staffing Requirement for Ambulance Operators

Ambulance Operator	Effective Date	Staffing Requirements	
		Driver	Primary Care Giver
<b>Private</b>	31 March 2007	Emergency Medical Responder (EMR) Trainee	100% Paramedic
<b>Community</b>	31 March 2007	EMR Trainee	EMR II for 75% of calls and a Paramedic for the remaining 25% for each base
<b>Hospital</b>	31 March 2006	EMR II	Primary Care Paramedic or Equivalent

Source: Ambulance Operations Standards Manual

Officials at the PMT Division indicated that some form of these staffing requirements have been in effect since 1995. Additionally, the Road Ambulance Policies and Procedures Manual states that effective May 2000, all transports performed during which the ambulance personnel training level requirements have not been met shall not be honoured for payment.

#### Conflicting policies

Even though the policy relating to staffing requirements has been in existence since approximately 1999, in January 2003, the Department implemented a policy called “Training – Requirements – Best Efforts”. This policy says that in situations where an operator cannot comply with the staffing requirements and has made “best efforts” to adhere to the staffing requirements, the operator, with the prior approval of the Department when practical to do so, will be allowed to use an attendant with a level of training lower than permitted in the policy, or below service level (BSL). In each case, the operator will only be paid in accordance with the level of attendant used.

## Road Ambulance Services

As per policy, “...best efforts pertaining to staffing level requirements shall only be considered if the operator meets the following:

- the operator has made several attempts over a period of time to hire appropriately trained personnel or to attract new individuals. The operator is expected to have advertised through flyers, cable television, newspapers and other forms of media and must be able to show receipts and copies of the ads and flyers demonstrating their legitimate efforts to attract appropriate personnel.
- The operator has made several attempts to upgrade the training of appropriate numbers of current employees by ensuring that they apply for and participate in the appropriate training programs”.

In doing this, the Department has effectively circumvented its policy by introducing another policy allowing what it terms as “best efforts” by ambulance operators to provide appropriately trained attendants that are below the required staffing levels as required by another policy. Officials at the PMT Division indicated that the original policy relating to staffing requirements are lower than the requirements of other provinces and that the “best efforts” policy lowers this even further. Furthermore, the officials indicated that there is no verification process in place in that there is no monitoring of whether operators have made any progress towards obtaining attendants with the requisite training.

Figure 9 shows the number of calls made below service level (BSL) and the financial implications of the “best efforts” policy over the 2009 and 2010 fiscal years for the Province.

**Figure 9**

### Number of Calls made BSL and Financial Implications of the “Best Efforts” Policy Fiscal Years 2009 and 2010

Type of Operator	Required Staffing Level since March 2007	2009			2010		
		Number of Calls Made BSL	Total number of calls	Payments received for BSL Calls	Number of Calls Made BSL	Total Number of calls	Payments received for BSL Calls
Private	100% Paramedic	5,185		\$1,229,998	5,636		\$1,279,403
Community	25% Paramedic	283		47,829	306		38,176
<b>Total</b>		<b>5,468</b>	<b>56,552</b>	<b>\$1,277,827</b>	<b>5,942</b>	<b>63,592</b>	<b>\$1,317,579</b>

Source: Eastern Health – PMT Division

## Road Ambulance Services

Figure 9 shows that for the 2009 fiscal year there were 5,468 out of a total of 56,552 (9.7%) transports completed that used ambulance attendants with qualifications below the training requirements outlined in the Ambulance Operations Standards Manual. Although the attendants' qualifications were below the required training level, the "best efforts" policy allowed payments to be made totalling \$1,277,827 for the level of attendants that were used in the transport.

Figure 9 also shows that for the 2010 fiscal year there were 5,942 out of a total of 63,592 (9.3%) transports completed that used ambulance attendants with qualifications below the training requirements outlined in the Ambulance Operations Standards Manual. Although the attendants' qualifications were below the required training level, the "best efforts" policy allowed payments to be made totalling \$1,317,579 for the level of attendants that were used in the transport.

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### 2D. Lack of Enforcement

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#### Introduction

As previously stated, there are various clauses, standards, policies and procedures that the ambulance operators are contractually obligated to adhere to. These have been implemented to ensure optimal delivery of road ambulance services. Some rules have been built into the Emergency Health Information System (EHIS) in order to ensure compliance. However, rules have not been implemented for all clauses, standards, policies and procedures. We would expect there to be additional enforcement mechanisms in place within the Eastern RHA to ensure that clauses, standards, policies and procedures not built into the EHIS are still complied with.

#### Policies with no enforcement mechanism in place

Eastern RHA staff indicated that there were numerous clauses, standards, policies and procedures that have no enforcement mechanism in place. Accordingly, the Eastern RHA cannot determine that ambulance operators are in compliance with the provisions of the Ambulance Service Agreement as not all provisions of the contract are monitored. The following are examples of various policies that have no enforcement mechanism in place:

### **Ambulance Service Agreement Clauses with No Enforcement Mechanism:**

- Clause #11 – states that the operator shall maintain the number of ambulances per base specified in the operator profile. Eastern RHA staff indicated that currently there is no way to ensure that the operators meet this condition. Therefore, there is a risk that operators could be biased and not report a reduction in the number of ambulances as this could result in a reduction in the block funding that they would receive. As a result, ambulance operators could be operating with fewer ambulances than they are obligated to have which could lead to a public safety issue as they may not be able to respond to an emergency situation.
- Clause #12 – states that the operator shall allow the RHA, upon two days notice, access to its premises for various purposes, such as ensuring compliance to the various standards, policies and procedures with regard to attendants, ambulances, record keeping, etc. Eastern RHA officials stated that this is never done, as they do not have the resources to devote to such efforts. Thus, while the Eastern RHA has the right to ensure compliance with the contract, it has never availed of this provision.
- Clause #19 – states that the operator shall carry errors and omissions insurance. They are to have minimum coverage of \$2,000,000 for individual claims and minimum coverage of \$4,000,000 for aggregate claims. RHAs do not ensure that operators carry this which may leave the Province vulnerable to substantial lawsuits.

### **Policies and Procedures Manual Examples with No Enforcement Mechanism:**

- EHS 2003-09-10: Dispatch, Call-back Requirements - outlines the requirements to call back patients when receiving calls utilizing an automatic paging system. Eastern RHA staff have indicated that they have no way of enforcing this policy which could lead to a reduced level of patient care.
- EHS 2003-09-62: Training Requirements – Best Efforts - outlines the definition of "best efforts" as it pertains to meeting the training level requirements pertaining to ambulance personnel. Eastern RHA staff have indicated that this policy is not enforced or monitored. No enforcement could result in a lower level of paramedic being used on ambulance transports without justification.

### Standards Manual Examples with No Enforcement Mechanism:

- Must maintain 24 hour accessibility of ambulance services. Eastern RHA officials indicated that currently there is no way of enforcing this. Without enforcement, areas of the Province may not have ambulance services available 24 hours a day as required.
- *“Ambulance vehicles shall be inspected and maintained as required under the Highway Traffic Act, Motor Carrier Act, and Health and Community Services Act.”* The Eastern RHA indicated that they do not monitor whether MRD is enforcing the requirements of the applicable legislation. Without monitoring MRD’s enforcement of the legislation, there is no way to ensure that vehicles being used for the provision of road ambulance services meet the requirements of all applicable legislation.
- *“Operators shall complete self-inspections/observations of their vehicles at least monthly.”* The Eastern RHA indicated that it does not have the resources available to enforce this. Without enforcement there is no way to ensure that this is being completed and thus safety issues may not get noticed in a timely manner.

### Recommendations

The Department of Health and Community Services should review existing standards, policies and procedures for appropriateness.

The Eastern RHA should review the need for a new information system that would allow them to monitor and enforce compliance with the standards, policies and procedures, as well as the Ambulance Service Agreement.

The Department of Health and Community Services and the Eastern RHA should ensure all standards, policies and procedures, as well as the Ambulance Service Agreement are complied with by ambulance operators.

### 3. Program Delivery

#### Overview

The Province's Road Ambulance Program is governed through a contract and policy framework; specifically, a "level-of-effort contract" which requires funding to be provided based on volume. "Level-of-effort" specifies the number of ambulances and resource levels in return for conveyance rights within the service area. However, as long as they maintain the mandated number of ambulances for their area, the ambulance operator is not required to meet performance standards. The more volume a service provider performs, the more funds are allocated. In addition to the kilometer-based portion of funding, there is a portion of funding, known as block funding, that is calculated retroactively based on the number of actual calls performed within a time period. The volume-based funding model does not allow the operator to be proactive as funding is based on past actions and not future needs. This model is open to abuse as there is a risk that operators could increase call volume and kilometres traveled to increase current kilometre funding and subsequent block funding.

#### Differing Program delivery

Upon discussion with the Paramedicine and Medical Transport (PMT) Division staff it was found that the Province's Road Ambulance Program differs from that of other provinces. Provinces such as Nova Scotia, New Brunswick and Prince Edward Island utilize a performance-based model with preparedness-based funding.

Under a performance-based model, the service provider is expected to meet specific performance standards to retain market rights. Service area allocations may be based on the extent of the local medical trade areas, allowing the system to take advantage of economies of scale and potentially eliminating the duplication of distribution networks of multiple providers. Providers can be rewarded for exceeding the performance standards and will be penalized (financially or by total replacement by another service provider) if they do not meet the criteria. In this model there is a mandatory reporting and monitoring requirement of performance standards, medical oversight, financial oversight, rate regulation, licensing, and market allocation (service areas). All costs are accountable in this model; the focus becomes one of outcomes and performance instead of volume.

## Road Ambulance Services

Preparedness-based funding is funding based on a complete system review and development of a system status plan of what is actually required to adequately staff and operate an ambulance base in a particular area. Funding is provided as a budget line for the year to allow the service provider to maintain the resources required to respond to a call for service. The service provider must operate within that budget. The number of ambulances required during all hours of the day, supply cost and base overhead cost are all calculated into the funding formula to ensure all costs are accounted for.

Officials at the PMT Division indicated that not only is the contract/policy framework that is in use in Newfoundland and Labrador different than that of other provinces but it is typical of the 1970s era of ambulance service development. As a result, the Department's contracts do not place an emphasis on the quality of care provided to patients in the delivery of ambulance services.

In April of 1994, the Government of Nova Scotia released a report relating to its Emergency Health Services and highlighted four substantial problematic areas in the system that existed in Nova Scotia at that time:

1. *“There are few standards which could be considered to be at acceptable levels.*
2. *The system is funded as a transport system instead of a patient care system.*
3. *There is almost a total lack of available information regarding the current operations, particularly with regard to patient care and outcomes.*
4. *It is not integrated with the current delivery of health services”.*

Subsequent to the review, Nova Scotia totally revamped its Road Ambulance Program and now uses one incorporating the performance-based model with preparedness-based funding.

In 2010, Newfoundland and Labrador still had a Road Ambulance Program where contracts are based on “level-of-effort” with volume-based funding. The service is not related to patient care or outcomes and there is no information available on performance.

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### Recommendation

The Department of Health and Community Services should review the need for a different program funding structure for its Road Ambulance Program.

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## 4. Registration of Ambulances

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### Overview

Effective April 2008, responsibility for the registration of ambulances for the entire Province was transferred from the Department of Health and Community Services (the Department) to the Provincial Medical Oversight (PMO) Department within the Eastern RHA. Policies and procedures concerning ambulance registration are found within the Road Ambulance Policies and Procedures Manual which ambulance operators are contractually obligated to follow. The policies and procedures that deal with registration take into consideration whether an ambulance is new or used at the time of registration and also the replacement of ambulances.

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We selected 36 files for ambulances registered with the PMO department, representing the entire Province, and reviewed them for compliance with the corresponding policies and procedures. We identified the following issues:

- A. Registration Concerns
- B. Ambulance Replacement Policy
- C. Ineffective Monitoring of Ambulance Ages

Details are as follows:

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### 4A. Registration Concerns

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### Introduction

In accordance with policy, all ambulances shall be registered with the PMO department prior to use. In order to register the ambulance, the operator is required to send certain documentation to the PMO department which differs depending on whether the ambulance is new or used.

## Road Ambulance Services

A new ambulance is required to submit the following documentation:

- a completed Ambulance Approval and Request Form;
- Highway Officers Ambulance Inspection Report (any deficiencies must be corrected before the vehicle can be registered); and
- Certificate of Compliance (available from the Manufacturer).

A used ambulance is required to submit the same documentation as for new plus the following documentation:

- for Van Type Ambulances: a Motor Vehicle Inspection Certificate; or
- for Modular Ambulances: a Commercial Vehicle Inspection Certificate.

When an ambulance is registered with the PMO department, it is entered into the Emergency Health Information System (EHIS) as an active ambulance and this allows invoices to be paid on behalf of this ambulance. The EHIS has tick boxes that indicate what support documentation was submitted.

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### **Lack of support documentation**

Of the 36 ambulances tested, we found 17 that did not have a paper copy file at the PMO department even though the required documentation was indicated as being submitted in the EHIS. As a result, the PMO department could not demonstrate that all these ambulances were in full compliance with the registration policies.

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### **No evidence of deficiencies corrected**

Of the 36 ambulances tested, we found that:

- 3 new ambulances had deficiencies noted upon registration but had no evidence in the file to indicate that these issues had been corrected; and
- 3 used ambulances had deficiencies noted upon registration but had no evidence in the file to indicate that these issues had been corrected.

As a result, the PMO department could not demonstrate that these ambulances were registered in compliance with policy.

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## Road Ambulance Services

### Missing certificates of compliance

Of the 36 ambulances tested, we found one used ambulance for which, although the certificate of compliance was indicated in the EHIS as being submitted, the certificate could not be located in the file.

As a result, the PMO department could not demonstrate that these ambulances were registered in compliance with policy.

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### 4B. Ambulance Replacement Policy

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#### Introduction

One of the policies contained within the Road Ambulance Policies and Procedure Manual deals with the replacement of new and used ambulances. As per Departmental policy the thresholds for ambulance replacement are as follows:

- *“New ambulances shall be replaced within 10 years from the in-service date or when the odometer reaches 500,000 kilometres, whichever comes first.”*
  - *Used ambulances shall be replaced 10 years from their original in-service date or 500,000 kilometres, whichever comes first. If written confirmation of the original in-service date is not forwarded to the Department, the vehicle shall be replaced by 31 March of the tenth year from the model date or 500,000 kilometres, whichever comes first”.*
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#### Replacement policy significantly higher

A review of ambulance replacement policies for other provinces indicated that the Department’s policy pertaining to ambulance replacement was significantly higher.

Figure 10 outlines the ambulance replacement policies for certain provincial jurisdictions.

**Figure 10**

**Ambulance Replacement Policies per Various Provincial Jurisdictions**

Province/Area	Mandatory Replacement Time Frame	Mandatory Replacement Kilometres
Alberta	5 years	280,000
British Columbia	8 years	250,000
Manitoba	No age	250,000
Newfoundland and Labrador	10 years	500,000
New Brunswick	4 years	300,000
Nova Scotia	4 years	Approximately 260,000
Ontario, Kingston	6 years	No specific Mileage
Ontario, Niagara	Guideline of 5 years	No specific mileage but normally around 300,000
Ontario, Ottawa	4.5 years	No specific mileage
Ontario, Toronto	6 years	200,000
Quebec	4 years	200,000
Saskatchewan, Regina	5 years	250,000

Source: Eastern RHA – PMT Division

Figure 10 shows, the Department's replacement policy timeframe is twice as long, in both years and kilometers, as the timeframes in the majority of the other provinces. As a result, it is likely that in Newfoundland and Labrador, at any given point in time, ambulance operators could be providing service with ambulances that are twice as old in years or have twice as many kilometers on them, as those in other provinces. This increases public safety concerns.

Also, Eastern RHA officials indicated that ambulance operators in this Province often buy ambulances from other provinces after they are forced to retire them. They can do this because of the significant difference between our replacement policy and that of the other provinces.

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### 4C. Ineffective Monitoring of Ambulance Ages

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<b>Introduction</b>	Within the Ambulance Replacement Policy of the Road Ambulance Policy and Procedures Manual, there is a clause that states that the Provincial Medical Oversight (PMO) department is to monitor the status of the Provincial ambulance fleet and attempt to provide warning at approximately 50,000 kilometres and/or six months before the time an ambulance shall be replaced. The warning is a notification that the PMO department is responsible for sending as the replacement deadline approaches.
<b>Failure to notify</b>	<p>Of the 36 ambulances tested, we found that:</p> <ul style="list-style-type: none"><li>• 4 ambulances were within 6 months of the 10 year replacement deadline; however, there was no evidence in the file indicating that the operator had been notified; and</li><li>• 4 ambulances were within 50,000 kilometres of the 500,000 kilometres replacement deadline; however, there was no evidence in the file indicating that the operator had been notified.</li></ul> <p>As a result, the PMO department is not always giving advance notice to operators concerning the approaching ambulance replacement deadline. This could result in two scenarios: ambulances being used past the replacement deadline or service areas possibly being left without the required number of ambulances.</p>
<b>Lack of original in-service date confirmation</b>	Of the 36 ambulances tested, we found 3 used ambulances that had no written confirmation of the original in-service date on file. Without written confirmation, the PMO department could not ensure that these ambulances would be removed from operation in accordance to the ambulance replacement policy.
<b>Inaccurate information</b>	Of the 36 ambulances tested, we found 3 ambulances that had incorrect mileage readings as per the active ambulance listing provided to us. When questioned, staff obtained the correct mileage from other areas of the EHIS. However, without a centralized location for current information it is difficult for the PMO department to effectively monitor the accumulated mileage of the ambulance fleet in accordance with policy.

### Recommendations

The Eastern RHA should ensure that it registers and monitors the age/mileage of ambulances in accordance with policy.

The Department of Health and Community Services should review the current ambulance replacement policy for appropriateness.

## 5. Inspection of Ambulances

### Overview

In accordance with the Ambulance Operations Standards Manual, “...ambulance vehicles shall be inspected and maintained in accordance with the requirements in the Highway Traffic Act, the Motor Carrier Act, and the Department of Health and Community Services Act”. Since this is a legislative requirement as well as a provision of the Standards Manual, the private and community ambulance operators are legislatively and contractually obligated to adhere to it. Accordingly, we expected that the Eastern RHA would have some mechanism in place to ensure compliance. However, officials from the Eastern RHA indicated that they did not monitor compliance with this policy since it falls under the Motor Registration Division’s (MRD) legislative responsibilities. Accordingly, we performed testing at the MRD to see if the work was being completed.

To test inspections at the MRD we used the same 36 ambulances selected for review during the testing of registration at the Eastern RHA. In reviewing 36 ambulance files and through discussions with officials from the MRD, the Department of Health and Community Services (the Department) and the Eastern RHA, we identified the following issues:

- A. Confusion Regarding Ambulance Inspection Reports
- B. Inactive Ambulances
- C. Timeliness of Inspections

Details are as follows:

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### 5A. Confusion Regarding Ambulance Inspection Reports

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#### Introduction

When MRD, Eastern RHA and Department officials were asked about inspections of ambulances they indicated that there are two types of inspections that are under the jurisdiction of MRD:

1. Mechanical Inspection: ensures that vehicles are mechanically fit; and
2. Ambulance Inspection: ensures that specific requirements relating to ambulances are adhered to as per the various legislation impacting ambulances. These specific requirements included mechanical areas, such as the brakes and the suspension. In addition, it ensures that the ambulance operators have the required supplies on board as per the various policy manuals.

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#### Confusion regarding ambulance inspections

Mechanical inspections are legislated by the *Motor Carrier Act* and the *Motor Carrier Regulations*. It states that “...every motor carrier who operates an ambulance service shall at least every 6 months, at intervals of not less than 150 days apart, cause each ambulance used in his or her service to be inspected by an authorized mechanic appointed under the Highway Traffic Act and immediately forward a copy of the inspection certificate to the Registrar”.

When asked for legislation and/or an agreement concerning the ambulance inspections process, staff from the MRD, the Eastern RHA and the Department could not direct us to a specific source. The PMT staff indicated that the Ambulance Operations Standards Manual states that “...a maintenance and inspection program for all vehicles, equipment and supplies shall be formulated between the Department of Works, Services and Transportation and the Department of Health and Community Services. Ambulance vehicles, supplies and equipment shall be inspected for adherence to these standards. Highway Enforcement Officers or other persons designated by the Minister of Health and Community Services shall be considered inspectors for the purposes of these standards”. The MRD used to fall under the then Department of Works, Services and Transportation. Unlike mechanical inspections, ambulance inspections are performed by the Highway Enforcement Officers at MRD.

In not having legislation and/or an agreement governing the ambulance inspection process, the various RHAs cannot ensure that the process they entrust MRD to perform for them actually accomplishes what they expect it to. This could lead to a reduced level of patient care and result in an increased public safety risk.

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### 5B. Inactive Ambulances

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#### Introduction

During the inspection portion of the review, MRD provided us a list of transactions for each ambulance in our sample. The listing indicated different types of activity, ranging from registration renewal to deactivation of vehicles.

Each listing was scanned and it was noted that several of the ambulances contained the code V18 and V27, inactive vehicle and active vehicle respectively. The periods of inactivity ranged anywhere from 7 days to 250 days. Several staff from MRD indicated that vehicles coded as inactive are considered not licensed and should not be driven for the period of time that they are made inactive to the time they are reactivated. Accordingly, we then accessed the EHIS to ensure that payments were not made on behalf of these ambulances during the inactive time periods.

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#### Ambulances considered inactive but still in use

Of the 36 ambulances tested, we found 13 ambulances that had periods of inactivity during the last two years, that had payments totalling \$156,785 made to the operators during that period.

Of those 13 ambulances that had inactive periods, we found that:

- 7 ambulances were classified as inactive as a result of operators not submitting mechanical inspections; and
- 6 ambulances where we could not determine the reason for deactivation.

As a result, ambulance operators were providing service using ambulances that were coded as inactive by MRD.

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## Road Ambulance Services

**Failure to notify operators** Of those 13 ambulances that had inactive periods, we found 13 of them had no indication in the file that the ambulance operator had been notified by the MRD prior to the deactivation of the ambulance. As a result, ambulance operators may not be aware that their ambulances were deactivated and not to be driven, and thus could not report the out-of-service status to the PMO department. Also, MRD does not notify the PMO department at the Eastern RHA.

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### 5C. Timeliness of Inspections

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**Introduction** Mechanical inspections are legislated by the *Motor Carrier Regulations* under the *Motor Carrier Act* to be completed at least every 6 months, at intervals of not less than 150 days apart. Staff from the Department and the Eastern RHA all confirmed that they were under the impression that ambulance inspection reports are also to be completed every 6 months, like mechanical inspections. MRD officials reiterated this by providing a copy of an enforcement plan indicating that 2 inspections were to be performed per year. Therefore, we would expect to see 4 mechanical inspections and 4 ambulance inspections within the last 2 years for ambulances that have been registered for longer than 2 years.

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**Mechanical inspections not being effectively monitored** Of the 36 ambulances tested, we found issues with 8 as follows:

- 2 ambulances were missing 2 mechanical inspections each from their MRD file within the past 2 years; and
- 6 ambulances were missing 1 mechanical inspection each from their MRD file within the past 2 years.

As a result, operator files at the MRD did not always contain evidence that the required semi-annual mechanical inspections were provided by the ambulance operator in accordance with the *Motor Carrier Act*.

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**Ambulance inspections not being performed in 6 month intervals** Of the 36 ambulances tested, we found issues with 17 as follows:

- 3 ambulances were missing 3 ambulance inspections each from their MRD file within the past 2 years;
- 8 ambulances were missing 2 ambulance inspections each from their MRD file within the past 2 years; and

## Road Ambulance Services

- 6 ambulances were missing 1 ambulance inspection each from their MRD file within the past 2 years.

As a result, operator files at the MRD did not always contain evidence that the Highway Enforcement Officers were performing the semi-annual ambulance inspections.

### Inability to determine date of inspection

The above analysis is based on the presence of paper copies of mechanical and ambulance inspections being found within ambulance files at MRD. However, transaction listings provided for each ambulance often indicated that more mechanical and ambulance inspections were entered into the system than could be found in the file. Furthermore, the date associated with the inspections found in the system was the date that the data was actually entered into the system and not the date that the inspection was performed.

Our testing indicated that there could be substantial time lags from when the inspection was actually performed to when it was entered into the computer system at MRD. For example, for one sample item a mechanical inspection was completed on 21 May 2010 but the date it was entered into the system was 12 October 2010. This is approximately 5 months time difference and, therefore, we could not with any certainty associate this date with the completion of the inspection. As a result, the computer system fails to aid staff at MRD in monitoring and enforcing the various inspection processes. In fact, it is so ineffective, that staff at MRD have resorted to using a manual tracking system.

### Recommendations

The Department of Government Services, through the MRD, should:

- ensure mechanical inspections are conducted in accordance with legislation; and
- ensure that ambulance inspections are conducted in a timely manner.

The Eastern RHA should implement a policy or procedure to monitor whether ambulance operators are in compliance with legislation that is governed by MRD, such as MRD informing them when an ambulance is designated as “inactive”.

### Department of Health and Community Services' Response

*I am pleased to provide this response on behalf of the Department of Health and Community Services to the Auditor General's Report on Road Ambulance Services for the province. The Department of Health and Community Services (DHCS) recognizes that the Road Ambulance Program is an integral component of the pre-hospital care delivery system in Newfoundland and Labrador. As such, the Department acknowledges and appreciates the review conducted on the Road Ambulance Program by the Auditor General. The Department plays a lead role in policy and program development as well as support to the four Regional Health Authorities (RHAs) and other agencies that are mandated to provide health services to our citizens. We understand that while the Road Ambulance Program is a provincial program, the review was primarily conducted within the Eastern Regional Health Authority (Eastern Health).*

*The first Memorandum of Agreement with private and community road ambulance operators was established in 2000 and subsequent agreements have increased the road ambulance budget by more than 300%. The current funding to private and community operators for 2010 was approximately \$33 million. In addition, the current funding to the four RHAs for ambulance services for 2010 was approximately \$13 million.*

*While the Auditor General notes that 'overriding' is a weakness, the Department notes it has a central role in resolving disputes as is outlined in the tripartite agreement. Any intervention in a dispute is completed with expert advice as appropriate. The Department makes every effort to ensure that any recommendations arising from enactment of the dispute resolution mechanism allows for fair and equitable treatment to all stakeholders in the industry, including operators, ambulance attendants, patients and the general public.*

*The Department endeavours to ensure that quality pre-hospital care services are provided in all areas of this Province. To that end, officials will take all of the recommendations of the Auditor General into full consideration so that patient care, attendant training, transport vehicles and public safety policies and standards are continuously monitored, evaluated, amended as appropriate and complied with throughout the province.*

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*DHCS also provides the following commentary regarding the recommendations outlined in the report:*

<b>Auditor General Recommendations</b>	<b>DHCS Comments</b>
The Department of Health and Community Services should review the need for legislation that governs paramedicine within the Province.	<i>DHCS will review the need for legislation to govern paramedicine in the province.</i>
The Department of Health and Community Services should review existing standards, policies and procedures for appropriateness.	<i>Both the standards manual, and the policies and procedures manual are currently being revised and updated.</i>
The Department of Health and Community Services and the Eastern RHA should ensure all standards, policies and procedures, as well as the Ambulance Service Agreement are complied with by ambulance operators.	<i>Compliance of provincial standards governing road ambulance is the responsibility of the four Regional Health Authorities.</i>
The Department of Health and Community Services should review the need for a different program funding structure for its Road Ambulance Program.	<i>DHCS will consider a review of the current funding structure.</i>
The Department of Health and Community Services should review the current ambulance replacement policy for appropriateness.	<i>DHCS will consider a review of the current ambulance replacement policy.</i>

## Department of Government Services' Response

### ***Overall Conclusions and Recommendations***

*The Department of Government Services acknowledges the recommendations related to the timely inspection of ambulances and the need to improve the documentation of policies and procedures, tracking of inspections and communications with ambulance owners/operators and the Regional Health Authorities.*

*However, there are some differences in interpretation and discrepancies between what is reported by your auditors and the actual records on file at the Motor Registration Division. These are outlined in the following sections.*

*As such, we do not agree with your overall conclusion that road ambulances operating in the province may not be safe. Ambulances are among the most inspected vehicles on our province's roads. The absence of a particular inspection report or late reporting of an inspection does not immediately render a vehicle unsafe. You may wish to consider removing or qualifying your statement in this regard.*

### **5. Inspection of Ambulances**

#### **5A. Confusion regarding ambulance inspections**

*The draft Report indicates, "...In not having legislation and/or an agreement governing the ambulance inspection process, the various RHAs (Regional Health Authorities) cannot ensure that the process they entrust MRD to perform for them actually accomplishes what they expect it to. This could lead to a reduced level of patient care and result in an increased public safety risk."*

*There are processes already in place with respect to inspection of ambulances and required follow up. Highway Enforcement Officers of the Motor Registration Division directly supply copies of ambulance inspections to designated coordinators within the applicable Regional Health Authorities, which are responsible for further follow-up and action regarding compliance with required medical equipment and supplies.*

*Nevertheless, the Department of Government Services will consult with the Department of Health and Community Services and the Regional Health Authorities to ensure there is clear and concise documentation of policies and procedures with respect to ambulance inspections and to discuss the need for legislation and/or an agreement.*

#### **5B. Inactive Ambulances**

*"Sometimes road ambulances operated even though they had been designated as "inactive" by MRD. A common reason for an inactive designation by MRD relates to an operator not providing a copy of the required semi-annual mechanical inspection. An inactive designation at MRD means that the ambulance is not licensed and is not authorized to be driven...."*

*There are cases where ambulances are inactivated when the vehicle registration has expired and the inspection information has not been submitted. This action is taken to prevent the owner of the ambulance from renewing the vehicle registration without a current mechanical inspection. In these cases, ambulance operators would not be notified of the vehicle inactivation, given that they would be aware that the registration has expired. It is assumed that the ambulance is no longer in operation and therefore, no further correspondence is sent to the operator requesting a current inspection. The Department is in the process of reviewing this practice in order to ensure operators clearly understand the inspection requirement before renewal of the vehicle registration.*

*In other cases, Motor Registration Division officials will inactivate the registration of an ambulance where an operator has failed to submit the required semi-annual inspection. This action is taken only when every effort has been made to obtain a copy of a mechanical inspection, (i.e. warning letter has been sent to the owner of the ambulance and/or a phone call has been made).*

*However, as the report notes, neither ambulance owners nor the Regional Health Authorities were being clearly notified that the vehicle would be inactivated and should not be driven until the inspection information was received by MRD. Technically, the vehicle's registration (licence) remains valid under legislation unless suspended or cancelled.*

*The Department has since taken measures to ensure that ambulance owners/operators and the Regional Health Authorities are advised of the consequences of not submitting the inspections on time and will be immediately notified when ambulances are inactivated on the MRD database. There will be a need to provide some prior notice to RHAs in order to allow them to make alternative arrangements for ambulance service. The logistics of this notification will be discussed with the RHAs.*

### **5C. Timeliness of Inspections**

#### **Mechanical (Official Inspection Station) Inspections**

*Your report states, "The required semi-annual mechanical inspections of road ambulances were not always provided by the operator to the Motor Registration Division (MRD) of the Department of Government Services.*

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*We selected 36 ambulance files and found that 28 (78%) had the required semi-annual mechanical inspection forms on file for a 2-year period i.e. 4 inspection forms were required to be on file. Of the 8 remaining ambulance files, 2 were missing 2 inspection forms and 6 were missing 1 inspection form”.*

*In accordance with the Motor Carrier Regulations, ambulances are required to be mechanically inspected at an Official Inspection Station twice per year. Ambulance owners are required to immediately submit a copy of the inspection to the Motor Registration Division. A new ambulance receiving first time registration would not require a mechanical inspection until six months has elapsed since the vehicle is first registered in the province.*

*Based on our analysis, it has been determined that one (1) of the 36 ambulances selected should have been excluded from the audit covering the period of November 2008 to November 2010 (2 years), as the vehicle had been removed from service in 2007. Twelve (12) of the remaining 35 ambulances were placed into service at different intervals during the period covered by the draft report. As such, there should have been a total of 124 inspections on file for the period covered by the audit, for all 35 ambulances. MRD records contain 115 inspections, representing a 92.7 % compliance rate on the number of inspections actually required for that period.*

*It should be noted that, notwithstanding the receipt of an inspection certificate from an ambulance operator, under the Motor Carrier Regulations, owners are required to ensure that their vehicles are maintained in a safe mechanical condition and, where an inspection indicates that an ambulance is not mechanically fit, that it not be used until all repairs are made to render it fit. That is, there is a legal onus on the owner/operator to ensure the vehicle is safe to operate.*

*It should also be noted that the practice of inactivating a vehicle is discretionary, under section 16.4 of the Highway Traffic Act, not a mandatory requirement.*

### *Ambulance (MRD) inspections*

*The report also states that, “The semi-annual ambulance inspections (e.g. medical equipment) that were to be completed by MRD Highway Enforcement Officers were not always performed.*

*We selected 36 ambulance files and found that 19 (53%) had semi-annual ambulance inspection forms on file for a 2 year period...”.*

## Road Ambulance Services

*The assumption that semi-annual ambulance inspections (for medical compliance) are required is incorrect. There is no official policy and no agreement between the Departments of Government Services and Health & Community Services/Regional Health Authorities requiring Highway Enforcement staff to conduct semi-annual inspections of road ambulances for compliance with medical equipment & supplies. We have only agreed to perform a minimum of one such ambulance inspection per year. We do, however, apply additional efforts for a second inspection as resources permit.*

*While a draft 2010-11 operational enforcement plan indicated allowance for up to two ambulance inspections during the year, the Registrar clarified, in writing, with managers that the policy only requires one inspection per year. A second inspection could be conducted depending on regional workloads and availability of enforcement staff.*

*A review of our records pertaining to the 36 ambulances that were selected for audit reveals that one ambulance had been removed from service in 2007 and should not have been part of the audit for the period (November 2008 – November 2010). Of the remaining 35 vehicles, 30 (85.7%) were inspected annually during the audit period, as required. Two others did not show inspections for 2008, which pre-dated the audit period.*

*Twelve (12) of the 35 were placed into service at different intervals during the period (2 years) covered by the draft report and each of those vehicles was inspected during the same year. Twenty-six (26) ambulances (74%) were inspected at least twice in a given year and one (1) ambulance was inspected three times in one 12 month period (follow-up inspections).*

*Based on the annual inspection requirement and the placement of vehicles into service for the first time (12 vehicles) during the audit period, there should have been a minimum of 59 inspections done between November 2008 and November 2010. The actual number of inspections conducted to meet this requirement was 55, representing a 93% compliance rate.*

*Beyond the required annual inspections, MRD conducted additional inspections on a number of ambulances. In fact, there were 82 ambulance inspections conducted during the audit period. The difference in the required number of inspections versus the number actually performed reflects the additional (second and third) inspections conducted for that period.*

## Road Ambulance Services

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*Notwithstanding the high level of compliance in this area, the Department of Government Services will consult with the Department of Health and Community Services and the Regional Health Authorities to ensure that the required annual compliance inspections for medical equipment and supplies are conducted in a timely manner.*

*The Department is also exploring the feasibility of implementing computer systems changes to ensure all ambulance vehicles are identified as such. Part of the proposed enhancement will consist of a periodic computer generated report containing inspection status. This will assist in ensuring ambulances will not be inadvertently overlooked when determining if mechanical (OIS) or MRD inspections are due or overdue.*

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## Eastern RHA's Response

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### **Introduction**

*The service provided by the Provincial Road Ambulance Program is a very important component of the health care system. Eastern Health is one of four Regional Health Authorities (RHAs) that have responsibility for monitoring the compliance to service contracts by ambulance operators within their region. Eastern Health also has responsibility for administering the Provincial Medical Oversight (PMO) program and for adjudicating and processing all ambulance operator claims in the province.*

*Eastern Health has worked in collaboration with the other RHAs, the Department of Health and Community Services (DHCS) and the ambulance operators to improve the program with the implementation of the PMO Program, the development of new standards and policies, and the implementation of new service agreements with the ambulance operators.*

*While the Auditor General has advised of potential risks within the road ambulance service, Eastern Health contends that the general public should not hesitate to contact their local ambulance operator should they be in need of emergency medical services, quality and safe care will be provided. Eastern Health offers the following information:*

## Road Ambulance Services

- *When the Provincial Medical Oversight (PMO) was fully implemented in January 2010 it aligned Newfoundland and Labrador with the National Occupational Competency Profiles in Canada. Since that time, every ambulance practitioner in the province attended a one-day session that included education on the new Provincial Patient Care Protocols. Two sets of these protocols have been put into practice in the province: one designed for Emergency Medical Responders and Primary Care Paramedics; and a second for Advanced Care Paramedics. In order to be registered and continue to work in the province, practitioners had to achieve a pass of 90 per cent on the written protocol exam. Through this process 859 practitioners have been registered in the province and are practicing under the authority of the PMO program.*
- *As part of the PMO program, an on-line medical control physician advice line has been established to provide 24/7 access for field practitioners to speak with a physician should the need arise in an emergency medical response situation.*
- *In the fiscal year 2009-10, the Paramedicine and Medical Transport (PMT) division of Eastern Health reviewed, approved and provided in excess of \$70,000 in training of ambulance personnel to support the ambulance operator contracts. This funding provided training for 56 Emergency Medical Responders and assisted seven former Paramedics I and Paramedics II practitioners to attain bridge training to the full scope of practice and designation as a primary care paramedic.*
- *The rate of compliance on the reviewed files within Eastern Health by the Auditor General was between 92% and 97% regarding the age/mileage of ambulances in accordance with policy. In our view, that is a strong rate of compliance. Having said that, Eastern Health will work with the Department to ensure continued and enhanced compliance.*
- *Eastern Health has identified that its level of monitoring and oversight should be improved. As such, Eastern Health requested and received funding through Budget 2010 to hire two quality and learning facilitators that will increase its medical performance monitoring. The recruitment process for those positions is currently underway. Further information on other monitoring initiatives is described below.*

*In relation to the specific recommendations directed towards Eastern Health in the report, Eastern Health provides the following responses:*

### **RECOMMENDATION**

***The Eastern Regional Health Authority should review the need for a new information system that would allow them to monitor and enforce compliance with the standards, policies and procedures, as well as the Ambulance Service Agreement.***

*Eastern Health, under the Provincial Medical Oversight (PMO) program, has received approval to implement the Electronic Patient Care Reporting (EPCR) system which will have many built-in rules and adjudication processes that will ensure appropriate information is entered in the information system and will alert PMO to potential quality care concerns, and billing of inconsistent data. The EPCR system will see a laptop in every ambulance and claim information as well as medical information will be entered into the database in real time. The EPCR program has been approved by DHCS and a tender for this technology is expected to be issued in early 2011.*

*Eastern Health, under the PMO, has also been approved by the DHCS to purchase and supply modern cardiac monitor/defibrillators to every ambulance across the province. These new devices will permit paramedics to practice to a full scope of practice, and electronically this data will be linked with the EPCR system for further verification of PCR auditing. These devices have all been purchased and the distribution of these devices across the province is underway.*

*Other opportunities continue to be explored with the DHCS and other RHAs that will improve the monitoring system.*

### **RECOMMENDATION**

***The Department of Health & Community Services and the Eastern Regional Health Authority should ensure all standards, policies and procedures as well as the Ambulance Services Agreement are complied with by ambulance operators.***

*Eastern Health supports the need to ensure that all ambulance operators are in compliance with the standards, policies and procedures, as well as the Ambulance Services Agreement and will continue to work with the DHCS to put in place mechanisms/resources to support program enforcement. It is also noted that should there be any exception to policies, these exceptions are documented appropriately in the files.*

### **RECOMMENDATION**

***The Eastern Regional Health Authority should ensure that it registers and monitors the age/mileage of ambulances in accordance with policy.***

*Eastern Health recognizes the importance of accurate documentation to support the above recommendation and since the implementation of PMO, this process has improved significantly to have a more comprehensive documentation and filing system. The Auditor General's Office reviewed a number of files to test for compliance; and although some deficiencies were noted, the rate of compliance on the reviewed files was between 92% and 97%.*

### **RECOMMENDATION**

***The Department of Government Services through the Motor Registration Division (MRD) should ensure mechanical inspections are conducted in accordance with legislation and ensure that ambulance inspections are conducted in a timely manner. The Eastern Regional Health Authority should implement a policy or procedure to monitor whether ambulance operators are in compliance with legislation that is governed by MRD, such as MRD informing them when an ambulance is designated as "inactive".***

*Eastern Health will follow up with MRD to discuss the notification process for MRD to Eastern Health.*

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**PART 2.11**

**DEPARTMENT OF INNOVATION, TRADE AND RURAL DEVELOPMENT**

**REVIEW OF BROADBAND WITHIN GOVERNMENT**

### Executive Summary

In February 2005, Industry Canada, the Atlantic Canada Opportunities Agency and the Department of Innovation, Trade and Rural Development (the Department) completed a study entitled, “Setting the Context for a Federal-Provincial Broadband Strategy: The Current State of Broadband Data/Telecommunications Infrastructure in the Province of Newfoundland and Labrador (Setting the Context Report)”. The overarching recommendation contained in the Report was to develop a Provincial broadband strategy.

In November 2006, the Government of Newfoundland and Labrador announced it would “...invest \$15 million, over the next two fiscal years on the installation of a fully redundant fibre optic link which will run from St. John's to Halifax along two diverse routes to connect the national carriers into mainland Canada.” At that time, Aliant owned the only fibre optic link between St. John's and Halifax.

In July 2007, Government signed an Agreement with Persona Communications Corp. under which Government was to receive an Indefeasible Right to Use eight fibre optic strands for a 20-year term, with four 20-year no-cost renewal options. Each fibre optic cable would contain from 24 to 96 strands, depending on the route. In total, the Province would own 8 strands within the fibre optic cables. This would include 6 fibre optic strands in the Northern Terrestrial Route and 2 strands in the Southern Coastal Route.

As a result of this project, the Province would essentially own the foundation (fibre optic strands) on which its telecommunications would run. However, to light and operationalize the strands, the Province would incur additional costs that were estimated, at that time, to run between \$15 and \$20 million. The network was expected to be operational during 2008. Operationalizing the fibre optic strands was one of the first steps under the Government Broadband Initiative (GBI) to fully develop Government's telecommunications infrastructure. Government officials indicated that the development of fibre optic technology in the Province would result in significant service enhancements and cost savings for Government and the business sector.

On 22 November 2006, the House of Assembly passed a resolution asking that the Auditor General “...investigate all the details and circumstances of the fibre optic deal.” In September 2007, a Report “*On a Review of the ‘Fibre Optic Deal’*” was provided to the House of Assembly on the results of this review.

## Review of Broadband within Government

The Report indicated that *“It is important to understand that Government’s commitment to spend \$15 million on this Project relates to the acquisition of dark fibre i.e. strands of fibre that will have to be connected to sophisticated electronics before it becomes operational. It is expected that it will cost an additional \$15 to \$20 million to operationalize the fibre by 2008. Furthermore, this is only the first step of a 10-year plan which may cost up to \$200 million to fully develop Government’s telecommunications infrastructure which all Government departments and public sector entities, such as the health and education sectors, are expected to use. By using its own telecommunications infrastructure, Government expects cost savings that will defray some of the development costs; however, that remains to be seen.”*

Our current review indicated that five years after the *Setting the Context Report* was issued, the Department has still not prepared the Provincial broadband strategy that was the overarching recommendation contained in the Report. Although Departmental officials indicated that the strategy was being developed, they could not demonstrate this.

Our review of the GBI indicated that no progress has been made with regards to operationalizing Government’s fibre optic strands i.e. they are still “dark fibre” two years after the expected completion in 2008. The Department estimates that the expected cost to operationalize the fibre has increased from \$20 million to \$26 million.

Furthermore, although during our initial review Government had expected to fully develop Government’s telecommunications infrastructure over a 10-year period with a cost of approximately \$200 million (excluding Labrador), we found that there is no planned timeframe and estimated completion costs for a single provider solution had increased to \$563 million (including \$120 million relating to Labrador).

The GBI concept has changed substantially, from the original objective of Government requiring the development of a private network for Provincial Government, to this no longer being a prerequisite requirement. In 2007, Government expected that it would use its own telecommunications infrastructure for a Province-wide area network for all of Government and its entities.

With regards to the defrayment of development costs by savings related to the use of Government’s own telecommunications infrastructure, officials from the Department were not able to make this determination because it is unknown whether the Government owned fibre optic strands will be utilized.

In December 2007, Government issued a Request for Proposals (RFP) to light its existing fibre and to build and operate a Province-wide area network. The

## Review of Broadband within Government

RFP anticipated that the estimated cost information would cover a 10-year period. An analysis of the RFP proposals prepared for the Department concluded that the estimated cost would be \$372 million (including \$120 million for Labrador), using two service providers. However, when the Department began negotiations with the service providers, one of the service providers withdrew their proposal. As a result, the estimated cost escalated to \$563 million when the remaining service provider was required to meet all deliverables. On 28 January 2010, Cabinet cancelled the RFP and directed the Department to enter into discussions with private sector service providers.

We found that the Department did not have a formal project plan at the inception of the GBI nor did it develop one after the original concept changed. This project plan would include such things as objectives, timeframes and estimated costs for completion. We also note that the GBI TENT (Technical Evaluation and Negotiation Team) was disbanded in February 2010, subsequent to the cancellation of the RFP by Cabinet. The decision to disband the TENT was made by the Department.

In August 2009 the Department was directed by Cabinet to conduct a survey to establish a baseline of the Province's broadband infrastructure and telecommunications services, including costs. Our review indicated that:

- no final project costs have been determined as the Department has now been directed to consult with the private sector to determine an acceptable approach for the development of the GBI, therefore there is no basis for comparison; and
- the Department has not received all required cost information from public sector entities. Four entities have not provided the requested information (Nalcor Energy, Central Regional Integrated Health Authority, the Newfoundland and Labrador Research and Development Corporation and the Newfoundland and Labrador Legal Aid Commission).

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## Background

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### **The Atlantic Cable Facility and the 2007 Report: "Review of the Fibre Optic Deal"**

In November 2006, the Government of Newfoundland and Labrador announced it would "...invest \$15 million, over the next two fiscal years on the installation of a fully redundant fibre optic link which will run from St. John's to Halifax along two diverse routes to connect the national carriers into mainland Canada." At that time, Aliant owned the only fibre optic link between St. John's and Halifax.

## Review of Broadband within Government

In July 2007, Government signed an Agreement with Persona Communications Corp. under which Government was to receive an Indefeasible Right to Use eight fibre optic strands for a 20-year term, with four 20-year no-cost renewal options. Each fibre optic cable would contain from 24 to 96 strands, depending on the route. In total, the Province would own 8 strands within the fibre optic cables. This would include 6 fibre optic strands in the Northern Terrestrial Route and 2 strands in the Southern Coastal Route.

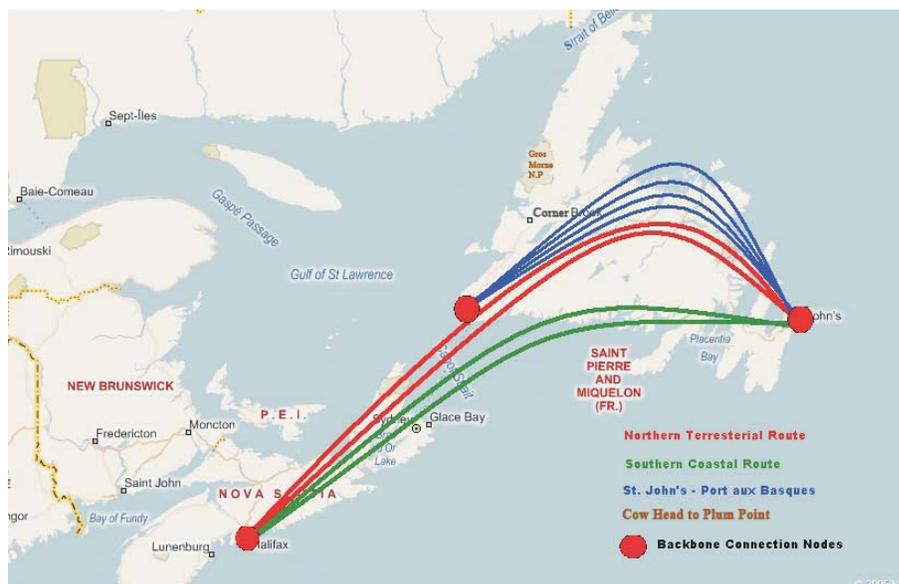
As a result of this project, the Province would essentially own the foundation (fibre optic strands) on which its telecommunications would run. However, to light up and operationalize the strands, the Province would incur additional costs that were estimated, at that time, to run between \$15 and \$20 million. The network was expected to be operational during 2008. Operationalizing the fibre optic strands was one of the first steps under the Government Broadband Initiative (GBI) to fully develop Government's telecommunications infrastructure.

Government officials indicated that the development of fibre optic technology in the Province would result in significant service enhancements and cost savings for Government and the business sector.

The routes of the fibre optic link are shown in Figure 1.

**Figure 1**

### Fibre Optic Link Route



Source: Government of Newfoundland and Labrador

**Figure 2**

**Chapel Arm Station  
Typical Hub Containing an Optical Line Amplifier**



Source: Supplied by the Department of Innovation, Trade and Rural Development

On 22 November 2006, the House of Assembly passed a resolution asking that the Auditor General “...investigate all the details and circumstances of the fibre optic deal.” In September 2007, a Report “*On a Review of the ‘Fibre Optic Deal’*” was provided to the House of Assembly on the results of this review.

Our report indicated that: “*It is important to understand that Government’s commitment to spend \$15 million on this Project relates to the acquisition of dark fibre i.e. strands of fibre that will have to be connected to sophisticated electronics before it becomes operational. It is expected that it will cost an additional \$15 to \$20 million to operationalize the fibre by 2008. Furthermore, this is only the first step of a 10-year plan which may cost up to \$200 million to fully develop Government’s telecommunications infrastructure which all Government departments and public sector entities, such as the health and education sectors, are expected to use. By using its own telecommunications infrastructure, Government expects cost savings that will defray some of the development costs; however, that remains to be seen.*”

## Review of Broadband within Government

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### **Setting the Context for a Federal-Provincial Broadband Strategy**

In February 2005, Industry Canada, the Atlantic Canada Opportunities Agency and the Department of Innovation, Trade and Rural Development (the Department) completed a study entitled, “Setting the Context for a Federal-Provincial Broadband Strategy: The Current State of Broadband Data/Telecommunications Infrastructure in the Province of Newfoundland and Labrador” (Setting the Context Report). The overarching recommendation contained in the Setting the Context Report was the: “...development of a provincial broadband strategy as the current approach to development had been fragmented and had ultimately not been very collaborative.” It further recommended: “the provision of leadership that will facilitate the development of a strategic plan for the deployment of a provincial broadband infrastructure that is overseen by the Chief Information Officer and the Department of Innovation, Trade and Rural Development.”

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### **Background for the Government Broadband Initiative (GBI)**

In April 2005, the Department and the Office of the Chief Information Officer (OCIO) began the GBI to review all Government telecommunications requirements, with the intention of creating a province-wide advanced communications network. As the biggest user of broadband services in the Province, Government viewed an advanced network as vital for supporting innovative industries, expanding the research capabilities of educational institutions and allowing greater availability of such services as telehealth in remote areas.

One of the objectives of the GBI was to establish a Government Legislated Agency (GLA) to own the Province’s fibre-based broadband data network and to provide associated data network services on behalf of the Province to locations where the GLA had a presence across the entire Province. This would be a Province Wide Area Network (PWAN) owned by the Province.

**Figure 3**

**Fibre Optic Rack  
Fibre Termination Splice Panel and Cross Connects**



Source: Supplied by the Department of Innovation, Trade and Rural Development

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## Audit Objectives and Scope

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**Audit objectives**

The objectives of our review of Broadband within Government were to determine whether:

- Government had proceeded with the Atlantic Cable Facility (ACF) since the 2007 Review of the “Fibre Optic Deal” and whether plans were realized including projected completion dates, costs, benefits, and lighting the existing fibre optic strands;
- Government had acted upon the recommendations of the 2005 Setting the Context Report;

## Review of Broadband within Government

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- Government had proceeded with the Government Broadband Initiative (GBI) and whether plans were realized including strategy and cost; and
  - Government had proceeded with the Telecommunications and Bandwidth Survey (the Survey) and compiled the results.
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### Audit scope

We commenced our review on 17 March 2010. At that time the Department was undergoing a “Telecommunications and Bandwidth Survey” to determine the current cost and bandwidth requirements of Government. Therefore, in order to allow the Department time to complete the survey and compile the results, we deferred our audit until 28 October 2010. We completed our review in December 2010.

Our review included an examination of documents, including relevant reports, requests for proposals, statements of work, and costing analysis. It also included discussions with the former Technical Evaluation and Negotiation Team (TENT), officials of Memorial University of Newfoundland (MUN), and officials of the Department and other departments of Government and Crown Agencies as necessary.

Our work was performed in accordance with generally accepted auditing standards and included such tests and procedures as we considered necessary in the circumstances.

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## Detailed Observations

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This report provides detailed findings in the following sections:

1. Current Status of the Atlantic Cable Facility and Update from our 2007 Report
2. Status of the Recommendations of the 2005 “Setting the Context for Federal-Provincial Broadband Strategy”
3. Current Status of the Government Broadband Initiative (GBI)
4. Results of the 2010 Telecommunications and Bandwidth Survey

### 1. Current Status of the Atlantic Cable Facility and Update from our 2007 Report

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#### Overview

In our 2007 Report we noted that the Government committed \$15 million for the acquisition of dark fibre strands that were not yet built, and not operational. On 18 July 2007, the Province and Persona Communications Corp. entered into the Agreement to purchase an indefeasible right to use (IRU) the specified fibre strands. At the time the Agreement was signed the Atlantic Cable Facility (ACF), which included both the Southern Coastal Route and Northern Terrestrial Route, was expected to be completed by 31 December 2007. Under the Agreement:

- The Province received an indefeasible right to use (IRU) eight fibre optic strands for a 20-year term (renewable for four additional 20-year terms at no cost);
- The Province would also receive an additional 4 strands between Deer Lake and St. Anthony, if and when that route were built; and
- Persona would pay for all maintenance on the strands for the first ten years and the Province would be responsible for maintenance costs after that period on a proportionate share basis equal to that of the other companies involved.

Our findings are contained in the following sections:

- A. Completion of the Lines and Total Contract Cost
- B. Realization of Projected Benefits
- C. Feasibility and Status of Line to Labrador
- D. Status of Line Between Deer Lake and St. Anthony
- E. Additional Costs to Date and the Estimated Cost to Light Existing Fibre
- F. Current Status and Future Plans for the ACF

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#### 1A. Completion of the Lines and Total Contract Cost

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#### Introduction

In our 2007 Report it was reported that when the Fibre Optic Deal Agreement (Agreement) was signed the ACF was expected to be completed by 31 December 2007. The Province's total cost was to be \$15 million plus HST.

## Review of Broadband within Government

**The accepted completion date was 15 months later than expected**

Officials from the Department of Innovation, Trade and Rural Development (the Department) informed us that Persona did not give notice of completion until 12 December 2008. This date was subsequently rejected because the appropriate line testing had not been completed. The final, accepted completion date of the ACF was 31 March 2009, 15 months after the expected completion date. Figure 4 shows the payments made to Persona for the ACF including HST. It also shows the dates which the Department made the payments.

**Figure 4**

**Payments to Persona for ACF including HST  
20 July 2007 through to 01 December 2010  
(\$000's)**

<b>Payment Dates</b>	<b>Earliest Payment Date</b>	<b>Net Amount</b>	<b>HST</b>	<b>Total Amount</b>
26 July 2007	18 July 2007	\$ 5,000	\$ 700	\$ 5,700
25 September 2007	01 October 2007	2,500	350	2,850
07 March 2008	01 January 2008	2,500	325	2,825
22 October 2008	01 April 2008	2,500	325	2,825
31 March 2009	01 July 2008	2,500	325	2,825
<b>Total Paid</b>		<b>\$15,000</b>	<b>\$2,025</b>	<b>\$ 17,025</b>

Source: The Department of Innovation, Trade and Rural Development

**Persona payments**

Figure 4 shows that in one case the payment made to Persona was not consistent with the requirements of the Agreement. The Agreement provided that the earliest date for the second payment would be 1 October 2007, however, the payment date was 25 September 2007.

### **1B. Realization of Projected Benefits**

**Introduction**

In our 2007 Report we noted that the Department's external consultant advised that the benefits from the Project include:

- Increased penetration of broadband access among businesses and households;

## Review of Broadband within Government

- Improved public services, e.g. in provision of health care services and enhanced educational opportunities through distance learning;
- Economic benefits which accrue from the construction and operation of the network;
- Economic benefits that result from the existence and use of the broadband network, e.g. jobs associated with new businesses that choose to locate in the region because of the broadband network;
- Benefits from the Province's share of any underlying rights (pole rentals, easements, etc.) at no cost for the first 20 years;
- Provision of equipment racks and other space by Persona as required for equipment and connection at each hub site;
- Fuller participation in medical and academic research efforts nationally and internationally;
- Improved speed of medical consultation with experts residing in other provinces;
- A more competitive environment in the communications industry; and
- Attraction of additional businesses and industries to the Province.

### Projected benefits

We would have expected that the projected benefits would be realized. However, we found that two of the ten benefits have not been realized, as well as four out of ten have only been partially realized.

Officials from the Department have informed us that four benefits have been realized; there has been increased penetration of broadband among businesses and households; economic benefits from the construction of the ACF; provision of space; and increased competition in the communications industry. Officials informed us that this has resulted in significant decreases in industrial/large account customer rates and carriers have begun to offer new services as a result of the new competition. Officials from the Department and from MUN also informed us that the costs for MUN's access to national and international lines for research purposes were reduced dramatically following the completion of the ACF.

## Review of Broadband within Government

There are projected benefits that Government has partially realized including fuller participation in medical and academic research; benefits that result from the existence and use of the broadband network; improved speed of medical consultation with experts in other provinces; and attraction of additional businesses and the movement of new industries to the Province. Officials from the Department reported that the four partially realized benefits will be realized through the GBI.

Two of the projected benefits have not been realized including improved public services and benefits from the Province's share of underlying rights. Officials from the Department reported that the two unrealized benefits will be realized through the GBI.

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### 1C. Feasibility and Status of Line to Labrador

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#### Introduction

A connection to Labrador was not included in the Agreement with Persona. In 2006 Cabinet directed the Minister of Innovation Trade and Rural Development to initiate a study of the technical and financial issues related to the establishment of a similar fibre optic connection to Labrador, and make a recommendation to Government as to its feasibility. When our 2007 Report was released the feasibility of a fibre optic line to Labrador remained unknown.

#### Connecting to Labrador

On 9 February 2007, an agreement was signed with EWA to conduct a "Feasibility Analysis on Fibre Connection to Labrador". EWA was tasked with providing a technical and financial feasibility analysis associated with the development of a fibre optic network to connect Labrador with a provincial Government owned province wide area network. The results were documented in the "Fibre for Labrador Feasibility Report" on 6 March 2008 which concluded that the system appeared to be technically feasible, and that a Desktop Study should be conducted to confirm the feasibility of establishing a sub-sea fibre cable segment across the Strait of Belle Isle. It also concluded that based on one identified network routing, an estimated rough order of magnitude capital cost for such a system is in the order of approximately \$97 million.

On 12 December 2007, an agreement was signed with EWA to conduct a “Desktop Study-Fibre Crossing at Strait of Belle Isle” to confirm whether the installation of a fibre cable system across the Strait of Belle Isle was feasible, whether directional boring was feasible, and to provide information on various topics, including but not limited to submarine geology, oceanography, climatology, etc. This project had an expected completion date of 31 March 2008. The Desktop Study Report was dated June 2008 and reported that the crossing was feasible “...if one respects, understands and uses the forces of nature in conjunction with detailed survey data and advanced installation techniques”.

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### 1D. Status of Line Between Deer Lake to St. Anthony

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#### Introduction

A significant provision of the 2007 Agreement with Persona was that *if and when* Persona constructs a fibre optic facility between Deer Lake and St. Anthony, the Province will receive at least 4 strands of fibre on such facility at no cost.

#### There is no fibre optic line between Deer Lake and St. Anthony

There have been no lines built between Deer Lake and St. Anthony to date. Eastlink (formerly Persona) still has to honour the initial contract, and therefore if the lines are built, they will be obligated to provide the four additional strands to Government at no cost.

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### 1E. Additional Costs to Date and Estimated Cost to Light Existing Fibre

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#### Introduction

In our 2007 Report, we noted that payments of \$290,512 had been made to EWA relating to the ACF. Cabinet approved the extension of the existing contract with EWA and EWA was assigned a number of tasks, including the Labrador feasibility study. It was also noted that it was “...expected that it will cost an additional \$15 to \$20 million to operationalize the fibre by 2008”.

Figure 5 shows the payments to external consultants, EWA, relating to the ACF from 17 September 2007 to 01 December 2010

**Figure 5**

**Payments to EWA for the ACF  
17 September 2007 through to 01 December 2010**

Description of Work	Amount
ACF Build Monitoring	\$ 30,328
ACF Fibre Acceptance Testing Support	187,460
Feasibility Analysis on Fibre Connection Through Labrador	67,273
Desktop Study Fibre Crossing - Strait of Belle Isle	123,774
<b>Total</b>	<b>\$ 408,835</b>

Source: The Department of Innovation, Trade and Rural Development

As Figure 5 shows, \$408,835 has been paid to EWA for services relating to the ACF since our Report on 17 September 2007.

The Department estimates that the expected cost to operationalize the fibre has increased from \$20 million to \$26 million. This configuration would allow the Province to be accommodated on the ACF fibres.

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### **1F. Current Status and Future Plans for the ACF**

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#### **Introduction**

In our 2007 Report we reported that it was expected that the Department planned to issue a Request for Proposals (RFP) for the supply of telecommunications services on the strands and have the network operational during 2008. This would have been the first step of Government's 10-year plan to fully develop its telecommunications infrastructure which all Government departments and public sector entities were expected to use (the Government Broadband Initiative).

#### **The Government strands are not lit and remain unused**

Officials from the Department informed us that the lighting of the Province's strands was included in the RFP for the GBI, as it was believed that there would be added efficiencies, including cost savings of preparing one RFP for both the lighting of the trunk line and the overall GBI.

On 27 November 2007 Cabinet directed the Department to proceed with the RFP for the GBI, and on 13 December 2007 the RFP was announced.

The RFP included a requirement for the lighting of the purchased strands:

## Review of Broadband within Government

*“Make operational Government’s existing fibre optic assets and utilize them as the backbone on which the Proponent’s proposal is to be based.”*

Government began negotiations with the proponents and publicly announced the RFP results on the 7 August 2009 News Release. On 15 February 2010, due to anticipated project costs escalating to more than half a billion dollars, the Provincial Government cancelled the RFP. The Department was directed by Cabinet to re-examine its approach and to enter into discussions with industry to explore the options.

**It is unknown if Government owned strands will be lit**

Therefore, no progress has been made with regards to operationalizing Government’s fibre optic strands i.e. they are still “dark fibre” two years after the expected completion in 2008.

**Government owned strands may not result in development cost savings as the strands may not be utilized**

Government has the opportunity to use its strands or the strands owned by industry for the future for GBI. However, officials from the Department could not demonstrate that there were any formal plans to utilize the Government owned fibre strands.

Therefore, with regards to the defrayment of development costs by savings related to the use of Government’s own telecommunications infrastructure, officials from the Department were not able to make this determination due to the fact that it is unknown whether the Government owned fibre optic strands will be utilized.

Many issues identified in our 2007 Report still remain, indicating that progress still needs to be made, and that these issues need to be addressed.

### Recommendations

The Department should:

- consider whether projected benefits can still be realized during project planning for the Government Broadband Initiative (GBI);
- ensure that the lines to Labrador are considered in project planning for the GBI;
- ensure that the strands between Deer Lake and St. Anthony are considered in project planning for the GBI; and
- include a cost benefit analysis of utilizing Government owned strands in project planning for the GBI.

### 2. Status of the Recommendations from the 2005 “Setting the Context for Federal-Provincial Broadband Strategy”

#### Overview

In February 2005 the “Setting the Context for Federal-Provincial Broadband Strategy (Setting the Context Report)” was published. Per the Setting the Context Report, “*The provincial Department of Innovation Trade and Rural Development and Industry Canada in Newfoundland and Labrador, in cooperation with the Atlantic Canada Opportunities Agency (ACOA), intend to cooperatively lead a strategic effort to develop a comprehensive federal/provincial strategy for long-term broadband connectivity and strategic infrastructure deployment...*” and that the Setting the Context Report “...will provide the background required by the Committee in terms of an overview of creating a provincial broadband strategy, and recommendations for the development of such a strategy.”

#### Status of the recommendations

The Setting the Context Report supported the development of a Provincial broadband strategy as the current approach to development had been fragmented and had ultimately not been very collaborative. As a result, the Setting the Context Report recommended the development of a Provincial broadband strategy and that the following be considered in the development:

- Provision of leadership that will facilitate the development of a strategic plan for the deployment of a Provincial broadband infrastructure that is overseen by the Chief Information Officer and the Department of Innovation, Trade and Rural Development. This could be achieved by appointing a Broadband Stakeholder Group who would serve as an independent task group and whose role would be to advise Government on the development of its broadband strategy;
- Aggregation of the Provincial demand for services by requiring that the public sector work together when issuing requests for the provision of Government services;
- Determination of Government’s role in creating demand;
- Analysis of the current availability and diffusion of broadband services in the province so that a determination can be made regarding what new development initiatives may be appropriate and how they should be structured;

## Review of Broadband within Government

- Determination of Government's role in facilitating a reliable and affordable telecommunications service;
- Determination of the balance between residential access and the ability to provide access for social and economic programs;
- Development of a strategy that enables scalable infrastructure to be made available to communities that are unlikely to obtain broadband access as a result of market forces alone;
- Provision of opportunities for increasing knowledge about broadband and increasing skill development regarding broadband use and application, in order to promote the uptake and effective use of broadband services, and to make communities more effective in their dealings with service providers;
- Development of policies and programs that encourage investment in the development of suitable content and encourage the use of appropriate applications in order to ensure a broader uptake of broadband technology;
- Development and implementation of a strategy in collaboration with the Federal government that will raise awareness of the benefits and applications of broadband services to citizens, businesses, social groups and communities; and
- Build on the collaborative environment that has already been established among the managers of the Provincial health and education networks who have developed a successful model of collaboration resulting in reduced cost and improved provision of services.

**Recommendations have not been implemented and there is no formal Provincial broadband strategy**

We would have expected to see the completion of a Provincial broadband strategy which would have acted upon the listed recommendations of the Setting the Context Report. However, five years after the Setting the Context Report was issued, the Department has still not prepared the Provincial broadband strategy. The Department reported that the strategy was being developed and that the considerations were ongoing or in the planning stage. However, this could not be demonstrated, as the Department could not provide verifiable evidence that a strategy was being developed, or that considerations were ongoing or in the planning stages or that future plans existed.

Without a Provincial broadband strategy, there is no documented strategy to guide the future development of the GBI.

### Recommendations

The Department should:

- implement the recommendations of the Setting the Context Report; and
- develop a Provincial broadband strategy that acts upon these recommendations.

### 3. Current Status of the Government Broadband Initiative (GBI)

#### Overview

The GBI was developed in response to Government telecommunications requirements with the intention of creating a Province-wide advanced computer network. The objectives of the GBI were to:

- end reliance on leased network connectivity by developing a private network for Government departments and agencies;
- aggregate Departmental and Agency data/telecommunications spending (including an IP based telephony system);
- enable Departments and Agencies to develop applications/services without concern of increasing connectivity costs;
- provide Government with the capability to use its telecommunications infrastructure investment for economic development (e.g. broadband deployment in rural regions); and
- be cost neutral over the life of initial contract.

Our findings are contained in the following sections:

- A. Progress of Initiative and Costs to Date
- B. Current Status of the Initiative and Future Plans

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### 3A. Progress of Initiative and Costs to Date

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#### Introduction

A broad framework of what GBI was to achieve was developed in 2005, over five years ago, i.e. the aggregating of existing expenditures to develop an internal to Government, advanced data/communications network. This network was to be owned by Government and 100% controlled.

Connectivity was to be based on unlimited bandwidth to meet the individual mandates of each organization for the foreseeable future. The building of this network was to occur in such a way that major economic development opportunities would not fail simply because a carrier could not provide a service at an affordable cost.

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To proceed with the GBI, an external consultant (EWA) was retained to guide Government in the development of a request for proposals (RFP) to: build a network; select the electronics necessary to operate a network; and develop a network operations capability and manage that network for a period of 10 to 15 years. Figure 6 shows the total amount paid to EWA relating to GBI since our 2007 Report.

On 27 November 2007 Cabinet provided direction to issue the GBI RFP. A project team, the Technical Evaluation and Negotiations Team (TENT), was put in place consisting of individuals from the Department, the Office of the Chief Information Officer (OCIO), MUN, EWA (external consultants), the Department of Finance and the Department of Justice. On 13 December 2007 the GBI RFP to light the existing fibre and to build and operate a Province-wide area network was announced. In January 2008, an RFP Proponents conference was held with all interested groups and was used to explain the objectives of the GBI strategy. The RFP was closed on 28 March 2008. As a result of an assessment of proposals, Government felt that a hybrid solution would be the best option in achieving the GBI objectives and decided to split the award between an operator and builder of the network. The RFP anticipated that the estimated cost information would cover a 10-year period. An analysis of the RFP proposals prepared for the Department concluded that the estimated cost would be \$372 million (including \$120 million for Labrador), using the two service providers. Cabinet provided direction on 25 June 2009 for commencement of negotiations toward the issuing of long-term contracts.

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## Review of Broadband within Government

**RFP was cancelled due to escalating costs**

Government began negotiations with the service providers and publicly announced the RFP results in the 7 August 2009 News Release. Negotiation with one of the service providers was terminated when the service provider withdrew their proposal. Government continued negotiations with the remaining service provider but they could not achieve the specified cost using this single provider solution. Using just the remaining service provider, the cost was estimated to have escalated to \$563 million. On 28 January 2010, Cabinet cancelled the RFP and directed the Department to enter into discussions with industry for a more cost effective solution that no longer required the development of a private network for the Provincial Government as a prerequisite requirement. Therefore, the objective of ending reliance on leased network connectivity by developing a private network may no longer be achieved. This change in objectives shows that the GBI concept has changed substantially from the objective of Government requiring the development of a private network for Provincial Government to this no longer being a prerequisite requirement. TENT was disassembled and the contract with EWA ended.

**GBI objectives have changed**

Figure 6 shows the payments made to the external consultants, EWA, for work related to the GBI.

**Figure 6**

**Payments to EWA for the GBI  
by the Department of Innovation, Trade, and Rural Development  
17 September 2007 through to 01 December 2010**

Description of Work	Amount
Support for Broadband Initiative	\$ 62,737
RFP Review	148,336
Support Services for 2007 Review	6,022
Bid Evaluation Support	153,995
Independent Financial Evaluation of Bids	152,624
<b>Total</b>	<b>\$ 523,714</b>

Source: The Department of Innovation, Trade and Rural Development

As Figure 6 shows, \$523,714 was paid to EWA for services relating to the GBI, including support of the initiative, and RFP support since 17 September 2007.

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### 3B. Current Status of Initiative and Future Plans

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#### Introduction

We expected that after the cancellation of the RFP that Government would reassemble a formal project team and that this team would work on documenting a formal plan for the GBI going forward, including revisited objectives, timelines, cost projections, and GBI requirements. We would expect this formal plan would be used to guide discussions with industry.

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When our fieldwork commenced on 17 March 2010, the Department had cancelled the RFP on 15 February 2010, and therefore it was back to initial planning stages. We deferred our audit to 28 October 2010 and in doing so expected progress to be made on the GBI.

#### There is no formal project plan

Officials from the Department informed us that they took a six month period where there was no interaction with industry; to allow the intellectual property (IP) provided by the former preferred proponents to stale date and then began a project restart. We found that the Department did not have a formal project plan at the inception of the GBI nor did it develop one after the original concept changed. This project plan would include such things as objectives, timeframes and estimated costs for completion. We also note that the TENT (Technical Evaluation and Negotiation Team) was disbanded in February 2010, subsequent to the cancellation of the RFP. The decision to disband the TENT was made by the Department.

Without a formal project plan in place the Department has no way to ensure that the GBI is completed on a timely basis, consistent with the Department's and Government's objectives.

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#### Recommendation

The Department should develop a formal approved project plan for the GBI, which documents the approach, objectives, cost estimates, and timelines, and other documents deemed necessary by the project team.

### 4. Results of the 2010 Telecommunications and Bandwidth Survey

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#### Overview

The Department of Innovation, Trade and Rural Development was directed by Cabinet on 27 August 2009 to conduct a survey of the Government of Newfoundland and Labrador broadband infrastructure and telecommunications services, including costs. The purpose of the survey was to establish a baseline of the telecommunications infrastructure and services in each organization; to gather, collate, and provide analysis of information from all segments of the Provincial Government on existing broadband infrastructure and telecommunications services and costs. This information was believed to be an important element of the GBI for development of broadband infrastructure and telecommunications services in Government and in defining departments and entity's service requirements as the design is finalized for the fibre optic network.

The survey was broken into four separate parts - Organization Wide Questions; Community Based Telecommunications Questions; Data Bandwidth Questions; and Internet Bandwidth Questions.

Our findings are contained in the following sections:

- A. Response Results and Estimated Annual Telecommunications Cost
- B. Current and Future Bandwidth Requirements.

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#### 4A. Response Results and Estimated Annual Telecommunications Cost

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#### Introduction

The Telecommunications and Bandwidth Survey (the Survey) was sent to 59 participants across Government on 19 January 2010. The Survey did not include a response deadline, and when we began our audit on 17 March 2010 the Survey was still ongoing, and no final results had been compiled. In order to allow the Department time to complete the survey and compile the results, we deferred our audit until 28 October 2010, at that time we expected all surveys to be returned and results compiled.

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## Review of Broadband within Government

### 4 participants have not returned their survey

The Department started a calling campaign the week of 22 March 2010, after we began our fieldwork on 17 March 2010. When we returned on 28 October 2010, we expected that all surveys would be returned, however, there were 12 out of 59 (20%) participants that still had not responded. On 29 October 2010 because our review was in process, the Department sent out a final request for responses with a deadline of 02 November 2010, and received 8 of the 12 responses. As of 02 November 2010, 4 out of 59 participants had still not responded (7%). Figure 7 shows a list of participants that did not respond to the survey at the time of our review.

**Figure 7**

### List of Participants that Did Not Respond As at 02 November 2010

Participants that Did Not Respond
Research and Development Corporation
Central Regional Integrated Health Authority
Newfoundland and Labrador Legal Aid Commission
Nalcor Energy

Source: The Department of Innovation, Trade and Rural Development

As Figure 7 shows there were 4 participants that did not respond to the Survey as of 2 November 2010.

One of the purposes of the Survey was to compile a cost estimate of the existing broadband infrastructure and telecommunications services on an annual basis. This would provide the Department with an annual cost base to consider for the future evaluation of the GBI. The total annual cost estimate was \$23.4 million for the 55 entities that responded to the survey. This does not include the entities listed in Figure 7. Our review indicated that:

- no final project costs have been determined as the Department has now been directed to consult with the private sector to determine an acceptable approach for the development of the GBI, therefore there is no basis for comparison; and
- the Department has not received all required cost information from public sector entities.

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### 4B. Current and Future Bandwidth Requirements

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**Current bandwidth**

The Survey was also to determine current bandwidth requirements and to determine whether the current bandwidth was meeting the needs of Government. The Department intended to use this information in the future evaluation of the GBI.

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**Bandwidth needs are not currently met**

Twenty-one of 55 survey respondents did not report their current bandwidth, and 42 out of 55 did not report their future bandwidth requirements. Officials from the Department informed us that the current bandwidth does not meet the needs of Government and that organizations have to scale their operations accordingly. The cost associated with future bandwidth requirements could not be provided by the Department.

Without the Survey results properly interpreted and analyzed, and without complete information, the Survey will not provide baseline data that can be used for the future planning of the GBI.

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### Recommendations

The Department should:

- complete the survey to ensure that all departments and Crown Agencies are included in it;
- tabulate the results and report to Government;
- interpret the results of the survey, document how the results affect the GBI; and
- consider the results in project planning for the GBI.

### Department's Response

*The Department of Innovation, Trade and Rural Development (INTRD) welcomes the observations and recommendations made by the Auditor General (AG) in the report, Review of Broadband Within Government.*

*While the Review provides many details relating to the Atlantic Cable Facility (ACF) and Government's Broadband Initiative (GBI), there are several areas where clarification and further explanation are required. It is also important to distinguish between ACF, GBI and the general broadband needs of residential and business consumers which can only be met by industry.*

#### ***AG Recommendations: 1) Current Status of the Atlantic Cable Facility and Update from our 2007 Report***

- Consider whether projected benefits can still be realized during project planning for the Government Broadband Initiative (GBI);*
- Ensure that the lines to Labrador are considered in project planning for GBI;*
- Ensure that the strands between Deer Lake and St. Anthony are considered in project planning for GBI; and*
- Include a cost benefit analysis of utilizing Government-owned strands in project planning for GBI.*

*INTRD concurs with the above recommendations and has incorporated consideration of projected benefits of GBI; requirements in Labrador; fibre strands between Deer Lake and St. Anthony; and a cost-benefit analysis of using government-owned fibre strands in planning for GBI. INTRD will continue to ensure that these recommendations remain part of the planning process for GBI.*

#### ***Completion of the Lines and Total Contract Cost***

*The ACF was functional and being used for data transfer by the other owners (Persona Communications (now EastLink Communications), Rogers Communications and MTS-Allstream) in 2008. The department did not accept ownership of government's strands until March 2009 because the ACF Indefeasible Right of Use (IRU) Agreement (the "Agreement") provided government the right to conduct a series of stringent technical tests to ensure that fibre strands were performing at industry acceptable standards. The department also wanted to ensure that all underlying rights relating to the terrestrial fibre and sub-sea landing points were completely satisfied.*

## Review of Broadband within Government

*This high level of due diligence, which also included confirmation of a series of other financial and legal obligations that had to be undertaken by Persona, required additional time to complete. Persona met the project milestones and conditions required for payment, as specified in the Agreement. As such, the department requisitioned payments as specified under the Agreement at the appropriate time. The department believes the comment in the Report that one payment “was not consistent with the Agreement” because it preceded the date specified in the Agreement by six days is not material. Also, the final payment was not made until after all testing and due diligence checks were completed.*

*It is important to note that government invested in ACF for many reasons. The primary incentive was to help enable true competition within the province’s telecommunications industry. This and other reasons for the investment have been well documented and independently substantiated by the AG in this review, as well as in the 2007 Special Report, A Review of the Fibre Optic Deal. Without government’s investment, ACF would not have been built as the other owners could not allocate the necessary capital that was required to finance the entire \$52 million project.*

### *Realization of Projected Benefits*

*As presented on page 11 of the review, the major anticipated benefits of ACF have been successfully achieved. These include increased penetration of broadband services with reduced costs, economic benefits from the construction of ACF, and increased competition in the communications industry. The department also believes that the benefits listed as “partially realized” are much further advanced than presented.*

*For example, under the benefit of “fuller participation in medical and academic research”, Memorial University now has better access to national and international research networks and can fully participate in research which it previously was unable to - and at a much lower cost. Further, under “attraction of additional businesses and the movement of new industries to the province,” telecommunication provider TELE Greenland made a \$4 million investment in infrastructure in this province in order to land a fibre optic cable that was connected to ACF. The items listed as “unrealized benefits” are additional benefits that will be realized in the future.*

*The private sector partners in ACF have made significant investments in the province that far exceed the \$37 million private investment in the project, involving new jobs, enhanced infrastructure, and increased services. EastLink, for example, has expanded its services to more than 150 communities province-wide.*

## Review of Broadband within Government

*In total, the Provincial Government's collective investments of approximately \$26 million in the ACF, Broadband for Rural and Northern Development (BRAND) and Centre for Distance Learning and Innovation (CDLI) initiatives have levered an additional \$86 million from the Federal Government and industry.*

*Currently, on the island portion of the province, approximately 80 per cent of citizens have access to affordable high-speed Internet, while in Labrador close to 95 per cent of the population has access. Today, approximately 450 communities have access to high speed Internet – up from 114 communities in 2003.*

### *Feasibility and Status of Line to Labrador*

*The department views network connections to Labrador as a priority and an essential part of advancing broadband infrastructure in the province. INTRD remains committed to finding a feasible way to achieve this goal. In this regard, discussions have been ongoing between INTRD and Nalcor Energy on ways to achieve Labrador-related GBI objectives.*

### *Status of Line Between Deer Lake and St. Anthony*

*The department will monitor any fibre optic installation that EastLink completes between Deer Lake and St. Anthony. Lines have already been installed between Cow Head and Plum Point, and government owns four strands on that segment.*

### *Current Status and Future Plans for the ACF*

*The Provincial Government remains committed to using its ACF strands; however, if opportunities become available to take advantage of existing infrastructure owned by industry, while still meeting government's overall objectives and reducing project costs, the department will consider and evaluate such opportunities.*

*The department also contends that, despite the cancellation of the December 2007 Request for Proposals (RFP), significant progress has been made toward making the lines operational. In fact, the intent of the RFP was to do just that – make the lines operational. Further, considerable work has been completed with respect to the design and engineering of the core network so that equipment can be ordered and installed once approval is given. Also, substantial work has been completed relating to the feasibility of a fibre connection to Labrador.*

### ***AG Recommendations: 2) Status of the Recommendations from the 2005 “Setting the Context for a Federal-Provincial Broadband Strategy”***

- *Implement the recommendations of the Setting the Context Report; and*
- *Develop a provincial broadband strategy that acts upon these recommendations.*

*Recommendations of the Setting the Context Report have been incorporated into GBI-related submissions and documents since the inception of the project, and have formed the basis for government’s broadband strategy. Also, the December 2007 RFP incorporated a majority of these recommendations, as did the Broadband for Rural and Northern Development program and Centre for Distance Learning and Innovation initiative which levered significant infrastructure investment in Newfoundland and Labrador from the Federal Government and private industry. As with any consultant’s report commissioned by government, the department reserves the right to use findings to help shape and inform policy, programs and strategy, along with internal research and analysis. The department, however, continues to revisit the Setting the Context recommendations to ensure they are still valid in the context of GBI.*

### ***AG Recommendation: 3) Status of the Government Broadband Initiative (GBI)***

- *The department should develop a formal approved project plan for GBI which documents the approach, objectives, cost estimates, and timelines, and other documents deemed necessary by the project team.*

#### *Current Status of Initiative and Future Plans*

*The department is proceeding with development of a revised plan for GBI. Work on this plan began in August 2010. Subsequently, in September 2010, INTRD initiated a series of meetings with industry that included individual meetings with each of the firms that had expressed initial interest in the December 2007 RFP. There were a total of 11 meetings with a range of telecommunications carriers, wireless and satellite providers, equipment suppliers and construction firms. The purpose of the meetings was to signal government’s intent to proceed once again with GBI, and to determine each of the firms’ current plans for Newfoundland and Labrador. It is anticipated that the new approach to planning GBI will incorporate more existing infrastructure and allow more firms to participate in the project.*

*The department notes that the RFP for GBI was the project plan; however, as it moves forward with a revised approach, a new formal project plan for GBI is currently in development.*

### *AG Recommendations: 4) Results of the 2010 Telecommunications and Bandwidth Survey*

- *Complete the survey to ensure that all departments and Crown Agencies are included in it;*
- *Tabulate the results and report to Government;*
- *Interpret the results of the survey, document how the results affect the GBI; and*
- *Consider the results in project planning for the GBI.*

*The department will continue to work with the remaining seven per cent of respondents that have not yet submitted completed surveys and utilize the findings as recommended above.*

### **Conclusion**

*The department supports the recommendations presented in the AG review and is currently working on implementation. However, in any discussion or analysis of broadband requirements in the province, it is important, not only to distinguish between ACF and GBI, but between these two initiatives and general broadband services for residential and business consumers throughout Newfoundland and Labrador. These are three related yet distinct aspects of enhancing infrastructure and services. Government invested in ACF to help facilitate competition. It is working on GBI to bring an advanced, next-generation network to its facilities in the province. Government's investments in these initiatives, however, are not designed to allow it to offer broadband services as would a carrier; rather, they are investments that will enable industry to potentially expand or upgrade services. Building new infrastructure to reach unserved or under-served communities is a significant challenge that requires the full participation of the Federal Government and industry.*

*In summary, the Provincial Government invested in ACF primarily to help facilitate a more competitive telecommunications industry in the province. As a result of this investment, telecommunications carriers now offer a much broader range of services and product offerings in more communities throughout Newfoundland and Labrador. These investments in broadband network infrastructure have also created new employment opportunities in the industry and resulted in a greater selection of services from competing firms for both residential and business customers.*

**Review of Broadband within Government**

**PART 2.12**

**DEPARTMENT OF INNOVATION, TRADE AND RURAL DEVELOPMENT**

**INVESTMENTS**

### Executive Summary

The Department of Innovation, Trade, and Rural Development (the Department) administers the Commercialization Program (the Program). The objective of the Program is to support the introduction of innovations by local companies in Newfoundland and Labrador. The Program is designed to provide funding to incorporated entities in order to complete development leading to commercialization of a new product, process or service.

The Commercialization Program started to provide funding in the 2007 fiscal year and has provided \$6.95 million up to the 2010 fiscal year. The maximum funding that can be provided under the Program is \$500,000 per incorporated entity. The Program is available to companies in the Province that have difficulty securing investments or loans to develop innovative products, processes or services. We reviewed two \$500,000 investments made under the Commercialization Program (Entity 1 - 19 December 2007; Entity 2 - 3 November 2008) to two medical research entities owned by the same individual.

Contrary to the requirements of the Commercialization Program, the owner of the two entities did not contribute any of the required \$855,000 (Entity 1 - \$655,000; Entity 2 - \$200,000). In fact, the only contribution that was made to either entity was a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008, ten months after Entity 1 received its \$500,000 Government investment. Contrary to the requirements of the terms and conditions of funding, the entities did not obtain the required Departmental approval prior to incurring additional debt, pledging assets to obtain a mortgage or transferring funds between related parties.

We found instances where the Department did not complete proper due diligence relating to the approval and assessment process, disbursement of funding and monitoring e.g. contrary to Treasury Board policy, cross departmental checking for amounts owing to Government was not fully completed; documentation was not adequate to support any of the \$5.2 million in estimated project costs (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million); and the Department did not determine whether the owner of the companies received remuneration in excess of the \$250,000 annual limit (Entity 1 - \$150,000; Entity 2 - \$100,000).

Details of our findings are as follows:

### Approval and Assessment

The established approval and assessment process was not always followed. We identified the following issues:

- Cross departmental checking for other debts owed to Government by the two entities and controlled or affiliated companies, as required by Treasury Board, was not completed for all controlled or affiliated companies.
- There was no evidence that the Department completed the required check with the Registry of Companies to determine whether Entity 1 was in good standing before it was provided with the \$500,000 Government investment. We determined that, in February 2010, this entity was not in good standing in that it had not filed its required annual return.
- The Presentation for Funding Decision forms were not signed by the Development Officer as required prior to submission to the Management Committee, and the authorization section of the forms was not completed and signed after approval of the Management Committee.

In addition, the Department did not require site visits during the approval and assessment of a proposal. Furthermore, if a site visit was made, there was no standard documentation required. Failure to perform a site visit or to document a site visit that was made, may result in not all information being available to adequately assess proposals. In this case, no site visit was made for Entity 2 and, although Departmental officials indicated that a site visit was made for Entity 1, no documentation was on file as support.

### Funding

Funding was not always disbursed in accordance with either, policies and procedures, or with the terms and conditions of the investment. We identified the following issues:

- Documentation to support the proposed estimated project costs was not adequate to support any of the approximately \$5.2 million (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million). Although a condition of funding requires that firm quotes be obtained prior to the disbursement of funding, we found that this was not completed.

With regard to the projected \$5.2 million in expenditures, the only support the Department obtained for the \$4.8 million relating to costs such as wages, laboratory certification, marketing, consulting, subcontracts and technical expertise were cash flow projections; however, these projections were for each entity as a whole and not specifically for each project being funded by the Department.

The only support the Department obtained for the remaining \$400,000 for equipment related to Entity 2, was an e-mail from a supplier indicating that equipment costs were expected to be in the range of between \$294,000 and \$563,000. This would not constitute a firm quote as required under the condition of funding.

- Contrary to the requirements of the Commercialization Program, the Department did not require the owner to make an \$855,000 equity contribution (Entity 1 - \$655,000; Entity 2 - \$200,000) that was required per the terms and conditions of funding, prior to the Department disbursing its total funding of \$1 million.

### *Entity 1*

Although the Department, contrary to the requirements of the terms and conditions of funding, allowed the owner to make an equity investment of \$655,000 from an accumulation of the entity's future cash flows over a five year period, we found that the entity had negative cash flows. The entity's financial statements indicated negative cash flows from operations of \$30,000 for 2008 and \$327,000 for 2009 and, as a result, after the first two years, no funds had accumulated towards the required equity investment.

### *Entity 2*

Correspondence on file at the Department indicated that in order for the owner to fulfill the \$200,000 equity contribution, the owner arranged a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008, ten months after Entity 1 received its \$500,000 Government investment. We would not consider this to qualify as an equity contribution from the owner.

- With regard to funding from sources other than the owner, the Department did not obtain the required written confirmation from the potential contributors for a total of \$291,100 relating to the two entities (Entity 1 - \$250,000; Entity 2 - \$41,100). Ultimately, Government provided the two entities with a total of \$1 million without the required confirmation of other funding.

### Monitoring

The Department was not adequately monitoring the entities to determine whether the entities were in compliance with the terms and conditions of funding. In particular, the Department did not obtain the necessary documentation from either of the two entities in order to determine compliance. As a result, the Department could not determine whether the director's remuneration was within the annual limit (Entity 1 - \$150,000; Entity 2 - \$100,000) or determine whether the funds were used by the entities for the intended purposes. Furthermore, the Department did not obtain financial statements within the prescribed 90 days after the fiscal year end e.g. the 2007 financial statements for Entity 1 were not received until 19 August 2008 - 142 days after the prescribed 90 days.

Furthermore, contrary to the Commercialization Program manual, account status reports prepared by the Department did not include all instances of non-compliance and were not forwarded to the Department of Finance. We also found that the reports were not completed on a timely basis. For example: the 2008 report for Entity 1 was not completed until 2 October 2009 - 275 days after the company's year end and 170 days after receipt of the financial statements. The 2009 reports were not completed as of October 2010.

The two entities did not comply with all the requirements of the terms and conditions of funding. In particular, we found that: the entities incurred additional debt of \$961,763 (Entity 1 - \$389,452; Entity 2 - \$572,311); pledged assets to obtain a \$460,000 mortgage (Entity 2); and made transfers of \$600,999 between related parties (Entity 1 - \$360,564; Entity 2 - \$240,435). There was no remedy in the terms and conditions of funding to address instances of non-compliance. There was also no documentation on file to indicate that the Department took any action in these instances of non-compliance.

The terms and conditions of funding required that only "review engagement" financial statements be provided by an entity. "Audited" financial statements would provide additional assurance to the Department relating to an entity's reported results. This was particularly important considering that the Department's investment was to be repaid based on cash flows of the entities.

## Background

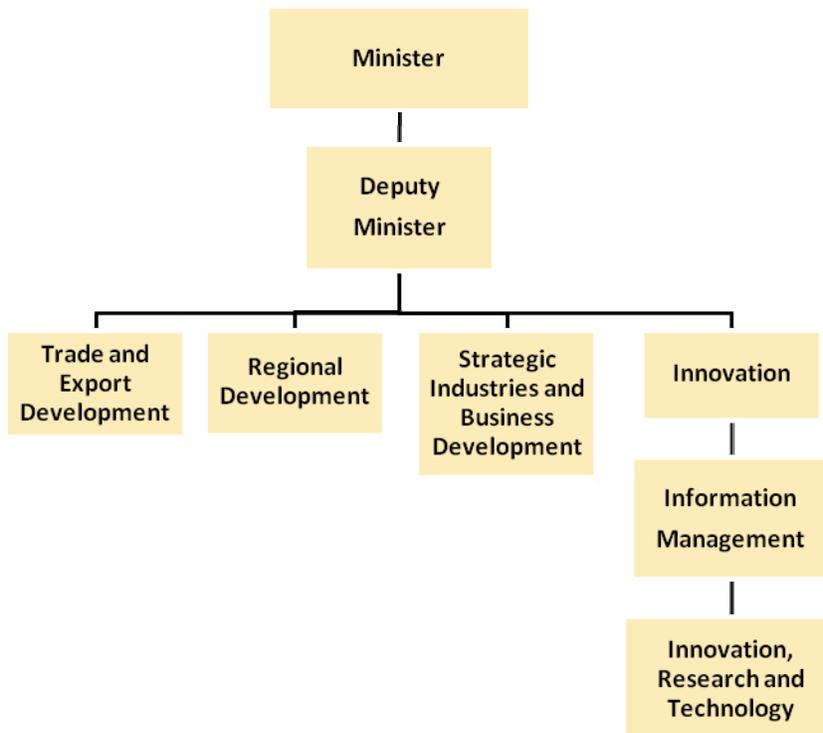
### Department overview

The Department of Innovation, Trade and Rural Development (the Department) was created in 2004 to reflect the enhanced emphasis placed on the innovation aspect of the Provincial economic agenda. The Department is the lead agency for economic development in the Province. The Department is responsible for supporting development and diversification throughout the Province.

Figure 1 provides an overview of the Department's organizational structure and its branches. The Innovation branch includes the Innovation, Research and Technology Division that manages and administers the Commercialization Program.

**Figure 1**

### Department of Innovation, Trade and Rural Development Organizational Chart



Source: Strategic Plan 2008-2011, Department of Innovation, Trade and Rural Development

### Budget

The Commercialization Program commenced funding in fiscal year 2007. Figure 2 shows the budget and actual expenditures of the Commercialization Program for the fiscal years 2007 through to 2010.

**Figure 2**

**Commercialization Program Expenditures  
Fiscal Years 2007 through to 2010  
(\$ Millions)**

	2007	2008	2009	2010	Total
<b>Budget</b>	\$ 2.00	\$ 4.25	\$ 5.31	\$ 3.20	\$ 14.76
<b>Actual</b>	\$ 0.56	\$ 2.39	\$ 1.84	\$ 2.16	\$ 6.95

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

### Program description

The objective of the Commercialization Program is to support the introduction of innovations by local companies in Newfoundland and Labrador. The Commercialization Program would bridge an identified funding and investment gap between product research and product marketing. Funding would be available to private sector entities for activities leading to the development of innovative, market-ready products and services, including support for technology transfer activities. The Program would be available to companies in the Province that have difficulty securing investment or loans to develop innovative products or services.

The Commercialization Program would provide a direct equity investment or a conditionally repayable loan up to 75% of total project costs, with a maximum contribution of \$500,000 per project. Applications would be considered from incorporated businesses proposing to complete development leading to commercialization of a new product, process, or service. The project must be based in the Province, and be innovative in a post research stage of product and market development leading to full commercialization.

Confirmation must be provided that investment and funding is available to complete the project and that it has the required technical, financial, marketing and managerial expertise for the operation. Funds cannot be used to support core administration functions or to compete with local private entities. Residential and commercial real estate services, retail, wholesale and consumer-oriented entities are not eligible for funding.

The repayment or redemption of the Department's investment would be based on 20% of annual after tax cash flow after the first full fiscal year from the disbursement of funds if the client showed the ability to repay. Repayment or redemption should be completed within 10 years.

### **Application process**

Upon initial contact with a client, the Development Officer would determine if the Commercialization Program was the appropriate program for the client and determine eligibility. If there were questions related to the eligibility of the project, the Development Officer would contact the Director or Program Manager and request an eligibility ruling from a Management Committee prior to requesting a completed application. The Management Committee was comprised of the following Department of Innovation, Trade and Rural Development staff:

- Assistant Deputy Minister, Innovation, Research and Technology;
- Assistant Deputy Minister, Regional Development;
- Assistant Deputy Minister, Strategic Industries and Business Analysis;
- Program Manager (non-voting); and
- Director, Innovation, Research and Technology (non-voting)

If deemed eligible by the Management Committee, the Development Officer would invite the client to submit an application. If deemed ineligible, the Development Officer would notify the client of the decision.

Upon receipt of an application, the Development Officer would inform the applicant in writing that the application has been received. The Development Officer would request any additional information or clarification required to complete the assessment of the project. If a need was identified, the Development Officer could consult with other departments and agencies for financial or technical advice.

The Development Officer would complete a Presentation for Funding Decision form for every application and would include a comprehensive technical and financial assessment. This assessment should also include a recommendation of the type of investment most appropriate (i.e. conditionally repayable loan or equity). All completed Presentation for Funding Decision forms would be submitted to the Director and the Program Manager.

## Investments

The Director of the region, from which the proposal originated, would make the funding decision for proposals requesting funding for \$100,000 or less and within the normal 75% maximum contribution limit. Funding requests for \$100,000 or less but exceeding the normal 75% maximum contribution limit would be decided by the Management Committee. All proposals for more than \$100,000 would be forwarded to the Management Committee for a decision.

If a funding request was approved, a letter of offer was prepared by the Development Officer and signed by the Director. If a funding request was denied, the Development Officer would complete a letter of decline for signature by the Director.

### Investments reviewed

We reviewed two investments made under the Commercialization Program to two medical research entities, identified as Entity 1 and Entity 2, owned by the same individual. Both entities received the maximum funding of \$500,000 each. Entity 1 was paid \$500,000 on 19 December 2007, 21% of the total funding paid in that fiscal year. Entity 2 was paid \$500,000 on 3 November 2008, 27% of the total program funding paid in that fiscal year.

A review of Government's financial system identified that the two entities were also paid other government payments since 2007. Figure 3 provides the amount and types of payments since the Commercialization Program began.

**Figure 3**

#### Entity 1 and Entity 2 Other Payments by Government Fiscal Years 2007 through to 2009

Fiscal Year	Payment Type	Entity 1	Entity 2
2007	Wage Subsidy	\$ 8,846	\$ 1,050
2008	Wage Subsidy	-	1,883
2008	Trade Mission Subsidy	-	997
2008	Commercialization Program	500,000	-
2009	Wage Subsidy	-	8,526
2009	Trade Mission Subsidy	4,163	-
2009	Edge Refund	5,158	-
2009	Commercialization Program	-	500,000
	<b>Total</b>	<b>\$ 518,167</b>	<b>\$ 512,456</b>

Source: Government's Financial Management System

Note: There were no advances in the 2010 fiscal year

### Audit Objectives and Scope

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#### Audit objectives

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

- assessed and approved the projects in accordance with Program criteria;
  - ensured payments for funding were supported by required documentation and were properly approved; and
  - monitored the projects to determine if the entities were meeting the terms and conditions of the contract.
- 

#### Audit scope

Our review was completed in November 2010. Our review included an examination of policies and procedures, committee minutes, interviews with Department staff, and a review of the Department files related to both entities. Our review included an examination of information on file up to 30 April 2010 as well as additional information supplied by the Department up to the completion of our review.

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### Detailed Observations

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

1. Approval and Assessment
  2. Funding
  3. Monitoring
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### 1. Approval and Assessment

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#### Overview

The Department's Commercialization Program manual includes policies and procedures regarding the approval and assessment process. The manual included sections on eligibility, receipt of an application, file maintenance, consultations, Presentation for Funding Decision forms, approvals, minutes, and letters of offer.

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### Approval and assessment requirements

The policy and procedures manual indicated that:

- Cross departmental checking for financial considerations, in accordance with a directive from Treasury Board, was required for any affiliated companies where the applicant holds 51% or greater of the voting shares. This directive indicates that:
  - An applicant must include a full disclosure of all corporations owned, controlled or effectively controlled, as well as a list of outstanding debts to government.
  - The Department must obtain confirmation from the Office of the Comptroller General and the Department of Finance that the applicant was not in payment arrears and had maintained a satisfactory credit history.
- A completed Personal Net Worth Statement was required for the principal owner prior to the completion of credit checks. Such credit checks were to include Dun and Bradstreet, the Credit Bureau, and a good standing from the Registry of Companies.
- A Presentation for Funding Decision form was to be prepared for all applications. This form includes extensive information on the entity, the project, project costs, financing, the terms of funding, and a recommendation from the Development Officer. All completed Presentation for Funding Decisions were to be prepared and signed by the Development Officer and submitted to the Development Officer's Director and Program Manager for authorization.

Our review identified the following issues:

### Cross departmental checks not complete

- Controlled companies were not disclosed in the applications as required. The application from Entity 1 dated 25 May 2007 included no controlled or effectively controlled companies in its application. However, the 2007 and 2008 financial statements identified three additional entities that were not included in the application.

The application from Entity 2 dated 17 April 2008 included only one controlled or effectively controlled company in its application; however, our review of the Department's files and the entities' financial statements identified 6 additional affiliated companies including Entity 1.

## Investments

- Cross departmental checking for other debts owed to Government by the two entities and controlled or affiliated companies, as required by Treasury Board, was not completed for all controlled or affiliated companies. Entity 1 only had a Department of Finance clearance check for the entity itself. There were no Department of Finance clearance checks for any of the 3 identified affiliated companies. Clearance checks with the Department of Finance were only documented for Entity 2 and 4 (includes Entity 1) of the 7 identified affiliates.
  - Neither entity had documentation of confirmation from the Office of the Comptroller General that the applicant was not on the Government's list of debtors.
- Credit checks not complete**
- There was no evidence that the Department completed the required check with the Registry of Companies to determine whether Entity 1 was in good standing before it was provided with the \$500,000 Government investment. We determined that, in February 2010, this entity was not in good standing in that it had not filed its required annual return.
- Presentation for funding forms not complete**
- The Presentation for Funding Decision forms were not signed as required by the Development Officer prior to submission to the Management Committee, and the authorization section of the forms were not completed and signed after approval of the Management Committee.
- Site visits not done before funding decision**
- The Department did not require site visits during the approval and assessment of a proposal. Furthermore, if a site visit was made, there was no standard documentation required. Failure to perform a site visit or to document a site visit that is made, may result in not all information being available to adequately assess proposals. In this case, no site visit was made for Entity 2 and, although Departmental officials indicated that a site visit was made for Entity 1, no documentation was on file as support.
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### Recommendations

The Department should:

- perform and document cross departmental checks for all affiliated entities as required by Treasury Board;
- complete all credit checks as per the policy and procedures manual;
- sign and approve all Presentation for Funding Decision forms as required; and
- perform and document site visits before a funding decision is made.

## 2. Funding

### Overview

The Commercialization Program manual provided procedures required to be performed before funds for equity investments were disbursed to clients. This included legal documents that need to be prepared by a solicitor, completion of contingent conditions, receipts, invoices or firm quotes from suppliers, and completion of a cheque requisition.

In addition, the terms and conditions of funding included in the letter of offer specified the following contingent conditions that were to be met by the client prior to disbursement:

- confirmation of firm costs of all elements of the project;
- written confirmation that all sources of funding as outlined in the project had been approved;
- confirmation that the applicant's equity contribution had been transferred to the entity;
- a copy of the company's Certification of Incorporation;
- evidence of all required permits, licenses, and certification required for the operation of the business;

## Investments

- evidence of clear standing with respect of Statutory Liens, Workplace Health, Safety and Compensation Commission, Department of Finance, and the Canada Revenue Agency for HST and source deductions; and
- written confirmation that insurance coverage was in place on entity assets.

Our review identified issues in the completion of the contingent conditions for both entities in the following areas:

- Confirmation of Costs
- Confirmation of Funding

Details are as follows:

### 2A. Confirmation of Costs

The applications identified project costs totalling \$5.2 million for both entities. Figure 4 outlines these costs.

**Figure 4**

**Commercialization Program  
Entity 1 and 2 Projected Costs  
(\$ 000's)**

Entity 1		Entity 2		Total Costs
Description	Amount	Description	Amount	
Equipment	\$ 55	Equipment	\$ 400	
Renovations	15	Wages	500	
Materials	175	Laboratory Certification	100	
Consulting	200	Education/Marketing	200	
Subcontracts	1,596			
Technical Expertise	1,866			
Travel	75			
<b>Total</b>	<b>\$ 3,982</b>	<b>Total</b>	<b>\$ 1,200</b>	<b>\$ 5,182</b>

Source: Department Letters of Offer

We identified the following issues:

**Documentation not adequate**

- Documentation to support the proposed estimated project costs was not adequate to support any of the approximately \$5.2 million (Entity 1 - \$4.0 million; Entity 2 - \$1.2 million). Although a condition of funding required that firm quotes be obtained prior to the disbursement of funding, we found that this was not completed.

With regards to the projected \$5.2 million in expenditures, the only support the Department obtained for the \$4.8 million relating to costs such as wages, laboratory certification, marketing, consulting, subcontracts and technical expertise were cash flow projections; however, these projections were for each entity as a whole and not specifically for each project being funded by the Department.

The only support the Department obtained for the remaining \$400,000 of equipment related to Entity 2, was an e-mail from a supplier indicating that equipment costs were expected to be in the range of between \$294,000 and \$563,000. The e-mail stated that “prices have not been finalized at this time...”. This would not constitute a firm quote as required under the condition of funding. Furthermore, a note in the client’s information system indicated that the client telephoned and indicated that the cost of the equipment would be in the vicinity of \$600,000. There was no documentation of further follow-up by the Department to determine a firm cost before the disbursement of funds. Subsequent discussions by the Department with the client in 2010 indicated the cost of the equipment would be \$620,000.

- Although the estimated equipment costs of \$400,000 were included in the project proposal for Entity 2, this equipment was subsequently leased in the name of Entity 1. The transfer of costs between the entities may make it difficult to evaluate the projects to ensure they were within the maximum funding guideline of 75% of total costs.

While, due to the nature of some costs, it may not have been possible to have a quote, there should be details on file as to how the estimate was reached. The total amount of costs not adequately supported for both entities was \$5,181,621. Failure to obtain adequate support for costs of a project may lead to inappropriate funding as funds were normally disbursed based on 75% of the total eligible costs of each claim.

**2B. Confirmation of Funding**

The contingent conditions of funding required written confirmation of all sources of funding before disbursement. Furthermore, the terms and conditions of funding indicated that prior to disbursement, the entities were to provide confirmation that the applicant’s equity had been transferred to the company. The applicant’s equity could be contributed by the applicant, a current shareholder of the company or through new external private investment. The sources of funding are identified in Figure 5.

**Figure 5**

**Commercialization Program  
Entity 1 and 2 Proposed Sources of Funding  
(\$ 000’s)**

Entity 1		Entity 2		Total
Source	Funding	Source	Funding	
Research Agency	\$ 152	Research Agency	\$ 200	
Federal Agency	2,248	Entity 2	200	
Entity 1	655	Entity 1	300	
Commercialization Program	500	Commercialization Program	500	
Private Investment	165			
Non-Profit Foundation	250			
University	12			
<b>Total</b>	<b>\$ 3,982</b>	<b>Total</b>	<b>\$ 1,200</b>	<b>\$ 5,182</b>

Source: Departments Letters of Offer

We identified the following issues:

**Equity contributions not made by owner**

- Contrary to the requirements of the Commercialization Program, the Department did not require the owner to make an \$855,000 equity contribution (Entity 1 - \$655,000; Entity 2 - \$200,000) that was required per the terms and conditions of funding, prior to the Department disbursing its total funding of \$1 million.

### *Entity 1*

Although the Department, contrary to the requirements of the terms and conditions of funding, allowed the owner to make an equity investment of \$655,000 from an accumulation of the entity's future cash flows over a five year period, we found that the entity had negative cash flows. The entity's financial statements indicated negative cash flows from operations of \$30,000 for 2008 and \$327,000 for 2009 and, as a result, after the first two years of operations, no funds had accumulated towards the required equity investment.

### *Entity 2*

Correspondence on file at the Department indicated that in order for the owner to fulfill the \$200,000 equity contribution, the owner arranged a \$200,000 loan from Entity 1 to Entity 2 on 10 October 2008; ten months after Entity 1 received its \$500,000 Government investment. We would not consider this to qualify as an equity contribution from the owner. A review of the financial statements for Entity 1 indicated that the entity had an overall deficiency in cash and a negative cash flow from operations. At 31 December 2008, the entity had a line of credit with a balance owing of \$166,481. The only inflows of cash to Entity 1 in 2008 were the Province's investment of \$500,000 and proceeds from the disposal of capital assets which were used entirely to repay the related mortgage.

### **All other sources of funding not confirmed**

- With regards to funding from sources other than the owner, the Department did not obtain the required written confirmation from the potential contributors for a total of \$291,100 relating to the two entities (Entity 1 - \$250,000; Entity 2 - \$41,100). Ultimately, Government provided the two entities with a total of \$1 million without the required confirmation of other funding.

For Entity 1, there was written confirmation on file from the Federal agency, the research agency, the private investment, and the university that these contributions would be provided. However, there was no documentation of confirmation of the \$250,000 from the non-profit foundation before the disbursement of funding.

## Investments

Before the disbursement of funding for Entity 2, the documentation on file from the research agency indicated that only \$158,900 of the \$200,000 would be provided. There was a note in the client information system that there would be an amendment forthcoming from the agency that would accommodate the shortfall of \$41,100. However, as per discussions with Department staff, funding from the agency was amended twice but there was no documentation on file to confirm the amendments or the amounts. The entity decided not to accept the additional funding due to the cost of meeting the agency requirements for the additional funding. A report from the agency dated 17 June 2010 indicated that the final amount of funding paid for the project was \$158,846.

### Recommendation

The Department should comply with its policies and procedures for funding and ensure that the terms and conditions for its investments are fulfilled before funding is disbursed.

## 3. Monitoring

### Monitoring process

The Commercialization Program manual provides procedures required to monitor investments. This includes the Development Officer ensuring compliance with the terms and conditions of funding, maintaining client contact at a minimum every six months, ensuring the submission of annual review engagement financial statements, and annually completing an account status report. In addition, the terms and conditions of funding included in the letter of offer specified underlying conditions that must be met by the client.

### Introduction

Both entities had the following underlying conditions included in their letters of offer that state the applicant shall not, without written prior consent of the Department:

- incur any additional debt;
- pledge the shares and/or assets of the entity, present program excepted;

## Investments

- change or alter the issued and outstanding share holdings by transfer, mortgage, pledge, issue of shares by the entity, reorganization, or by other means;
- declare or pay dividends on its capital stock;
- make loans to, investment in, or guarantees on behalf of others;
- pay remuneration (including salaries, bonuses, directors, and/or management fees) to shareholders and/or directors in excess of \$150,000 for Entity 1 and \$100,000 for Entity 2 in any fiscal year; and
- undertake any additional capital expenditures in excess of \$200,000 for Entity 1 and \$100,000 for Entity 2 and in any fiscal year.

In addition, the applicant shall:

- use the funds approved under this Program for the items outlined in the project;
- provide access to the business records and facilities to the Department for account monitoring and completion of business assessment reports;
- keep proper books of accounts and maintain therein true and faithful entries of all dealings and transactions in relation to the business; and
- on an annual basis provide review engagement financial statements of the business 90 days after the entities year end date.

Our review identified the following issues:

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The Department was not adequately monitoring the entities to determine whether the entities were in compliance with the terms and conditions of funding. In particular, the Department did not obtain the necessary documentation from either of the two entities in order to determine compliance. For example:

## Investments

### Shareholder remuneration not confirmed

- Although, the terms and conditions of funding indicated that the applicant could not pay remuneration to shareholders and directors in excess of an annual limit, there was no information on file regarding the annual remuneration paid to shareholders or directors for either entity. Department staff indicated that they recently requested an outline of director's salaries from the client and asked it be reflected in the notes of future financial statements.

Furthermore, there was a reduction in the due to director account on the Entity 1's 2008 financial statements indicating the director was paid \$33,200 even though there was a subordination agreement in place that required the Department to receive payment before the director.

### Funds not used as outlined

- The terms and conditions of funding indicated the applicant must use the funds for the items outlined in the Commercialization Program. We were unable to confirm from the information on file that the funds were used as outlined as invoices or other supporting documentation were not on file for project expenses. The Department indicated that there was no requirement to have supporting documentation on file as annual status reports, site visits, and regular communication with the client were used to monitor the project. However, without examining invoices or other documentation it was not possible to determine whether all funding was used as outlined. In addition, it was not possible to evaluate the success of the Program or to calculate the total actual cost of a project to confirm that the project met the guideline of a maximum contribution of 75% of total project costs.

### Financial statements not submitted as required

- The terms and conditions of funding indicated that the applicant must provide annual review engagement financial statements 90 days after the year end date. The 2007 financial statements for Entity 1 were not received until 19 August 2008, 142 days after the prescribed 90 days. The 2008 financial statements for Entity 1 and Entity 2 were received 15 April 2009, 15 days after the prescribed 90 days.

### Audited financial statements not required

- The terms and conditions of funding required that only "review engagement" financial statements be provided by an entity. "Audited" financial statements would provide additional assurance to the Department relating to an entity's reported results. This was particularly important considering that the Department's investment was to be repaid based on cash flows of the entities.

## Investments

### Account status reports not timely

- Account status reports were not prepared on a timely basis. Account status reports were to provide an assessment of financial statements and include a summary of all defaults, delinquencies, and material changes in financial statements. At the time of our review, there was only one account status report completed for Entity 1. This account status report was dated 2 October 2009 and was based on the 2008 financial statements. The 2008 statements were received 15 April 2009 and, therefore, the account status report was not prepared until approximately 5 months later. The 2009 financial statements for both entities were received 13 April 2010. The account status reports for these entities were still not approved at the time of our review in October 2010 and, therefore, were at least 6 months after the receipt of the financial statements.
- As noted above, there were 11 underlying conditions included in the terms and conditions of financing. The account status report included an area for a summary of non-compliance issues, however, it did not address whether the client had met each specific underlying condition in the past year. For Entity 1, four of the conditions were not met and two were undeterminable. Of these six items, only one was addressed in the October 2009 account status report and was addressed in a different section than the summary of non-compliance. As a result, the Management Committee may be unaware that underlying conditions were not being met.
- The October 2009 account status report prepared for Entity 1 was not forwarded, at the time of our review, to the Department of Finance as required.

### Lack of policies for non-compliance with terms and conditions

- There is no remedy in the terms and conditions of funding to address instances of non-compliance. There was no documentation on file to indicate that the Department took any action in these instances of non-compliance. Furthermore, there were no written policies regarding the procedures to follow if a client was not in compliance with the terms and conditions of funding or delayed the submission of information. For the entities reviewed, three of the contingent conditions were not met and issues were identified with the entities meeting six of the underlying conditions.

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The two entities did not comply with all the requirements of the terms and conditions of funding. In particular:

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## Investments

### Additional debt incurred without consent

- As identified in Entity 1's 2009 financial statements, bank indebtedness increased by \$389,452. There was no evidence on file that the Department gave written consent prior to this increase.
- During 2008, Entity 2 borrowed \$460,000 from a bank and an additional \$100,000 from a Federal agency subsequent to the Department's letter of offer for the \$500,000 financing under the Commercialization Program. Information on file indicated that the Department was unaware of the \$460,000 loan until June 2009 when it received Entity 2's financial statements and, therefore, there was no prior written consent from the Department. Although the \$100,000 from the Federal agency was part of a \$250,000 contract the client secured before the letter of offer was issued, the Department was unaware of the additional \$100,000 until June 2009. Furthermore, a review of the 2009 financial statements indicated that bank indebtedness increased by \$12,311 with no written consent on file. The total additional debt incurred without prior written consent of the Department was \$961,763 as shown in Figure 6.

**Figure 6**

### Entity 1 and Entity 2 Additional Debt Years 2008 and 2009

Type of Debt	Entity 1	Entity 2	Total
Bank Mortgage	\$ -	\$ 460,000	\$ 460,000
Federal Agency Loan	-	100,000	100,000
Bank Indebtedness	389,452	12,311	401,763
<b>Total</b>	<b>\$ 389,452</b>	<b>\$ 572,311</b>	<b>\$ 961,763</b>

Source: Entity financial statements

### Assets pledged without consent

- In 2008, Entity 2 pledged land and buildings as security against the \$460,000 mortgage without the required written consent of the Department.

### Related party transfers incurred without consent

- From 2006 to 2009, Entity 1 and Entity 2 made transfers totalling \$600,999 (Entity 1 - \$360,564; Entity 2 - \$240,435) to and from related parties without the required written consent of the Department. The terms and conditions of funding indicated that the applicant could not make loans to, investments in, or guarantees on behalf of others without prior written consent of the Department. Department officials indicated that this included any related party transactions.

### Recommendations

The Department should:

- ensure that the remuneration for directors is within the limits prescribed in the terms and conditions of funding;
- obtain supporting documentation to verify that the funds were used as outlined in the project proposal and that the project meets the criteria for funding under the Commercialization Program;
- request and obtain financial statements within 90 days of year end;
- consider requiring audited financial statements for significant investments;
- complete the annual account status report on a timely basis, include information in the report as to whether each underlying condition was met, and forward the report to the Department of Finance as required; and
- develop and implement policies and procedures for non-compliance with the terms and conditions of funding.

### Department's Response

*The Department of Innovation, Trade and Rural Development (INTRD) is committed to service excellence and to continuous improvement as it balances the requirements and interests of clients, due diligence and protection of public investments. The department welcomes the review, observations and recommendations of the Auditor General which provides an additional opportunity to implement program improvements.*

*Under its Commercialization Program, INTRD provides funding support to Newfoundland and Labrador businesses that develop and commercialize innovative, new technologies, products and services.*

*The Commercialization Program was established as a result of a comprehensive provincial innovation strategy produced in 2006. The strategy clearly outlined the need for flexible investments to bridge the gap from research to commercialization. The program provides for conditionally repayable non-interest bearing investments and/or equity-based financing to a maximum of \$500,000.*

*The majority of clients under this program are small-to-medium size enterprises (SMEs) that develop new technologies for export in such sectors as ocean technology, life sciences, and information communications technology (ICT).*

*The two investments referenced in the draft report were deemed eligible with respect to the newly developed Commercialization Program, underwent extensive review and analysis, and was approved by the appropriate management committee as projects that would benefit the respective companies and lead to positive economic benefits for the province.*

*Such benefits include the creation of highly skilled new jobs, export development opportunities, as well as growth and profitability. As per policy, the department continues to monitor all approved funding projects under the Commercialization Program to ensure these investments are properly managed and utilized for the intended purposes in accordance with the terms and conditions approved by the department.*

*INTRD is a developmental and supplemental lender, rather than a lender of last resort. To achieve growth in emerging sectors such as life sciences and ocean technology, the department must balance an appropriate level of risk with the objective of creating a supportive environment for start-up and expansion, particularly as it relates to firms that commercialize research, and develop innovative technologies for national and international markets.*

*Specifically, the Commercialization Program is designed to address a significant barrier that local companies often face when seeking capital for the development and commercialization of innovative products or services. The terms and conditions of the department's investments support the flexibility needed to enable companies to grow and expand, and enable companies to leverage substantive funding needed for capital-intensive developments.*

*The department has carefully reviewed your observations and recommendations on these two investments. In areas where issues were noted, INTRD will ensure that the appropriate documentation is on file, where necessary, practical and as per established policy. **The documentation issues noted would not alter or change the department's decision to invest as approved, or place the Provincial Government's investment at undue risk.** As a further measure to improve program delivery for a relatively new program, and similar to other investment programs, INTRD will implement an internal audit process. This process will be customized for the Commercialization Program and will identify improvement measures, and remedy any oversights in the review, investment and monitoring process.*

*Innovation deals with a different stage of the life cycle of a business than more typical funding programs. It is important to note that both investments are still in the early stages of a 10-year investment framework, and that the projects for both entities are unusually complex given the interrelationship of the two firms.*

*There are instances in the report and subsequent recommendations where INTRD does not concur with the interpretation of the department's policies and procedures. While the department has already taken steps to address comments contained in the review and noted in relevant sections, to clarify the department's position, the following comments are offered on the recommendations.*

### ***Recommendations: Approval and Assessment***

*The Department should:*

- *perform and document cross departmental checks for all affiliated entities as required by the Department of Finance;*
- *complete all credit checks as per policy and procedures manual;*
- *sign and approve all Presentation for Funding Decision forms as required; and*
- *perform and document site visits before a funding decision is made.*

### *Cross-departmental and Credit Checks*

*Although the applicant included only one related company in its application, the department did identify a total of six related companies in the corporate group during the assessment process. It should be noted that only two companies have ongoing operations related to these projects. The other companies are either inactive or investment holding companies.*

*The department has established guidelines for cross-departmental checking and will ensure that these guidelines include all related companies in a corporate group. Likewise, confirmation with the Office of the Comptroller General and the Registry of Companies will be applied to the entire corporate group of companies and added to the amended commercialization policies and procedures manuals. It should be noted that Entity 1 and Entity 2 were in good standing at the time of application and Entity 1 (which bought Entity 2) remains in good standing.*

### *Site Visits*

*It is the department's view that in many cases a site visit is not a critical step in the assessment process and, therefore, site visits during the assessment process are not required under the current policy. However, it is standard practice that numerous visits to company sites are invariably necessary to obtain information relative to the application and ongoing monitoring. It is normal practice for visits to be carried out as an on-going process, and it is noted that visits have been ongoing with the two entities prior to and since the investments. The department will formalize protocol around site visits and set requirements for documentation.*

### **Recommendation: Funding**

- *The Department should comply with its policies and procedures for funding and ensure that the terms and conditions for its investments are fulfilled before funding is disbursed.*

### *Confirmation of Costs*

*Due to the nature of some costs, it may not be possible to obtain price quotes for the purposes of confirmation. In this particular project, the majority of the costs are associated with working capital requirements and consultant fees. As it is not possible to confirm these costs, the department has complied with current disbursement procedures as it relates to working capital.*

*The amount for fixed asset acquisitions was two per cent of the total cost. It should be noted that the funding amount from INTRD represents only a portion of the total project cost. Other major sources of funding came from the Federal Government and other sources. As the INTRD investment was in the form of equity, pledging of assets as collateral security was not an issue. Therefore, due to the nature of the costs that are not predisposed to confirmation and the nature of the investment (equity), the confirmation of costs should not be an issue.*

### *Confirmation of Funding*

*Although the Presentation for Funding form for the project indicates the company will be “committing a minimum of \$655,000 of new investment”, it was intended that this amount be funded through the company’s cash flow from operations over a five-year period. It was not intended that a new equity contribution of this amount had to be provided up-front. At present, the five-year time frame has not elapsed.*

*For Entity 1, there was written confirmation on file from the Federal Government Agency, the research agency, the private investment and the university that these contributions would be provided. The total amount confirmed was 94 per cent of total funding. It was noted that there was no documentation of confirmation for the \$250,000 from the non-profit foundation before the disbursement of funding. The entire amount of the project was \$3,981,621 with seven different funding sources. In this case, INTRD’s funding represents just 12.6 per cent of the total project cost, which is well within the 75 per cent maximum contribution limit under the Commercialization Program.*

### **Recommendations: Monitoring**

*The Department should:*

- *ensure that the remuneration for directors is within the limits prescribed in the terms and conditions of funding;*
- *obtain supporting documentation to verify that the funds were used as outlined in the project proposal and that the project meets the criteria for funding under the Commercialization Program;*
- *request and obtain financial statements within 90 days of year end;*
- *consider requiring audited financial statements for significant investments;*

- *complete the annual account status report on a timely basis, include information in the report as to whether each underlying condition was met, and forward the report to the Department of Finance as required; and*
- *develop and implement policies and procedures for non-compliance with the terms and conditions of funding.*

### *Shareholders Remuneration*

*Shareholders remuneration was requested for both entities in the 2010 site visit for account status reporting and in subsequent correspondence. The company has complied with the terms and conditions as outlined in the offer. In addition, the company was also requested that it be reflected as a note in future review engagement financial statements.*

### *Funds Used as Outlined*

*The terms and conditions of funding require that the applicant must use the funds for the items outlined in the Commercialization Program. The department has established follow-up processes to ensure that appropriate invoices for fixed asset purchases are examined to determine the funding was used as outlined. Approximately 94 per cent of the costs are not in the nature of fixed assets or materials/supplies; therefore, as noted earlier, the amount of invoices subject to this verification is limited in terms of numbers and scope.*

### *Financial Statements within 90 Days of Year-End*

*Although the financial statements were not received by March 31, which was 90 days after year-end December 31, it should be noted that statements for the two years since approval have been received by mid-April each year, which is, in the department's view, not unreasonable. Also, it should be pointed out that the company actually has six months to file its other statutory returns and revisions to the policy manual are currently under consideration to coincide with the six-month requirement of the Federal Government agency. Finally, regular account status reports, as per policy, include analysis of the most recent and required financial statements.*

### *Audited Financial Statements*

*The terms and conditions of funding require that review engagement financial statements be provided by the entity. The department understands that audited financial statements may provide additional assurance relating to an entity's financial statements; however, it also recognizes that this will result in additional costs to the entity and the additional time it will require for the preparation of the audited statements. Although not a current policy requirement, the department has the option of requesting audited financial statements as a part of the terms and conditions whenever the situation is warranted.*

### *Non-compliance*

*Considering the form of investment is either equity (shares) or conditionally-repayable loans, there is no tangible security in which to realize upon in the event of default. It should be noted that the program policy framework that was approved by Treasury Board at the time of program approval, does not provide a remedy.*

*In practice, demand for redemption of equity or foreclosure would appear to be the only remedy available, and in the case of equity, this action would not likely realize any positive results. If the company is functioning properly and equity is being redeemed as scheduled, it is unlikely that one would take action if there was a case of non-compliance with respect to other terms and conditions. There would be no benefit to taking any action as there would be no security available in the case of equity. The department does have the option to include a conversion clause in the shareholder's equity agreement that allows for the conversion to term debt in the event of non-compliance. The department has exercised this option and will continue to do so as the situations warrant.*

### **Conclusion**

*INTRD is committed to seeking new opportunities to diversify and expand local economies and to enhancing the positive impact that SMEs have on the province's economy. The department follows through on this commitment by offering a comprehensive suite of business support programs to help companies diversify and expand, including through the commercialization of new technologies, products and services.*

## Investments

*While the Commercialization Program is relatively new, the department now has more experience in the required analysis, funding and monitoring of commercialization projects. The department will act on these recommendations to the extent feasible, including the implementation of an internal audit process. Irrespective of the issues noted, it is our position that the department made a worthwhile investment in the two entities that helped to maintain the viability of these firms, supported additional employment and advanced the technology sector in Newfoundland and Labrador.*

**Investments**

**PART 2.13**

**DEPARTMENT OF JUSTICE**

**SUPPORT ENFORCEMENT PROGRAM**

### Executive Summary

The Support Enforcement Division (the Division) of the Department of Justice was established in 1989 to provide enforcement services to individuals requiring assistance in the collection of court-awarded child and spousal support. The Division acts as an intermediary between those who are entitled to receive support (Creditors) and those required to pay support (Debtors). The Province has entered into reciprocal enforcement arrangements with all Canadian jurisdictions and many international jurisdictions such as the United States of America and Australia. The Division, consisting of 17 staff, is located in Corner Brook.

The Division maintains a database to record information necessary to manage support enforcement. The Division collects personal information such as name, address, marital status, birth date, driver's licence number, social insurance number and particulars of court orders. Accounts are monitored to determine whether payments are up to date and both parties are provided with online access to payment information and/or a printed statement on request. As at 31 March 2010 there were 7,221 (2009 - 7,273) accounts in the Division's database. For the 2010 fiscal year, the Division collected approximately \$30.1 million (2009 - \$28.9 million) for distribution to Creditors.

The Division is bound by the requirements of the *Access to Information and Protection of Privacy Act* (the Act). The Act requires that reasonable security arrangements be implemented to safeguard against unauthorized access. This is particularly important given the requirements of the Department of Human Resources, Labour and Employment (HRLE) employees to access personal client information in order to manage the income support program.

Our review indicated that security arrangements for access by employees at HRLE were not adequate. We also found inaccuracies in the Division's database information. Furthermore, contrary to Office of the Chief Information Officer (OCIO) guidelines, the Division's application software and database information were contained on a single server. Details are as follows:

- There were accounts in the Division's database which were for individuals employed at HRLE that were accessed through HRLE computers. For example, 3 HRLE employee accounts were accessed in excess of 250 times each, even though the 3 employees were not in receipt of income support. One account was accessed 797 times, another was accessed 456 times, while the third was accessed 256 times.

## Support Enforcement Program

The Division could not identify which HRLE employees accessed what database accounts because, although the Division maintained an audit log, it had allowed one user account to be used by all HRLE staff. In fact, this one account was used for 50,558 of the 65,808 times that HRLE employees accessed the Division's database over the period 19 March 2004 to 13 November 2009.

- We identified inaccuracies in the Division's database. For example, the birth dates of 28 individuals (7 Debtors and 21 Creditors) indicated that they were under the age of 12 years. In addition, the driver licence numbers of 157 Debtors were found to be invalid.
- The Division's computer system did not have the physical servers required for security as prescribed by the OCIO. Although the Division had two servers, they were mirrored and each server contained both system applications and database information. The OCIO recommends that system applications and database information be maintained on different servers.

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## Background

### Introduction

The Support Enforcement Division (the Division) of the Department of Justice was established in 1989 to provide enforcement services to individuals requiring assistance in the collection of court-awarded child and spousal support. The Division acts as an intermediary between those who are entitled to receive support (Creditors) and those required to pay support (Debtors). The Province has entered into reciprocal enforcement arrangements with all Canadian jurisdictions and many international jurisdictions such as the United States of America and Australia.

The Division receives payments from Debtors and issues government cheques to Creditors from a trust fund where the monies are collected and held. If a Debtor refuses to pay, the Division will commence the enforcement actions necessary to collect the amount owed through such measures as:

- garnishments;
- driver's licence denial;
- credit bureau reporting;
- registration with the High Sheriff;
- seize and sell actions;
- default hearings; or
- motor vehicle restrictions.

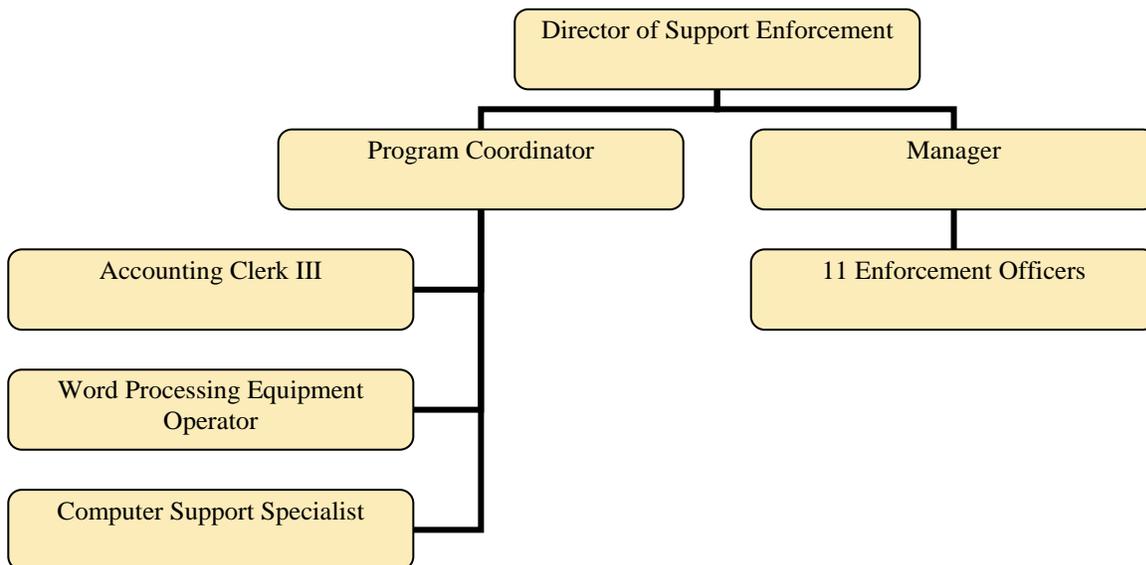
## Support Enforcement Program

The Division monitors each account to ensure that payments are up to date and keeps a record for each party. In the Province it is mandatory that all orders related to support payments arranged by the court be sent to the Division for registration.

**Organization** The Support Enforcement Division of the Department of Justice is located in Corner Brook. The Division has 17 staff members responsible for its activities. Figure 1 outlines the organizational structure of the Division.

**Figure 1**

### Support Enforcement Division Organizational Structure



Source: Support Enforcement Division, Department of Justice

**Core business** The Division provides a number of services to Debtors, those who are required to pay support, and Creditors, those who are entitled to receive support. These include the following:

- collecting the payment of support from Debtors and paying it to Creditors;
- enforcing support payments; and
- keeping an official record of payments made so that they can be used by Debtors, Creditors, the Courts and the Department of Human Resources, Labour and Employment.

### Audit Objectives and Scope

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#### Audit objectives

The objectives of our review were to determine whether:

- the Division's policies and procedures regarding the protection and privacy of client information were adequate, enforced and monitored; and
  - the recorded information was complete and accurate.
- 

#### Audit scope

Our review was completed in April 2010 and included an examination of various reports, documents and discussions with officials responsible for the Division.

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### Detailed Observations

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#### Overview

On 16 January 2008 the Protection of Privacy provisions (Part IV) of the *Access to Information and Protection of Privacy Act* (the *Act*) were proclaimed into force. These provisions limit the extent and means by which public bodies can collect personal information, as well as the extent to which public bodies can use and disclose that information. Part IV of the *Act* also requires public bodies to make every reasonable effort to ensure that personal information is accurate and complete, to make reasonable security arrangements against unauthorized access, collection, use, disclosure or disposal of personal information, and to retain certain personal information about an individual in order to allow that individual a reasonable opportunity to obtain access to the information.

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#### Information collection and access

The Division maintains a database to record information necessary to manage support enforcement. The Division collects personal information such as name, address, marital status, birth date, driver's licence number, social insurance number and particulars of court orders. Accounts are monitored to determine whether payments are up to date and both parties are provided with online access to payment information and/or a printed statement on request. As at 31 March 2010 there were 7,221 (2009 - 7,273) accounts in the Division's database. For the 2010 fiscal year, the Division collected approximately \$30.1 million (2009 - \$28.9 million) for distribution to Creditors.

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## Support Enforcement Program

There are a large number of individuals who require access to information in the database. Therefore, it is important that this information is adequately protected, complete and accurate. Figure 2 outlines the individuals who have access, the reason why they have access and their restrictions.

**Figure 2**

### Support Enforcement Division Access to Database

Individual	Reason for Access	Restrictions
Support Enforcement Staff	To update and enforce support payments	Limited restrictions depending on work function
Human Resources, Labour and Employment Staff	To ensure that: <ul style="list-style-type: none"> <li>- their clients' support orders are registered with the Division.</li> <li>- their clients will not receive support payments while receiving social assistance</li> </ul>	Can see limited details on Creditors and Debtors
Creditors	To check on account balances and payments received	Access is limited to their account statements
Debtors	To check on account balances and payments made	Access is limited to their account statements
Reciprocating Jurisdictions	To check on payments	Can see limited details on Creditors and Debtors
Atlantic Lottery Corporation	To verify that winners do not owe support	Can query names only, a positive hit will result in a request for the Corporation to call one of the enforcement officers

Source: Division of Support Enforcement

### Findings

Our review indicated that security arrangements for access by employees at HRLE were not adequate. We also found inaccuracies in the Division's database information. Furthermore, contrary to OCIO guidelines, the Division's application software and database information were contained on a single server. Details are as follows:

## Support Enforcement Program

### Individual users and information accessed not tracked

- There were accounts in the Division's database which were for individuals employed at HRLE that were accessed through HRLE computers. For example, 3 HRLE employee accounts were accessed in excess of 250 times each, even though the 3 employees were not in receipt of income support. One account was accessed 797 times, another was accessed 456 times, while the third was accessed 256 times.

The Division could not identify which HRLE employees accessed what database accounts because, although the Division maintained an audit log, it has allowed one user account to be used by all HRLE staff. In fact, this one account was used for 50,558 of the 65,808 times that HRLE employees accessed the Division's database over the period 19 March 2004 to 13 November 2009.

Officials at the Division indicated that they were unaware of the frequent access by HRLE to these accounts because they believed that HRLE was doing the monitoring. We note that section 36 of the *Act* makes it the responsibility of the Deputy Minister of Justice to protect personal information held by the Division. The Office of the Information and Privacy Commissioner's Privacy Manual also requires that the Department put in place administrative safeguards to limit access to records containing personal information to authorized employees who need to know the information to carry out their duties and to provide technical safeguards such as audit features and access logs to track system access and use.

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### Inaccurate data

- We identified inaccuracies in the Division's database. For example, the birth dates of 28 individuals (7 Debtors and 21 Creditors) indicated that they were under the age of 12 years. In addition, the driver licence numbers of 157 Debtors were found to be invalid. Section 34 of the *Act* requires that the Division make every reasonable effort to ensure that the personal information collected is accurate and complete if it is to be used to make decisions that directly affect the individual.

Date of birth information for 7 Debtors and 21 Creditors indicated that they were under the age of 12. We expected that the system would check these birth dates to ensure that questionable dates were not entered. We note that the date of birth information can be used to help identify individuals being served a summons or requesting information in person.

## Support Enforcement Program

Driver licence information for 157 Debtors was found to be invalid or questionable, that is to say the licence number did not have the correct number of digits or did not agree to the Debtor's date of birth. We expected that the system would check driver licence numbers to ensure that they were reasonable. We note that having correct driver licence numbers would allow enforcement officers to have direct access to driver licence information for collection purposes. Because of the inaccurate information in this field, a name search would be required to determine if a Debtor had a driver's licence, which may allow access to personal information on drivers with similar names.

### Inadequate servers

- The Division's computer system did not have the physical servers required for security as prescribed by the OCIO. Although the Division had two servers, they were mirrored and each server contained both system applications and database information. The OCIO recommends that system applications and database information be maintained on different servers. While it is technically possible to locate the application and data on the same server, separating them on different servers increases the security of the data stored in the database.

### Recommendations

The Division should:

- review access to accounts of the Division by third parties and investigate any unusual activity;
- validate all data at the time it is recorded in its database; and
- comply with OCIO guidelines.

## Division's Response

### *Recommendation – Individual users and information accessed but not tracked*

*Review access to accounts of the Division by third parties and investigate any unusual activity.*

### **Department's Response**

*The Department of Justice concurs with the recommendation to review access to the Division account information and investigate unusual activity. OCIO have been consulted and are in discussion with Department of Human Resources, Labour and Employment (HRLE) officials to explore the ability to create a monthly log file within the HRLE Client Automated Pay System (CAPS). These log files would then be reviewed each month by the Division to identify unusual activity.*

### **Recommendation – Inaccurate data**

*Validate all data at the time it is entered to ensure that it is at least plausible.*

### **Department's Response**

*The Department of Justice concurs that the accuracy of personal data is very important to the program. The Division currently has a validation process in place for the social insurance number. As a result of this recommendation the Division will now add validation parameters for the debtor's and creditor's date of birth; the dependant's date of birth; and the driver's licence number, where the holder of the licence is a resident.*

### **Recommendation – Inadequate Servers**

*Comply with OCIO Guidelines to ensure the highest security possible.*

### **Department's Response**

*The Department of Justice does not concur that the Division's computer system does not have the physical servers required for security as prescribed by the OCIO.*

*In consultation with the OCIO, it was found that while the OCIO website does indicate that system applications and database information be maintained on different servers, this type of recommendation would only apply when an external actor (a user) is able to execute an application on the database server.*

*In reaching this decision, the OCIO reports that the Support Enforcement Application (SEA) is a client-server system where the application runs on each user's desktop (the client) and connects to a central database (the server). In this regard, there is only one "server" in a client-server application.*

## Support Enforcement Program

*A copy of the SEA resides on the database server for distribution (via a shared network drive) to the end-user's desktops and also to process nightly batches. It's important to note that no end-user executes the application code which is located on the database server, but they do have access to copy the code of their local machine for execution. This is a standard technique in client-server deployments to ensure that everyone is running the same version.*

*Given that SEA is configured in this way, there is no added security benefit of separating the application from the database information.*

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**Support Enforcement Program**

**PART 2.14**

**DEPARTMENT OF NATURAL RESOURCES**

**FORESTRY MANAGEMENT**

### Executive Summary

The Department of Natural Resources (the Department), through its Forestry Services Branch, is responsible for the management of the Province's forest resources. There are 23.7 million hectares of forested land in the Province, 7.9 million hectares of which is considered to be harvestable forest. Each year, on average, a total of 2.15 million cubic metres of forest is cut. Information on the Department's website indicated that the estimated value of the forestry sector for 2009 was \$250 million and employed approximately 5,500 people.

For forest management purposes, the Province is divided into 24 districts (18 on the Island and 6 in Labrador) and the Department has 3 regional offices (Eastern - Gander, Western - Massey Drive and Labrador - Happy Valley-Goose Bay).

In 2003, the Department prepared a 10-year Provincial Forest Management Strategy (the Strategy) which was based on the Canadian Council of Forest Ministers' Criteria and Indicators Framework. The Strategy was "*...to maintain the long-term health of forest ecosystems while providing ecological, economic and cultural opportunities for the benefit of present and future generations.*" In addition to the Strategy, landowners/licence holders (Crown or pulp and paper company) in each district are required to prepare a 5-year operating plan, an annual operating plan and an annual return.

In recent years the forest industry, especially the pulp and paper industry, has changed significantly due to decreased market demands and other external pressures. In December 2005, the mill in Stephenville closed and, in February 2009, the mill in Grand Falls-Windsor ceased operations. Furthermore, in November 2007 and March 2009 respectively, the Corner Brook Pulp and Paper Company Limited shut down 2 of its 4 paper machines indefinitely.

We found issues with regard to how the Department was planning, monitoring and reporting on its forest management activities. Not all required annual operating plans and annual returns were on file; furthermore, the Department did not have an adequate system to monitor whether all required annual reports were received. In addition, the Department was not verifying actual harvest levels. There were also no established measurable targets for all indicators in the Strategy and no annual report was prepared for the House of Assembly on the progress towards the implementation of its Strategy. Contrary to its 2003 Strategy, the Department neither prepared ecosystem-based planning guidelines nor reviewed the 1998 environmental protection guidelines.

We also identified that subsidies to the Corner Brook Pulp and Paper Company Limited totalling \$26.3 million, approved from 1 April 2009 to June 2010, were not adequately supported.

Furthermore, the Department was not adequately safeguarding its equipment such as digital cameras, GPS units and binoculars. Some equipment could not be located while other equipment was determined to be at the homes of employees.

Details are as follows:

### Planning

We found issues with regard to the planning activities of the Department relating to forest management. Our review indicated:

- In 2003 the Department prepared a 10-year Provincial Forest Management Strategy which indicated that one of the four strategic directions i.e. ecologically-based forest management could not be fully implemented because guidelines had not been established and information gaps existed (e.g. possible future impacts on the forest from natural disturbances such as fires or insect infestation). The Strategy required that by 31 December 2004, ecosystem-based planning guidelines be completed after public consultation sessions. In addition, the 1998 environmental protection guidelines were required to be reviewed; however, as at November 2010, neither had been completed.
- Although *Sustainable Forest Management Planning Regulations* have been developed by the Department to provide for a new ecosystem-based planning framework, these regulations have yet to be adopted and gazetted.
- The Department did not establish measurable targets for all indicators in its Strategy which was issued in 2003. For example, although there was an indicator relating to the kilometres of hiking, cross-country skiing and snowmobile trails, there was no target as to the expected kilometres, and, although there was an indicator relating to employment for each forest-based activity, there were no employment targets established.

- The Department did not prepare an annual report on the progress towards the implementation of the Strategy. Instead, the Department prepared an annual update report on the various actions planned in the Strategy; however, this update report did not include all information expected in an annual report (e.g. did not report on the outcomes related to actions taken on any of the 89 areas contained in the Strategy) and it was used for internal purposes only i.e. it was not provided to the House of Assembly.
- The Department was not meeting its objective of completing aerial photography of 10% of the Province's island land base every year (i.e. photographed 100% in 10 years) and interpreting and digitizing the photography into its information system within 18 months after the photographs were available. For example:
  - None of the 18 districts on the Island had been completely re-photographed within the 10-year timeframe. The delay between the last two times aerial photography was conducted ranged from 13 years to 26 years.
  - There were 15 districts where it took in excess of the 18 month policy to interpret and digitize the latest aerial photography. In these cases, it took on average 3.37 years (40 months).
- One of the 6 Labrador districts had never been photographed while none of the remaining 5 districts had ever been completely photographed.

### Monitoring

We found issues with regard to the monitoring activities of the Department relating to forest management. For the most part, the Ecosystem Management Division (the Division) in Corner Brook is responsible for the Department's monitoring activities related to forestry plans and reports. Our review indicated that:

- Contrary to the requirement of the *Environmental Assessment Act*, which requires that 5-year operating plans be submitted 180 days prior to the plan's start date, none of the 29 plans (22 Crown plans and 7 company plans) currently required were submitted within the 180 day requirement. In fact, 1 district had never submitted a plan and another district submitted its plan 2 ½ years into its 5-year planning period.
- Although the Division maintained a spreadsheet to track annual operating plans for all districts, the spreadsheet could not be used to adequately monitor compliance with submission deadlines because it did not capture the date.

- The Division did not maintain a spreadsheet or system to track annual returns from all districts. The only information the Division could provide was from the Eastern region which maintained its own spreadsheet to monitor annual returns for its districts. However, we found that the information provided was not complete in that not all information on harvest levels was provided for all the districts for 2006 to 2009. In addition, the spreadsheet could not be used to adequately monitor compliance with submission deadlines because it did not capture the date.
- When we requested annual operating plans and annual returns, they were not readily available at the Division. For example:
  - 16 of the 50 annual operating plans required to be submitted by the districts to the Division covering the 2009 and 2010 calendar years were not on file at the Division when we commenced our work. Ten of the 16 were subsequently provided by the districts. Without these annual operating plans, the Division could not determine if the districts were in line with the approved 5-year operating plans.
  - 71 of the 72 annual returns required to be submitted by the districts to the Division relating to Crown land covering the 2006 to 2009 calendar years were not on file at the Division when we commenced our work. Sixty of the 71 were subsequently provided by the districts. Without these annual returns, the Division could not, for example, determine whether actual harvest levels were within the approved limits.
- Actual harvest levels as reported by the companies or licence/permit holders were not verified using available secondary sources of information such as scaling reports, production reports, and load slips.
- Although the load slip system was used to confirm the legality of wood harvested and transported, we found the following issues:
  - load slips were not always properly accounted for by the districts;
  - load slips did not always document required information such as the amount of wood transported, signatures, and origin and destination of the wood; and
  - Forestry officials rarely performed either field inspections or roadside checks to determine whether load slips were being used.

### Expenditures

#### *Inventory Controls*

We identified a number of weaknesses with regard to the safeguarding and recording of equipment inventory totalling approximately \$173,000. The equipment inventory included items such as GPS units, digital cameras, binoculars and scopes. We also selected 37 items from purchase invoices for testing and identified a number of issues. Our review indicated the following:

- annual inventory counts were not performed to verify the existence and condition of inventory items;
- 4 items, which met the Department's recording threshold, were not recorded in the inventory listing;
- 24 items were recorded on the inventory listing; however, the information recorded was not complete in that there was no serial number for 17 items, no Government asset number for 23 items and no assigned individual/location listed for 8 items; and
- not all inventory items could be located as follows:
  - 2 items could not be located (1 GPS costing \$265 and 1 digital camera costing \$100);
  - 5 items were not located at the time of our enquiry in November 2010; however, they were later presented for inspection. Officials indicated that: 1 sighting scope costing \$2,549 was located - 1½ months after our enquiry - in a box behind the door of a photocopier room; 1 camera costing \$188 was located at an employee's home; 1 tripod costing \$385 was located in an employee's vehicle (this employee did not know the whereabouts of the tripod when we first enquired); 1 camera costing \$179 was located; however, it was not with the assigned employee; and, 1 camera costing \$188 was on loan to a Clerk Typist III since 25 June 2010 and located at the employee's residence. We also identified that this Clerk Typist III had a GPS unit on loan since 7 April 2010. It is questionable why this Clerk Typist III (not responsible for field operations) would have field equipment; and

- 30 items were located; however, due to either the absence of Government identification tags or serial numbers not recorded for 19 of these items, we could not determine whether the assets located were the assets selected for inspection.

### *Assistance to a Pulp and Paper Company*

Since 1 April 2009, the Department has provided or had approved assistance to the Corner Brook Pulp and Paper Company Limited totalling \$26.3 million through three agreements. We identified the following issues:

- **\$1 million** - cost-shared agreement to subsidize the purchase and transport from the Northern Peninsula a maximum of 40,000 cubic metres of wood at a contribution price of \$25 per cubic metre as part of an economic study to convert wood to an alternate green fuel source. Our review identified that:
  - The purchase and transportation of wood began before the agreement was signed. Work commenced in May 2008 and finished in January 2009; however, the contribution agreement was not signed by the Minister until 27 March 2009.
  - Although the agreement was identified as a cost-shared arrangement, there was no identification as to what the Province's percentage would be and there was no documentation on file at the Department to support the basis on which the Province's \$25 per cubic metre contribution was calculated.
  - Although the agreement required that the company provide the Minister with a report on all activities under the agreement, the Department did not require the company to provide details as to whether cost/energy savings materialized, or if burning wood was a viable alternate green fuel source.
- **\$13.3 million** – agreement to provide financial assistance in the form of releasing the company from its share of forest management initiatives relating to silviculture, insect control and forest inventory, exempting the company from paying land management tax and reimbursing the company for two projects (biomass project and resource road project). In exchange, the Crown either received or was extended harvesting rights in 7 districts for 9 to 27 years. Our review identified that the Department could not provide any evidence as to how the new or extended harvesting rights were valued at \$13.3 million.

## Forestry Management

- **\$12 million** – agreement to provide \$12 million (\$6 million to be paid on 30 June 2010 and \$6 million to be paid on 30 June 2011) in exchange for the assignment to the Province of all or partial rights, titles, duties and obligations under timber licences comprised of approximately 447,400 hectares of land base in 6 districts for the remaining term of the licences.

Our review identified that a separate land valuation was not prepared in order to accurately determine the land value. Instead, the price was determined using \$20.06 per hectare, the price used in a 1994 land sales agreement with the company, indexed to 2010 dollars i.e. \$26.82.

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## Background

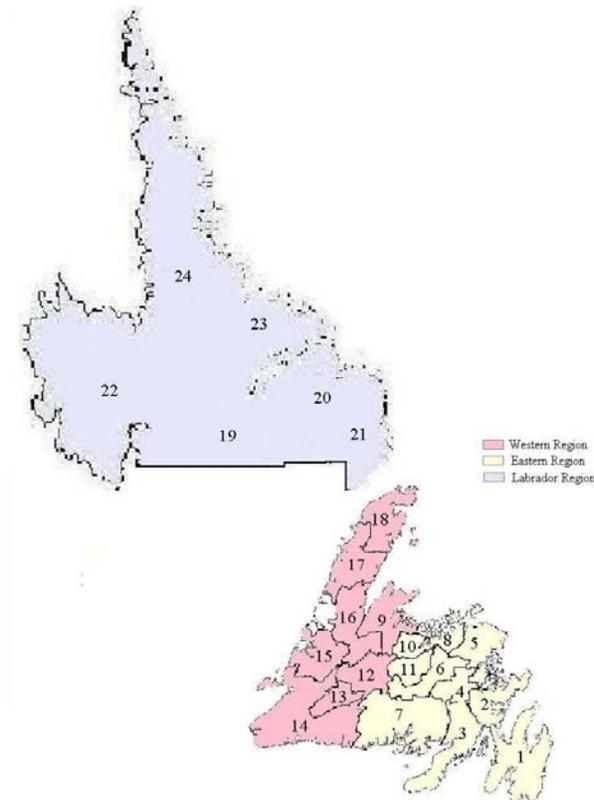
### Overview

Over the years, governments across Canada have been rethinking their forest management policies to better reflect the principles of sustainable management. In 2003, the Department of Natural Resources (the Department) prepared a 10-year Provincial Forest Management Strategy (the Strategy) which was based on the Canadian Council of Forest Ministers' Criteria and Indicators Framework. The Strategy was developed to *"...maintain the long-term health of forest ecosystems while providing ecological, economic and cultural opportunities for the benefit of present and future generations."*

### Forest management district structure

The Province's forest resources are divided into 3 regions: Eastern, Western and Labrador and include 24 forest management districts - 18 on the Island and 6 in Labrador. The Province's districts on the Island are further grouped into 8 planning zones. Figure 1 provides an overview of the Province's forest districts.

**Figure 1**  
**Department of Natural Resources**  
**Forest Districts**



### **Forestry Services Branch overview**

The Department, through its Forestry Services Branch, is responsible for the management of the Province's forest resources. The Branch has approximately 279 employees with operations located at its headquarters office in Corner Brook, 3 regional offices (Gander, Massey Drive and Happy Valley-Goose Bay), 16 district offices and 20 satellite offices.

### **Provincial land base**

The Province's total land base comprises approximately 40.4 million hectares; 11.1 million on the Island and 29.3 million in Labrador. Figure 2 provides a breakdown of this land base.

**Figure 2**

**Department of Natural Resources  
Breakdown of Land Base  
Millions of Hectares**

Land Base Classification	Island		Labrador		Total	
	Area	%	Area	%	Area	%
Water bodies	0.8	7	1.9	6	2.7	7
Non-Forested	4.7	42	9.3	32	14.0	35
Forested - Non-harvestable	3.2	29	12.6	43	15.8	<b>39</b>
Forested - Harvestable	2.4	22	5.5	19	7.9	<b>19</b>
<b>Total</b>	<b>11.1</b>	<b>100%</b>	<b>29.3</b>	<b>100%</b>	<b>40.4</b>	<b>100%</b>

Source: Department of Natural Resources information

As Figure 2 shows, 19% of the Province's land base is harvestable forest from which the annual allowable cut (AAC), the approved annual harvesting level, is derived and 39% is non-harvestable forest. Forested land is classified as non-harvestable due to regulatory restrictions (i.e. parks, ecological reserves, agricultural areas, private land, buffer areas), non-harvestable inventory types (i.e. softwood and hardwood scrubs) and operational restrictions (i.e. steep slopes, isolated stands, islands).

Information on the Department's website indicated that the estimated value of the forestry sector for 2009 was \$250 million and employed approximately 5,500 people.

**Changing land tenures**

The forest industry, especially the pulp and paper industry, has changed significantly due to decreased market demands and other external pressures. In December 2005, the pulp and paper mill in Stephenville closed and, in February 2009, the pulp and paper mill in Grand Falls-Windsor ceased operations. Furthermore, the Corner Brook Pulp and Paper Company Limited shut down 2 of its 4 paper machines indefinitely in November 2007 and March 2009 respectively. As a result, some land that had been licensed to the companies was transferred back to the Province.

**Figure 3**

**Pulp and Paper Company in Corner Brook**



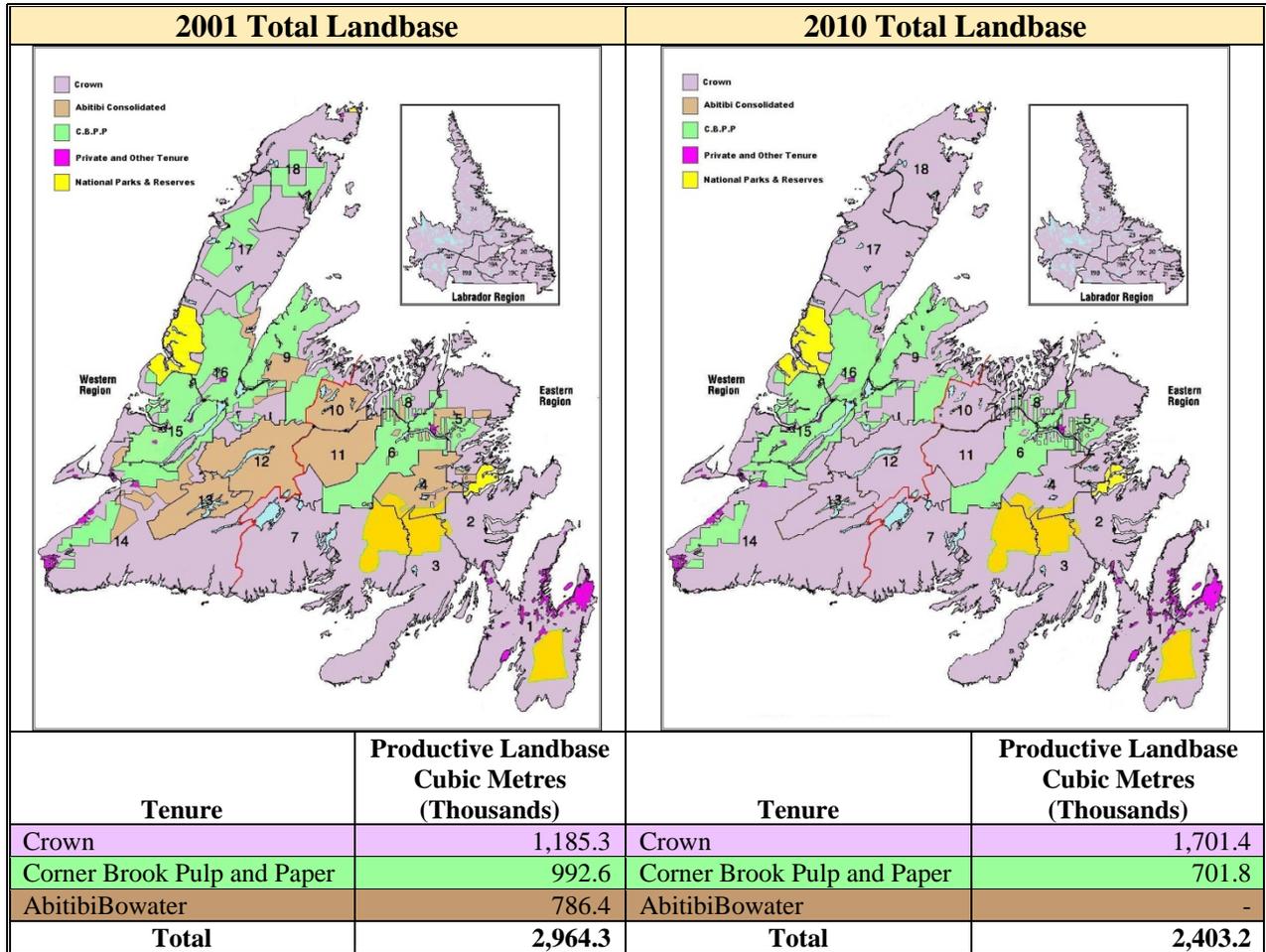
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Figure 4 provides an overview of the change in total land base and productive land base by ownership since 2001. As Figure 4 shows, company productive land base ownership declined by 1,077,200 cubic metres of which 516,100 cubic metres was transferred to Crown ownership and the remaining productive land base was subsequently reclassified as unproductive land base due to regulatory or operational restrictions or deemed to be non-harvestable inventory types.

# Forestry Management

**Figure 4**

**Department of Natural Resources  
Land Base by Ownership  
2001 and 2010**



Source: Department of Natural Resources' information

### Audit Objectives and Scope

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#### Audit objectives

The objectives of our review were to determine whether:

- the Department's planning process supports the principles of sustainable forest management;
  - the Department adequately monitors and reports on the implementation of its forest management plans; and
  - the Department adequately controls its forest management expenditures.
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#### Audit scope

Our review was completed in November 2010 and covered the districts' current 5-year planning periods and the Department's 2009 and 2010 fiscal years. Our review included the examination of the Department's financial records and documentation, and interviews with senior Department and district staff.

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### Detailed Observations

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

1. Planning
  2. Monitoring and Reporting
  3. Controls Over Expenditures
- 

#### 1. Planning

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##### Overview

The *Forestry Act* states that the Province's forest resources shall be managed in accordance with the principles of sustained yield forest management. Sustained yield forest management means a policy, method or plan of management to provide for an optimum continuous supply of timber in a manner consistent with other resource management objectives, sound environmental practices and the principles of sustainable development. Sustainable development means the development of forest resources in a manner that meets the needs of the present without compromising the ability of future generations to meet their needs.

**Figure 5**  
**Forested Land**



We last reviewed the Province’s management of forest resources in 2002. Since that review, the planning requirements of the Department and its districts have changed to reflect legislative requirements. Figure 6 provides a comparison of plan requirements at the time of our 2002 review to those currently required.

**Figure 6**  
**Department of Natural Resources**  
**Planning Requirements**

<b>2002 Requirements</b>	<b>2010 Requirements</b>
Department 20 year strategy document	Department 10-year forest management strategy
District 20 year strategy documents	No requirement
District 5-year operating plans (reported by district)	District 5-year operating plans (reported by district)
District annual operating plans (work schedules)	District annual operating plans (work schedules)
District past annual returns	District past annual returns
5-year timber analysis	5-year timber analysis

Our review identified issues in the following areas:

- A. Planning
- B. Aerial Photography

Details are as follows:

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### 1A. Planning

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#### Introduction

To ensure that the Department's planning processes were consistent, complete and that the Province's forest resources were managed in accordance with the principles of sustained yield forest management, policies and procedures should be developed to guide the planning process. The Department's forest management objectives should be supported with criteria, indicators and measurable targets. Furthermore, the Strategy should be monitored to ensure that it was being implemented.

Our review indicated that the Department has developed some guidelines which were to provide for the protection of forest resources and certain habitat; however, our review identified the following:

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#### Ecosystem-based planning guidelines not established

- Although in 2003 the Department prepared a 10-year Provincial Forest Management Strategy, the Strategy indicated that one of the four strategic directions i.e. ecologically-based forest management, could not be fully implemented because guidelines had not been established and information gaps existed (e.g. possible future impacts on the forest from natural disturbances such as fires or insect infestation). The Strategy required that by 31 December 2004, ecosystem-based planning guidelines would be completed. The Strategy also stated that the guidelines would be prepared through consultation with regional planners, district managers, Headquarters Division, Fish and Wildlife Division, non-governmental organizations and forestry industry representatives; and involve public consultation sessions. As at November 2010, the guidelines had not been completed.

## Forestry Management

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### Environmental protection guidelines not reviewed

- The Department's Strategy stated that the Department would conduct a review by 31 December 2004, of the Environmental Protection Guidelines for Ecologically-Based Forest Management (1998). However, as of November 2010, 6 years after the expected review date, this review had not been completed.

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### Planning regulations not published

- A review of one district's 2008 5-year operating plan and the December 2008 Department schedules attached to company annual plan approvals made reference to *Sustainable Forest Management Planning Regulations* which would provide for the new planning framework. As of November 2010 these Regulations were not adopted and gazetted.

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### Inconsistent planning periods

- The planning cycles for each of the Department's plans were not consistent. Specifically:
  - the Provincial Sustainable Forest Management Strategy (2003) covers the period 2003-2012;
  - the Province's timber supply analysis was required to be completed by 31 December 2004 and every 5 years thereafter (i.e. period covered 2005-2010); and
  - as at November 2010, there were 24 5-year operating plans in effect; 13 were for 2007-2011, 6 were for 2008-2012, 4 were for 2009-2013 and 1 was for 2010-2014.

The Department indicated that resources would not be available to assess and approve each plan within consistent planning cycles; however, given the level of integration amongst the plans it would be beneficial to have the planning cycles consistent.

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## Forestry Management

### Measurable targets not established for indicators

- The Department adopted the Canadian Council of Forest Ministers' Criteria and Indicators Framework in establishing its 2003 Strategy. In support of its Strategy, the Department established various elements, values, goals, indicators and actions for its strategic directions; however, measurable targets were not provided for the indicators. For example, although there was an indicator established relating to the kilometres of hiking, cross-country skiing and snowmobile trails, there was no target as to the expected kilometres, and although there was an indicator relating to employment for each forest-based activity, there were no employment targets established. Without established targets, it is difficult for the Department to measure the success of its planned actions for these indicators.

### Monitoring actions in Province's Strategy not adequately completed

- The Strategy required the Department to monitor the implementation of the Strategy. Our review indicated that the Department had not fully implemented the monitoring recommendations. Specifically:
  - The Strategy states that the Department's Forest Resources and Agrifoods Policy Committee would adopt an evaluation framework which would guide implementation of the Strategy and be the basis of an annual report on the implementation progress. Our review indicated that the Department committee developed an evaluation framework to monitor the action items in the Strategy and that the committee prepared status reports on the Strategy's various actions items (89 in total); however, this report did not include all information expected in an annual report (e.g. does not report on the outcomes related to actions contained in the Strategy). Furthermore, the status report was used for internal purposes only, i.e. it was not provided to the House of Assembly. Given that the Province's Strategy is a public document we would expect the Department to prepare an annual report for public release on the Department's progress on the implementation of the Strategy.
  - The Strategy states that a working group of Government departments associated with the Strategy would be established to address cross-departmental issues with its successful implementation. Our review identified that the working group was not established to address cross-departmental issues.

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### 1B. Aerial Photography

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#### Introduction

The Department uses aerial photography as a major tool for gathering information for determining its land base classification. Once the photography is completed, the photographs are interpreted and then digitized into the Department's geographical information system where it is the basis for the Department's planning processes. It is important that photographs are obtained and analyzed in accordance with the Department's objectives to ensure that the planning process reflects the actual land base. Our review identified that the Department was not conducting aerial photography or interpreting and digitizing the photographs in accordance with its goals. Specifically:

#### Aerial photography not performed as planned

- For the 18 districts on the Island, the Department's objective was to aerial photograph 10% of the land base each year (i.e. completed over 10 years). A review of the Department's records indicated that:
  - For the 18 districts on the Island, the time delay between the last two aerial photographs for each district ranged from 13 years to 26 years, on average 13.5 years.
  - The Department has established a schedule for future aerial photography of districts on the Island; however, 5 of the 18 districts on the Island were not scheduled for aerial photography until 12 to 17 years after the last aerial photography was performed.
- For the 6 Labrador districts, none had been completely photographed – five were partially photographed and one had not been photographed.

#### Interpretation and digitizing of photographs not performed as planned

- The Department's goal was to have photographs interpreted and digitized within 18 months of the receipt of the aerial photography; however, Department officials indicated that this was seldom achieved. A review of the Department's records for the 23 districts with aerial photography identified:
  - 7 districts which had their latest aerial photography interpreted did not have it digitized - 4 districts which were photographed from 2006 to 2008 were not digitized (1.5 years to 3.5 years delay) and 3 districts which were photographed from 2007 to 2008 were in the process of being digitized (2.5 years to 3.5 years delay);

## Forestry Management

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- 15 districts had the latest photography interpreted and digitized on average 3.37 years (40 months) after the photography was performed; and
  - 1 district was photographed in 2009 and the photography was yet to be interpreted and digitized.
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### Recommendations

The Department should:

- establish and review planning guidelines as planned;
  - ensure the *Sustainable Forest Management Planning Regulations* are adopted and gazetted;
  - establish measurable targets for Strategy indicators;
  - monitor and report on the implementation of the Province's 10-year Strategy annually; and
  - meet its objectives for aerial photography and the interpretation and digitizing of aerial photographs.
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## 2. Monitoring and Reporting

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Our review identified issues in the following areas:

- A. Submission Requirements
- B. Monitoring of Operating Plans
- C. Monitoring of Harvesting Activities

Details are as follows:

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### 2A. Submission Requirements

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#### Introduction

*The Forestry Act*, the *Environmental Assessment Act* and Department guidelines provide specific reporting requirements for the submission of 5-year operating plans and annual operating plans. Our review identified the following:

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#### 5-year operating plans not always registered as required

- The *Environmental Assessment Act* requires 5-year operating plans to be registered for each district 180 days prior to the proposed implementation date of the plan. Based upon 24 districts in the Province (18 districts on the Island reported through 8 zones), at the time of our review there were a total of 29 5-year operating plans (22 Crown plans and 7 company plans) that were required to be submitted by the Crown and one pulp and paper company. Our review indicated that none of the 5-year operating plans were submitted within 180 days of the plan start date. Specifically:
    - 1 district had never submitted a plan but was in the process of preparing its first 5-year plan for 2011-2015;
    - 1 district had not registered its 2008-2012 plan until 2 ½ years into the plan period;
    - 1 district had not registered its 2010-2014 plan until 2 ½ months into the plan period; and
    - 26 districts had registered their plans subsequent to the 180 days but prior to the start of the plan period.
  - With the closure of the pulp and paper mill in Grand Falls-Windsor, the 5-year operating plans for four districts for the period 2008-2012 were to be managed by the Department. In April 2009, the Department submitted a 2-year interim plan covering 2009 and 2010 for the districts until the development of a new 5-year operating plan which was expected to be completed by November 2010. Our review indicated that as of November 2010, the 5-year operating plan had not been completed and registered. An extension request had been submitted by the Department to the Department of Environment and Conservation for approval.
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### Annual operating plans not adequately tracked

- Departmental policy requires that annual operating plans be submitted 90 days prior to the start of the annual operating plan period and approved by the Department within 45 days of the receipt of the plan. Our review identified the following:
  - Although the Department maintained a spreadsheet of the annual operating plans received from the districts, it did not record the date the plan was received or the date approved. Without tracking the receipt and approval of annual operating plans, the Department could not determine compliance with its requirements.
  - Upon our initial visit, we requested copies of the 2009 and 2010 annual operating plans for all districts and ownerships - 25 plans for each year.

Figure 7 provides a summary of the receipt of requested plans.

### Figure 7

#### Department of Natural Resources District Annual Operating Plans 2009 and 2010

Status of Request	2009	2010	Total
Plans initially provided by Department	21	13	34
Plans subsequently provided by District	2	8	10
Plans not provided	2	4	6
<b>Total annual operating plans required</b>	<b>25</b>	<b>25</b>	<b>50</b>

As Figure 7 indicates, 16 annual operating plans were not readily provided or not provided by the Department, indicating that the Department was not adequately tracking the receipt of annual plans from the districts.

### 2B. Monitoring of Operating Plans

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#### Introduction

The Department's Ecosystem Management Division (the Division) is mainly responsible for the monitoring activities related to forestry plans and reports. For the Department to determine whether the Province's forest resources were being managed in accordance with the principles of sustained yield forest management it is important that established operating plans were monitored to ensure they were being implemented. This entails the proper monitoring of district annual operating plans and district 5-year operating plans. Our review identified the following issues:

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#### Past annual returns not adequately tracked

Past annual returns are required to be submitted to the Division by the districts and companies on the operational activities as established in the annual operating plans. The pulp and paper companies submit one past annual return for all their districts, while each Crown district submit one past annual return for each district. Departmental policy requires that past annual reports be submitted nine months after the plan year is completed. Our review identified that the Division did not maintain a record of the past annual returns received from the districts and companies, including the date the returns were received. Without tracking the receipt of past annual returns, the Division could not demonstrate that compliance with its requirements was being monitored.

The Division was requested to provide all past annual returns for the period 2006 to 2009 under the current 5-year approved annual allowable cut (AAC) period (2006-2010) to determine the level of harvest leading into the final year of the AAC. One pulp and paper company's past annual returns (covering 7 districts) for 2006 and 2009 while another pulp and paper company's past annual returns (covering 5 districts) for 2007 were not initially provided by the Division; however, they were subsequently provided. Of the 18 Crown districts required to submit annual returns each year (72 in total), 1 past annual report was initially provided, 60 were subsequently obtained by the Division from the districts and provided to us, and 11 were not provided. As a result of the missing information, an analysis of harvest levels could not be performed as part of our review.

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### Issues raised with 5-year operating plans not adequately monitored

Although all of the 5-year operating plans submitted were released from further environmental assessment, the Department of Environment and Conservation attached certain conditions to some plans. A review of a sample of the environmental releases for three district's 5-year operating plans was performed to determine if conditions were established and whether the conditions were followed up as required. Two of the three plans' releases required that the district's annual operating plans were to describe how issues raised by various stakeholders during the environmental assessment review would be addressed and to submit an annual progress report to the Department of Environment and Conservation on the outcome of those measures. A review of 2009 and 2010 plan years for the two districts identified that:

- One district's 2009 annual operating plan did not address the issues raised; however, the 2010 annual operating plan provided an appendix addressing the issues. The District submitted a 2009-10 annual progress report covering the 2009 and 2010 plan years.
- One district's 2009 and 2010 annual operating plan provided planned mitigations and the actions taken by the district; however, no annual progress reports were prepared.
- Discussions with a Department of Environment and Conservation official indicated that annual operating plans and annual progress reports were submitted to the Department as part of the conditions of a released undertaking; however, there was no formal process for verifying the information provided by the districts and verifying that the district was in compliance with the conditions of the release.

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## 2C. Monitoring of Harvesting Activities

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### Introduction

The monitoring of timber harvesting should include how much timber was harvested, what was harvested, where it was harvested and how it was harvested. The Department has various methods for monitoring the harvesting of timber including the issuance of permits and licences, field inspections, monthly scaling reports from pulp and paper companies, quarterly reporting by licence holders, the use of load slips for Crown limits, cut-over aerial photography and the submission of annual returns by district tenures.

Our review identified issues in the following areas:

- Actual harvest compared to approved harvest;
- Verification of annual return information; and
- Load slip system.

### Overview of annual allowable cut

As part of the Strategy, the Department was required to prepare a wood supply analysis for the Province. The wood supply analysis provides the annual allowable cut (AAC) that each district can harvest. The most recent 5-year timber supply analysis, covering the period 2006 to 2010, reported a softwood AAC of 2,328,470 cubic metres and a hardwood AAC of 35,490 cubic metres. Figure 8 provides a summary of the softwood AAC since 1991 and the actual harvest reported.

**Figure 8**

### Department of Natural Resources Comparison of Annual Allowable Cut Cubic Metres (Millions)

5-Year Period	Island of Newfoundland			Labrador		
	Actual Harvest Level (Note 1)	Annual Allowable Cut	Not Harvested	Actual Harvest Level (Note 1)	Annual Allowable Cut	Not Harvested
1991 - 1995	2.06	2.41	0.35	0.04	0.60	0.56
1996 - 2000	1.90	2.09	0.19	0.06	0.53	0.47
2001 - 2005	2.15	2.35	0.20	Note 2	Note 2	Note 2
2006 - 2010	Note 3	2.33	Note 3	Note 3	0.31	Note 3

Source: Department of Natural Resources information

Note 1: 5-year average harvest used

Note 2: Labrador amounts included with the Island of Newfoundland totals

Note 3: 5-year period not completed

As Figure 8 shows, since 1991, the actual harvest of wood has been below the AAC. While the actual harvest for the period 2006 to 2010 has not been compiled, Department officials indicated that with the closure of the pulp and paper mill in Grand Falls-Windsor, the shutdown of two paper machines in the pulp and paper mill in Corner Brook, and the receipt of past annual returns from the districts to date, the actual harvest levels were expected to be below the established AAC. However, notwithstanding this, we would expect the Department to track the volume of wood harvested in each district each year, and compile and report the results. Our review identified the following:

**Actual harvest not adequately compiled and monitored**

- The Department had not completely compiled the amount of wood harvested for the period 2006 to 2009 from information gathered from the past annual reports. The Department provided a 2006 to 2010 balancing report for the Eastern region; however, the report provided was not up to date (harvest to June 2009 reported). In addition, information in the report was incomplete and contained errors. For example, one district had no harvest information provided since 2006, and 1 district's harvest was recorded as 3,877 cubic metres for 2008 when the actual harvest was reported as 38,777 cubic metres. No reports were provided for the Western or Labrador regions.
- A record of past annual returns received was not maintained at the Department, and as result, we could not determine with certainty what past annual reports were received for compilation purposes. As reported earlier, upon our initial request, only one past annual report was initially provided to us.

Without up-to date, complete, and accurate information; and the compilation and monitoring of this information, the Department cannot monitor the level of wood harvested compared to the approved AAC levels for each district.

**Inadequate verification of reported harvest levels**

Our review identified that the actual harvest levels as reported by the districts and companies were not adequately verified as follows:

- The Department does not verify the accuracy of actual harvest levels as reported by the pulp and paper industry or sawmills. The Department receives monthly scaler reports from licensed scalers for all wood processed by the pulp and paper company and sawmills; however, this information was not reconciled to the paper companies' annual reports or district offices' annual returns.

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- The Department does not reconcile production amounts for sawmills to wood harvested to determine if unreported timber was being processed.
- Actual harvest levels for domestic purposes were not being verified by the districts. Districts were recording actual harvest levels based upon approved cutting permits and the assumption that the amount approved by the permit would be cut. Domestic cutters were not required to submit any returns to the District.

### Load slip system not adequately maintained

In 2002, the *Cutting of Timber Regulations* was amended which established a load slip system for the transporting of commercial timber harvested on Crown land in the Province. The *Regulations* state that a person shall not operate a vehicle on a highway in the Province that carries commercial timber without having in their possession a load slip that relates to that timber. Load slips are not required for the transportation of domestic wood or wood harvested on company tenure land.

### Figure 9

#### Wood Truck



Districts issue pre-numbered load slips (4 coloured copies) to commercial licence/permit holders on a calendar-year basis which record information on the timber licence/permit holder, driver and vehicle information, origin and destination of the wood, departure and arrival dates, amount and type of timber transported and the purchaser of the wood; including signatures of holder, driver and purchaser. The load slip also has a section for the inspection by a forestry official, if performed. Our review of the load slip system identified that load slips were not being issued, completed and returned in accordance with the *Regulations* and, more importantly, was not being utilized as a method of tracking and monitoring wood harvested. Specifically:

- Although load slips record the amount of wood transported under each commercial licence or permit, load slips were not used for tracking timber harvested in order to support quarterly returns by commercial operators. Department officials stated that the load slips were used for compliance purposes to ensure that wood was not illegally transported. Information reported on the load slips, if captured, could be a useful monitoring tool.
- The Department does not maintain a database for recording the load slips issued and returned or for recording the information gathered from the load slips.
- The Legislation and Compliance Division of the Forestry Services Branch is responsible for issuing load slips to district offices that in turn issue the load slips to licence and permit holders. Our review indicated that, for 2009, the Division maintained a manual log sheet that recorded the number of 25 slip books, 10 slip books and single load slips issued to the districts; however, the specific series of load slips issued were not recorded by the Division. As a result, the Department could not demonstrate what specific load slips were actually issued to each district.
- The *Regulations* state that a forestry check station may be established for the purpose of inspecting load slips; however, the districts we examined stated that check stations were not regularly performed. Of the 3 districts examined:
  - 1 district indicated that it did not use check stations;
  - 1 district indicated that it had established three check stations since the load slip system was introduced in 2003; and

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- 1 district indicated that it did set up check stations; however, from information provided by the district, no check stations were set up for 2009 and check stations had been set up over a 4-day period in 2010.

District officials indicated that in lieu of road side check stations, field inspections and specific surveillances were conducted.

- Our review included a sample of three districts' 2009 load slips and the controls the districts had in place for monitoring the load slips. Our review identified the following:
  - Only one of the three districts maintained a record of load slips issued to holders and load slips returned, and provided documentation that unreturned load slips were followed up through letters to permit holders and receivers. Two districts did not maintain controls over load slips issued. We obtained the issuance books used by the districts to record which holders the books were issued to and the load slips returned for these two districts. Figure 10 provides a summary of the examination of the load slips issued and returned.

**Figure 10**

### Department of Natural Resources Load Slip Review 2009

Load Slip Information	District #2	District #15	Total
Load slips issued to licence/permit holders (recorded in issuance books)	4,743	658	5,401
Load slips issued and returned by licence/permit holders	3,678	392	4,070
Load slips issued and unaccounted for	1,065	266	1,331
Load slips returned and not recorded as issued by District	195	60	255
Number of load slips returned inspected by forestry officials	2	-	2

- In accordance with section 3.3(4)(b) of the *Regulations* all receivers of commercial timber shall remit their completed load slip (pink copy) back to the district office no later than 20 days after the month the timber was harvested. Our review identified instances where the pink copy of the load slip was kept with the completed booklet which covered periods over two months.

- In accordance with section 3.2(3)(g) of the *Regulations* a person or an agent who has been issued load slips by a district shall return all load slips to the issuing district, whether they were used or unused, by January 31 of the following year. As Figure 10 shows, 1,331 of the 5,401 load slips issued were not returned (25%). In addition, we note that 80 of the 2008 load slips were returned with 2009 load slips of which 60 were used to transport timber in 2009, indicating that load slips were not returned when required.
  - As Figure 10 indicates, we examined 255 load slips that were returned to the two district offices; however, there was no record of the load slip being issued by the districts in the load slip issuance books. Without a proper accounting of load slips issued, the Department cannot determine if all load slips issued have been returned.
  - A review of load slips returned identified that the load slips were not always fully completed with missing information pertaining to the volume of wood transported, receiver details and required signatures.
  - As Figure 10 shows, only two of 4,325 load slips (4,070 and 255) we examined indicated that the load slip was inspected by a Department official. This indicates that inspections were either not being done, or the officers were not completing this section during the inspection.
  - Department officials indicated that they had concerns that load slips were being completed except for delivery dates which allowed operators/drivers to use load slips more than once if not stopped for inspection. Although the receiver is to sign off on the load slip once the timber is delivered as a control mechanism, often the holder, driver and receiver were the same individual/company, especially if the operation was for commercial firewood sales. Given that load slips were maintained with the drivers in their vehicles, the risk of this happening was present.
-

### Recommendations

The Department should:

- monitor the submission of operating plans;
- ensure conditions for the release of 5-year operating plans are met annually;
- monitor the submission of past annual returns and ensure information gathered is compiled and reported;
- verify the accuracy of actual harvest levels;
- ensure districts are maintaining the load slip system in accordance with the *Cutting of Timber Regulations*; and
- utilize the load slip system to better monitor and report on the harvesting of wood.

### 3. Controls Over Expenditures

#### Overview

During the fiscal year 2010, the Department spent \$53.7 million on forest management and protection. Figure 11 provides a summary of the Department's Forestry Services Branches' actual net expenditures for the fiscal years 2009 and 2010, and estimated net expenditures for 2011.

**Figure 11**

**Department of Natural Resources  
Forestry Services Branch  
Expenditure and Related Revenue  
Fiscal Years 2009 through to 2011  
(\$Millions)**

<b>Description</b>	<b>2009 (Actual)</b>	<b>2010 (Actual)</b>	<b>2011 (Estimates)</b>
Administration and Program Planning	\$ 9.5	\$ 8.3	\$16.8
Operations and Implementation	12.3	12.9	12.4
Silviculture Development	9.7	10.3	11.0
Resource Roads Construction	4.2	5.7	5.9
Forest Industry Diversification	-	9.0	6.5
Insect Control	3.8	3.5	3.6
Fire Suppression and Communication	3.7	4.0	4.3
<b>Gross Expenditure</b>	<b>\$43.2</b>	<b>\$53.7</b>	<b>\$60.5</b>
<b>Less Related Revenue</b>	<b>(1.6)</b>	<b>(5.8)</b>	<b>(4.9)</b>
<b>Net Expenditure</b>	<b>\$41.6</b>	<b>\$47.9</b>	<b>\$55.6</b>

Source: Public Accounts

Our review of expenditures identified issues in the following areas:

- A. Controls over Field Equipment
- B. Vehicle Leases
- C. Financial Assistance to Corner Brook Pulp and Paper Company Limited

Details are as follows:

### **3A. Controls over Field Equipment**

#### **Introduction**

During fiscal years 2009 and 2010, the Department spent \$338,653 and \$424,340 respectively on furniture and equipment under its Forestry Services Branch. Government policy states that departments are responsible for maintaining an inventory system and procedures for the accounting and control of items held in inventory.

The Department does maintain an electronic inventory system for its furniture and equipment. As at 31 March 2010, the Department's Forestry Services Branch reported \$1.13 million in furniture and equipment. A review of the Forestry Services Branch inventory identified equipment totalling \$173,452 consisting of 161 GPS units, 140 cameras, 20 binoculars, 16 video cameras, 3 scopes and 1 tripod.

Department staff perform a review of the Department's financial system, usually monthly, to identify furniture and equipment purchases over \$200 with an estimated useful life over one year. Information gathered from the payment voucher and attached support is entered into the system and a "dummy" bar code is assigned to the item until a Government asset ID tag is assigned. Information, if not available from the payment voucher and support (i.e. assigned individual, location, serial number), is subsequently obtained from the various divisions, regions and districts and the inventory system is updated.

As part of our review, we examined the Department's inventory controls over the recording and monitoring of furniture and equipment, and selected a sample of 37 pieces of field equipment (cameras, GPS units, binoculars/scopes, and accessories) for examination. Our review identified that the Department's controls over moveable field equipment were inadequate and that equipment was missing. Specifically:

**Inventory system information not up-to-date or complete**

- The inventory system only included furniture and equipment purchased up to 31 March 2010. In addition, a review of the inventory system identified that there was incomplete information as to the assigned individual/location, serial number, and Government asset number. This was a result of asset items being delivered to the requesting centre and not a central receiving department, and that necessary information was not always included on the invoice or purchase order.

Of the 37 items selected for inspection, 9 items were below the \$200 threshold and not required to be inventoried and 4 were not included in the inventory listing provided. Of the remaining 24; 17 items did not have serial numbers recorded, 23 items did not have Government asset numbers recorded and 8 items did not have the assigned individual/location listed.

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### **Inconsistent divisional/regional controls**

- Our review identified that separate inventory ledgers were maintained by some divisions and regions; however, this practice was not consistent. Our review identified:
    - 1 of the 3 regions kept a manual ledger of items issued to staff; however, this ledger had only been maintained since January 2008; and
    - 1 of the 2 divisions examined at the Headquarters building maintained a computerized control sheet; however, the listing had only been kept since March 2010, a complete inventory had not been completed and the ledger did not record the serial number or Government asset number of the inventory item.
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### **Government asset number not always assigned or affixed**

- From a review of the inventory system it was evident that Government asset numbers were not always assigned and affixed to equipment. Department officials indicated that Government asset numbers were not always affixed to field equipment either due to the small size of the equipment; the equipment was used outdoors and susceptible to the elements, or in certain cases, not affixed due to the sensitive nature of surveillance operations. In the absence of a Government asset number, Department officials stated the serial number was used as an identification number; however, the inventory system did not always record the serial number.
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### **Inventory counts not performed annually**

- The Department does not perform annual inventory counts of furniture and equipment. Department officials indicated that periodic field visits were performed to gather missing information for the inventory system and audits were conducted to verify the existence of assets; however, this was performed on an ad hoc basis.
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### **Equipment not always accounted for**

- Our review included an examination of 37 items of field equipment purchased during fiscal years 2009 and 2010. This included 17 cameras, 9 GPS units, 4 binoculars, 2 scopes, 2 tripods, 2 lenses, and 1 carrying bag. The results of our examination were as follows:
  - 2 items were not located: one GPS costing \$265 was not found (assigned employee had different GPS unit) and 1 camera costing \$100 was reported by the assigned individual as being missing, lost or stolen; however, it was only reported to the supervisor upon our request to inspect the camera.

- 5 items were not located at the time of our enquiry; however, they were later presented for inspection. Officials indicated that 1 sighting scope costing \$2,549 was located in a box behind the door of a photocopier room (found 1 ½ months after our initial enquiry), 1 camera costing \$188 was in an employee's travel bag and located at the employee's home, 1 tripod costing \$385 was located in an employee's vehicle (this employee did not know the whereabouts of the tripod when we first enquired), 1 camera costing \$179 was located, however, it was not with the assigned employee and 1 camera costing \$188 was on loan to a Clerk Typist III since 25 June 2010 and located at the employee's residence. The camera was returned the following day and inspected on 29 October 2010. A subsequent review of the Division's inventory ledger identified that the employee also had a GPS unit on loan since 7 April 2010. It is questionable why this Clerk Typist III (not responsible for field operations) would have field equipment.
- 30 items were located; however, due to either the absence of Government identification tags or serial numbers not recorded for 19 of these items, we could not determine whether the assets located were the assets selected for inspection.

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### 3B. Vehicle Leases

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#### Introduction

Each year, the Department seeks approval from the Department of Finance – Treasury Board for an exemption to the freeze on the lease of vehicles in order to carry out seasonal field operations related to various programs including silviculture, resource roads, insect spray, inventory, and fire suppression. During the fiscal year 2010, the Department paid approximately \$449,000 to five rental companies (fiscal year 2009 - \$311,000 to six rental companies) for the long term rental of vehicles.

#### Analysis not completed on leasing vehicles versus purchasing vehicles

During the fiscal year 2010, the Department was authorized to lease 46 vehicles for its Forestry Services Branch operations for periods ranging from one month to nine months. Based upon the awarded tendered prices for the vehicle leasing contract (\$1,849 per month for Newfoundland and \$2,299 per month for Labrador), the Department's estimated contract would be \$453,660. For fiscal year 2011, the Department also had approval to lease 46 vehicles over various monthly periods.

The Department had not completed a detailed cost-benefit analysis to determine if leasing vehicles was more economical than purchasing vehicles. Based upon the vehicle lease expenditures for fiscal years 2009 and 2010, and that 2011 expenditures were expected to reflect fiscal year 2010 expenditures, the Department would spend approximately \$1.2 million over 3 years. Based upon the purchase price of \$22,000 paid by the Department during fiscal year 2010 for a 4 X 4 extended cab (same vehicles type leased), the Department could have purchased 54 vehicles available for use throughout the year. Department officials indicated that they were aware of the high cost of leasing vehicles.

### 3C. Financial Assistance to Corner Brook Pulp and Paper Company Limited

#### Introduction

Since 1 April 2009, the Department has provided or has approved assistance to Corner Brook Pulp and Paper Company Limited totalling \$26.3 million.

Figure 12 provides a summary of this assistance.

**Figure 12**

#### Department of Natural Resources Assistance Provided to Corner Brook Pulp and Paper Company Limited Fiscal Years 2009 to 2011

Agreement Date	Approved Assistance	Nature of Agreement
31 March 2009	\$ 1,000,000	Cost-shared agreement for the subsidization of the purchase and transportation of wood by company as an alternate fuel source.
30 March 2010	13,292,701	Transfer and extension of various timber harvesting rights in 7 districts for 9 to 27 years in exchange for Province assuming 100% cost of various cost-shared forest management programs.
30 June 2010	12,000,000	Assignment of all rights under all or partial company timber licences in 6 districts covering 447,427 hectares in exchange for \$12 million to be paid over 2 years.
<b>Total</b>	<b>\$26,292,701</b>	

Source: Department of Natural Resources' agreements

## Forestry Management

### 31 March 2009 Agreement

The 31 March 2009 agreement was a cost-shared agreement with the pulp and paper company to subsidize the company for the purchase and transport from the Northern Peninsula a maximum of 40,000 cubic metres of wood at a contribution price of \$25 per cubic metre as part of an economic study to convert wood to an alternate green fuel source. The \$1 million was paid in April 2009 under the Department's Forest Industry Diversification Fund. Our review identified the following:

- Although the purchase and transportation of wood began in May 2008 and finished in January 2009, the contribution agreement was not signed by the Minister until 27 March 2009. We also note that the agreement stated that once the agreement was executed by both parties, the agreement would be effective 1 June 2008.
- Although the agreement was identified as a cost-shared arrangement, there was no indication as to what the Province's percentage would be and there was no documentation on file at the Department to support the basis on which the Province's \$25 per cubic metre contribution was calculated.
- Although the agreement required the company to provide the Minister with a report on all activities under the agreement, the Department did not require the company to provide details as to whether cost/energy savings materialized, or if burning wood was a viable alternative to burning fossil fuel.

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### 30 March 2010 agreement

The 30 March 2010 agreement provided financial assistance totalling \$13.3 million to the company in the form of releasing the company from its share of forest management initiatives relating to silviculture, insect control and forest inventory over three years, exempting the company from paying land management tax under the *Forest Land Management and Taxation Regulations*, and reimbursing the company for two projects (a biomass project and a resource road project). In exchange, the Province either received or was extended harvesting rights in 7 districts for 9 to 27 years.

Our review identified that the Department could not provide any evidence as to how the new or extended harvesting rights were valued at \$13.3 million.

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## Forestry Management

### 30 June 2010 agreement

The 30 June 2010 agreement provided financial assistance of \$12 million (\$6 million on 30 June 2010 and \$6 million on 30 June 2011) to the company in exchange for the assignment to the Province of all or partial rights, titles, duties and obligations under timber licences covering 447,427.28 hectares of land in 6 districts for the remaining term of those licences.

Our review identified that a separate land valuation was not prepared in order to accurately determine the land value. Instead, the price was determined by using \$20.06 per hectare, the price used in a 1994 land sales agreement with the company, indexed to 2010 dollars (i.e. \$26.82 per hectare). It is questionable whether the use of one land base price reflects an accurate valuation of another land base due to land base type, volume of wood present, the intrinsic values associated with the land, etc. In our opinion, a separate land valuation should have been determined with the 1994 established price used as one source of information.

### Recommendations

The Department should:

- ensure controls over the safeguarding of field equipment are adequate;
- analyze its options for the acquisition of vehicles; and
- ensure documentation is maintained to support the agreements and the financial assistance provided.

## Department's Response

### PLANNING

*The Forestry Services Branch has one of the most comprehensive resource planning processes in Government. The system consists of (i) a 20 Year Provincial Sustainable Forest Management Strategy, which is re-written every 10 years; (ii) a three Year Departmental Strategy (of which forest management is an integral part) that is approved by the Minister and tabled in the House of Assembly; (iii) Five Year Operating Plan for each tenure within each Forest Management District in the Province, where large-scale commercial forestry activities are occurring (a total of 23 Five Year Operating Plans) ; (iv) for each 5 Year Operating Plan , an Annual Operating Plan is developed, approved and implemented each year – giving a*

*total of 115 Annual Operating Plans over the five year period ; (v) each annual plan is followed by a Past Annual Report.*

*It should also be remembered that all the Five Year Operating Plans are a result of a 12 to 14 month consultation process with all interested stakeholders, including the general public. Thereafter, each Plan is submitted to Environmental Assessment for further review and consultation – all before the Plan can be implemented. In addition to all these plans, the Agency conducts a provincial wood supply analysis every five years in support of the development of the Five Year Operating Plans. We plan annually for our forest protection programs and we have a very comprehensive research strategy. The Agency employs planning staff in each of the three regions in it's structure, and makes use of the most up to date GIS planning technology in each of it's district offices. The Agency has a very good track record of planning and consulting on the activities required to ensure the sustainability of a provincial resource.*

*The Agency acknowledges that it has not officially adopted its 2007 ecosystem – based planning guidelines, but these current planning guidelines are being used and were developed from two former sets of guidelines. These guidelines are “ecosystem-based” and are much more stringent, exceeding the requirements outlined in the past guidelines. With that said, the Agency intends to formalize new ecosystem-based planning guidelines by 2012.*

*The Agency acknowledges that it has not updated its 1998 Environmental Protection Guidelines, but will commit to reviewing the current guidelines having new ones in place by 2012.*

*The Agency acknowledges that it has not yet had the draft Sustainable Forest Management Planning Regulations gazetted, but will have them gazetted in 2011.*

*The Agency's planning periods are consistently applied and consistently met. However, by their very nature, the 20 Year Provincial Sustainable Forest Management Strategy and Five Year Operating Plans have to be developed at different times, and as a result, creating different planning periods. The Five Year Operating Plans have staggered development and implementation periods. This is quite deliberate and reflects the outcome of Forestry - Environmental Assessment planning review committee which was set up some years ago to assess the forest management planning process. It was determined at that time that the Environmental Assessment process was being overwhelmed when too many Five Year Operating Plans were being registered at the same time. In addition, it was determined that running too many public planning teams concurrently prevented other Government*

*Departments and Agencies, as well as NGOs and the general public, from engaging fully in each and every planning process. While the Agency agrees that it would be beneficial from a planning perspective to have all the plans and the wood supply analysis renewed at the same time, careful and repeated study of this option suggests it is simply not feasible given administrative limitations and potential legal implications. Still, this option will be given further consideration again in 2011 in light of these recommendations*

*The Agency acknowledges that it has not fully developed or established measurable targets for the CCFM C&I referenced in the 20 Year Provincial Sustainable Forest Management Strategy. However, the Agency established a new Research Division in late 2009 and a priority for this new Division is to initiate a review of these targets, with the objective of establishing new, measurable targets and a new system of reporting. The new research division currently has several research projects underway which are designed to address needs associated with Ecosystem Management guidelines and Criteria & Indicators. For example, on-going projects are in place on Marten Research, Red Pine research, Species at Risk, moose impacts, etc.*

*The Agency is not required to provide the House of Assembly with an annual report on progress on the initiatives outlined in its 20 Year Provincial Sustainable Forest Management Strategy. Thus, the Auditor General's reference to this reporting requirement is incorrect and we believe has been confused with the Department's strategic plan. While the Agency will acknowledge that several of the Strategy's initiatives are still on-going, considerable progress has been achieved and more will occur before this strategy expires and a new Strategy is released in 2014.*

*The Agency has conducted a significant review of planning processes, both internally and in conjunction with the Environmental Assessment division, and is in the final stages of implementing new planning legislation and planning procedures.*

*In the last paragraph [page number], a reference is made to the lack of a "formal process for verifying the information provided by the districts and verifying that the district was in compliance with the conditions of release." Where the Environmental Assessment division makes it a condition of release that the Agency will supply progress reports, we do.*

### **AERIAL PHOTOGRAPHY**

*The Agency has successfully established a modern Inventory and Mapping Program that is comparable to any in Canada. Major strides have been made to become as effective, efficient and as timely as possible in the delivery of this Program. To facilitate this, the Program received a significant increase in resources in 2007/08 and the Agency is working hard to achieve the goals and objectives set out for this Program.*

*It should be taken into consideration that meeting the objective of obtaining aerial photography of 10% of the Island's landbase each year has only been achievable since 2007, when the Inventory Program received additional funding. Since that time, the Agency has indeed flown 10% of the landbase in 2007, 2008, 2009 and 2010. Since the objective was only set in 2006, the goal of re-flying each District on a ten-year rotation will not be fully achieved until 2016. The area flown in 2007 (District 16) is scheduled to be re-flown in 2016; the area flown in 2008 is scheduled to be re-flown in 2017, etc. This represents a 10-year cycle that is being met and not a 12 to 17 year cycle as reported.*

*The same holds true for the 18 month turn-around from time of receiving new photographs to completion of interpretation and digitizing. This objective was set in 2006 and, with the additional funding; the Agency continues to make significant progress towards meeting this objective, mainly through contracting out. Still, it should be realized that it may not always be possible to achieve the 18 month turn-around due to factors outside the control of the Agency. The Agency will continue to make improvements towards meeting this objective, but we will also continue to manage this program with the higher order objective of focusing our priority on improving our databases in areas where they are needed the most.*

*On average, approximately 4,550 photos are obtained annually to meet our 10 year re-inventory cycle. Since 2006, the Agency has acquired all photographs needed to meet our 10 year re-inventory cycle, plus we have expanded photo acquisition into areas not previously inventoried to the extent of acquiring 6,900 extra photographs. Thus, based on the Agency's 10 year re-inventory schedule, we have met or exceeded our objective of acquiring new photography for 10% of the forested area of the Island (Table 1). The statement "that none of the 18 Island Districts have been completely re-photographed within the past 10 years", while technically correct, is misleading. The Agency obviously prioritizes new photography to those parts of the province that support productive forests. That being said, during each inventory cycle, gaps are being filled in the Island inventory, but only as funding and other resources permit.*

*Table 1. Summary of air photos acquired since 2006*

Year	Number of photos in Scheduled Areas	Number of photos outside of Scheduled Areas	Number of Photos in Labrador (Not in Schedule)
2006	3,143	1,187	1,209
2007	4,763		2,064
2008	5,358	260	1,099
2009	5,273		
2010	3,604	3,125	
Total	22,141	6,949	4,372
Annual Average	4,428	1,390	874

### **AGENCY RESPONSE TO SECTION 1 RECOMMENDATIONS**

- *The Agency has established and is using planning guidelines, but will formalize new guidelines by 2012.*
- *The Agency will have the draft Sustainable Forest Management Planning Regulations gazetted in 2011.*
- *The Agency will establish measurable forestry targets for strategy indicators.*
- *The Agency will continue to monitor and report internally on its progress on achieving objectives set out in its 20 Provincial Sustainable Forest Management Strategy.*
- *The Agency will continue to meet its 10 year aerial photography acquisition objective and the 18 month turn-around objective for interpretation and mapping.*

*In conclusion, the Agency firmly believes that it has a resource planning process comparable to any other in the country. At the same time, we have accepted that we will implement a continuous improvement approach, which includes our planning process. Again, as a first step towards Forest Certification, and prior to the commencement of this audit, the Agency has already started the process to have its forestry activities and planning processes become ISO 14001 certified for all Crown forests. The processes necessary to receive this designation will place considerably more emphasis and commitment to improving our planning processes.*

### **SECTION 2. MONITORING AND REPORTING**

#### **2A. Submission Requirements**

*The Agency acknowledges that it has not met the 180 day Environmental Assessment submission requirement for its Five Year Operating Plans. Because of the commitment to public consultation during our plan development process, and our efforts to address and resolve land-use conflicts prior to Environmental Assessment registration, adherence to this deadline has been very challenging. The Agency will continue discussions with the Environmental Assessment division and will consider all options which could improve this process.*

#### **2B. Monitoring of Operating Plans and Past Annual Reports**

*While the Agency acknowledges that it could not provide all the requested Annual Operating Plans from our headquarters records when initially requested, all plans were on file in the district offices where they were written and they were provided during the course of the audit. Even so, the Agency acknowledges that improvements can and will be made in its tracking of the receipt of Annual Operating Plans.*

*While the Agency acknowledges that it could not provide all the requested Past Annual Reports from our headquarters records when initially requested, most of the reports were on file in the district offices where they were written and these were provided during the course of the audit. Even so, the Agency acknowledges that improvements can and will be made to its tracking of the receipt of Past Annual Reports.*

*The Agency has acknowledged that it will become more rigorous in reporting its progress in meeting the Environmental Assessment release conditions associated with its Five Year Operating Plans. Prior to this audit being initiated, the Agency had already received direction to implement ISO 14001 on its forest management activities in the province. The auditors were aware of this at our initial meeting on this audit. We have been focusing our attention on preparing ourselves for this system since September and, once implemented, we will be maintaining a comprehensive library of these records in our Legislation and Compliance division. This system will be subjected to external audits on an annual basis.*

### **2C. Monitoring of Harvesting Activities**

*The Agency tracks the annual harvest drains on the Province's timber resource but acknowledges that it needs to and will improve its record keeping of timber harvested. In fact, by the fall of 2011, the Agency will have completed a summary of the past five years of harvest on a District basis and will have compared this to the sustainable annual allowable harvest level over the same period.*

### **AGENCY RESPONSE TO SECTION 2 RECOMMENDATIONS**

- *The Agency is committed to and has already started to make improvements with respect to the receipt, monitoring and compilation of information contained in its Annual Operating Plans and Past Annual Reports.*
- *The Agency will become more rigorous in reporting its progress in meeting the EA release conditions associated with its Five Year Operating Plans.*
- *The Agency will improve the timeliness for verifying the annual harvest level on a District basis.*
- *The Agency shall be evaluating the load slip system in 2011 and has already struck an internal committee to begin this review. We will implement changes to make significant improvements in program delivery.*

*In conclusion, the Agency is implementing a continuous improvement approach to our forest management activities, especially in the aspects of reporting, monitoring, recording and documentation. Again, as a first step towards Forest Certification, and prior to the commencement of this audit, the Agency has already started the process to have its forestry activities and monitoring processes become ISO 14001 certified for all Crown forests. The processes necessary to receive this designation will place considerably more emphasis and commitment to improving our monitoring procedures.*

## **SECTION 3. CONTROLS OVER EXPENDITURES**

### **3A. Controls over Field Equipment**

*The Agency acknowledges the inconsistencies in inventory control that were highlighted in the report and we agree that we can be more consistent in assigning asset numbers to items purchased and in maintaining a Divisional/Regional inventory ledger. Steps have already been taken to correct this and more inventory audits will be conducted by our financial operations division.*

*The Agency acknowledges that the current inventory system only includes furniture and equipment purchased up to 31 March 2010. Efforts are currently underway to bring the inventory system up to date and the Agency will be scheduling a meeting with the software manufacturers of the current inventory system to ensure that we are utilizing the current system to its full potential, in an attempt to alleviate some of the data control issues outlined in this report. It should also be noted that the Financial Operations Division of the Department is currently in the process of developing new Inventory Policies and it is anticipated that these new policies will be implemented effective April 1, 2011, and will outline more detailed and specific responsibilities for those involved in the Inventory Control process across the Department.*

*With specific reference to Clerk Typist III and the GPS unit, this GPS was a directional finder GPS with city street capabilities and is used for driving purposes. Both the camera and Directional GPS unit were properly signed out on an inventory sheet maintained by the Division.*

### **3B. Vehicle Leases**

*First of all, it should be noted that the Agency follows government's fleet management policy when acquiring rental vehicles. The Agency maintains a very large vehicle fleet for our programs and divisions that require them for year round operations, and we rent additional vehicles for our seasonal operations, where vehicles are only required intermittently (i.e. road construction, silviculture, forest protection). While the Agency has not yet completed a detailed cost-benefit analysis to determine if leasing vehicles is more economical than purchasing, a significant amount of research has taken place over the past several years. Fleet management will be made aware of the recommendation and we will collectively determine whether it is necessary to move forward with a cost-benefit analysis.*

### **3C. Financial Assistance to Corner Brook Pulp and Paper (CBPPL)**

*In early spring of 2008, CBBPL advised the Agency that they would no longer be purchasing pulpwood from the Northern Peninsula, but that they were interested in entering into a partnership with the Agency to carry out a biomass study. Numerous discussions were held with CBPPL who were told that, while the Agency was interested, it would first need to obtain Government approval. CBPPL decided to begin receiving biomass in Deer Lake on the strength of the Agency seeking Government approval. Approval was given in late summer of 2008 and a contract was prepared retroactive to the beginning of the program. Minor changes in contract wording led to delays in signing the contract until the following winter.*

*The actual amount paid varied depending upon where on the Northern Peninsula the biomass wood was harvested. The costing formula provided by CBPPL was confidential and the Agency respected their request to treat this information as such.*

*Detailed scaling reports, as well as at the final delivery date, were provided to the auditors. While no final report was completed on the study, a technical presentation was given by CBPPL to Agency officials at a one day conference in Corner Brook during the winter of 2009, where details of the study were discussed, along with the final scaling reports. This approach was deemed to satisfy the terms of the agreement.*

*The Agency would like to highlight that the March 30, 2010 agreement to provide \$13.3 M in financial assistance to CBPPL was a decision by Government and was to be achieved by giving CBPPL multi-year relief from contribution to several cost-shared Agreements as well as forgiveness of Managed Forest Land Tax. The receipt of new or extended harvesting rights was part of the intent of this assistance but it was not implicitly linked to the value of the assistance.*

*The Agency feels that the approach used in 1994 to arrive at a per hectare valuation for CBPPL land is also applicable in 2010. Consequently, the Agency made the decision that a new approach to land valuation was not necessary. It elected instead to use the 1994 approach, adjusted for inflation to 2010, using a formula approved by the Bank of Canada.*

### **AGENCY RESPONSE TO SECTION 3 RECOMMENDATIONS**

- *The Agency has already taken steps to ensure more consistent and better control/ safeguarding of its field equipment, including an improved inventory system of recording and accounting for all purchases.*
- *The Agency will ensure that fleet management is aware of the recommendation of having a cost – benefit analysis completed of renting versus purchasing vehicles. It needs to be noted that the authority to adopt an alternative approach does not rest with the Agency.*
- *The Agency will continue to provide proper documentation to support financial assistance agreements.*

**PART 2.15**

**DEPARTMENT OF TRANSPORTATION AND WORKS**

**VEHICLE FLEET MANAGEMENT**

### Executive Summary

In 1979, Cabinet assigned the responsibility for monitoring and managing Government's light vehicle fleet (comprised of cars, vans, 2WD pickups, 4WD pickups, SUVs, ATVs and snowmobiles) to the Department of Transportation and Works (the Department). To fulfill this responsibility, a Vehicle Fleet Management Branch (VFM Branch) under the Equipment Maintenance Division was established.

In 2003, Government established an interdepartmental Light Vehicle Acquisition Committee to oversee and make recommendations to Treasury Board on issues related to light vehicle acquisition. Effectively, the Committee has to provide its approval before any light vehicle can be either purchased or rented for periods in excess of 30 days. The Committee is chaired by the Department of Finance's Director of Budgeting and has three other members - the CEO of the Government Purchasing Agency, the Assistant Deputy Minister of Municipal Affairs, and a Program and Policy Development Specialist with the Department of Natural Resources.

As at 19 March 2010, there were 1,498 light vehicles operating in 14 Government departments and The Rooms Corporation. These light vehicles were comprised of 191 - cars, 107 - vans, 314 - 2WD pickups, 367 - 4WD pickups, 54 - SUVs, 198 - ATVs and 267 - snowmobiles. The estimated cost of Government's light vehicle fleet was approximately \$28 million. Further details on Government's light vehicle fleet are included in Figure 2.

In addition to purchasing light vehicles, Government also spends significant amounts of money on rentals (defined as light vehicles rented for periods in excess of 30 days). For the 2010 fiscal year, a total of \$1.7 million was spent to rent 154 light vehicles. Further details on Government's rented light vehicles are included in Figure 9.

Government's light vehicle fleet has been the subject of two reviews, one in 2003 (Light Vehicle Fleet Management Review) and one in 2006 (Light Vehicle Fleet Review). These reviews were conducted by intergovernmental teams created by Treasury Board to analyze the management of the light vehicle fleet and provide recommendations for the improvement of VFM Branch operations.

## Vehicle Fleet Management

Our review identified a number of significant issues relating to the acquisition, operation and monitoring of Government's light vehicles. For example, although light vehicles were eligible to be repaired under warranty, Government sometimes opted to pay for repairs at local service stations. In addition, the Department did not know how many vehicles were authorized to be kept at employees' residences, not all recreational vehicles could be accounted for, the number of light vehicles in the fleet had increased and there had been a shift towards more 4WD vehicles and upscale highway vehicles (cars, pickups and SUVs) for job positions. Furthermore, the Department's information system does not provide the necessary information to adequately monitor Government's light vehicles.

We also found issues relating to Government rented light vehicles such as vehicle rental costs near the cost of purchasing a new vehicle and vehicles rented for periods in excess of Government policy. Details are as follows:

### Acquisition

- Contrary to the recommendation in the report on the Light Vehicle Fleet Review (the 2006 Report) to reduce the size of the fleet by 18 highway vehicles from 942 in 2006 to 924, we found that the fleet size increased by 91 highway vehicles from 942 in 2006 to 1,033 as at 19 March 2010.
- In 2002, Government owned and operated 156 - 4WD pickups and 405 - 2WD pickups while as at 19 March 2010, there were 367 - 4WD pickups (135.3% increase) and 314 - 2WD pickups (22.5% decrease). Highway vehicles are becoming larger and more powerful for job positions in which smaller highway vehicles used to be sufficient. See Figure 6.
- An official at the Department indicated that some Government departments appear to purchase light vehicles outside the timeframe of the standing offer arrangement (between August and December each year) in order to acquire upscale highway vehicles. In the 2010 fiscal year, 37 light vehicles costing approximately \$800,000 and in the 2009 fiscal year, 76 light vehicles costing approximately \$1.5 million were acquired outside the standing offer timeframe. To illustrate, a Ford Expedition SUV was purchased on 18 March 2010 for the High Sheriff's office and cost \$62,000 compared to the average cost of approximately \$40,000 for similar, less upscale highway vehicles.

- According to information contained in the Equipment Management System and contrary to Government policy, 219 (21.2%) highway vehicles were operated below the 20,000 kilometre annual usage rate required to justify the purchase and continued use of a highway vehicle. This demonstrates the limitations of mileage estimates by departments in support of proposed acquisitions. See Figure 5.

### Operation

- VFM Branch officials indicated that manufacturers' warranties were not monitored within the light vehicle fleet. In at least some cases, departments have opted to pay the full price for warranty repairs at local service stations. For example, a 2005 Dodge SX 2.0 had an alternator repaired for \$210 which is covered under the 7 year / 115,000 kilometre power train warranty. We note that this issue was also raised in the 2006 Report.
- The Department could not provide details as to which highway vehicles had been approved to be taken by employees and parked at their residence after normal working hours in order to reach job sites outside of their headquarters. Officials at the Department expressed similar concerns as those identified in the 2006 Report, which stated that *"It is suggested that most of these 'approvals' benefit the employee rather than the Department as well as lead to unauthorized after hours personal use of some vehicles."*
- Although the Department maintains an electronic file of drivers' licence numbers relating to Government employees who drive Government light vehicles, the file is neither current nor accurate. Departments only provide licence information when an employee is authorized to drive a Government light vehicle and do not report back when the employee either terminates employment or ceases to drive a Government light vehicle. Furthermore, the Department only submits the licence information on a semi-annual basis to the Motor Registration Division (MRD) to check for licence suspension. Other than notifying a department of an issue by way of letter, there is no additional follow-up as to the final disposition of issues identified.

In November 2010, the Department submitted information from its electronic file to MRD and a total of 34 drivers were identified as not having a current, valid driver's licence (suspended). This result was not unexpected given the 2006 Report, wherein it was noted that *"Historically, VFM has found an alarming number of individuals who do not have a valid driver's licence."*

## Vehicle Fleet Management

- Contrary to the 2006 Report recommendation that the optimum highway vehicle life be the lesser of either 8 years or 250,000 kilometres, we identified 127 highway vehicles that had exceeded their optimum useful life. As a result, it is likely that Government is incurring additional costs to maintain and operate these highway vehicles. It is difficult to identify increased operating costs given the limitations in the Department's Equipment Management System.
- Contrary to Government policy, we identified 10 highway vehicles that were operating without the required markings, i.e. Government licence plates (8), vehicle number (2) and Government logo (1).

### Monitoring

- The Equipment Management System (EMS) implemented by the Department to monitor Government's light vehicle fleet does not provide the information required to properly monitor and manage light vehicles and related costs. We found that information entered into the EMS was not timely, complete or accurate. For example:
  - officials estimate that less than 10% of all light vehicle repairs, other than at depots, were recorded;
  - information on fuel charges was not recorded;
  - there were data input errors which resulted in such things as misclassifications of light vehicles, incorrect locations and incorrect kilometre readings;
  - although Government policy requires that kilometre reports be submitted every 3 months, departments had not provided this information for a significant number of assigned light vehicles. It was also noted that for kilometre readings that were provided, the Department sometimes did not enter the readings for as long as a year after they were received; and
  - the current status (i.e. active, inoperable or disposed of) of the light vehicles was not always accurate. For example, we found items recorded as active in the Government department's inventory records even though the EMS had identified the light vehicle as being inoperable or disposed of.

## Vehicle Fleet Management

Although Government policy requires departments to forward light vehicle information to the Department, for the most part, departments are not providing the information. Furthermore, the Department does not actively pursue the information from departments.

- As at 19 March 2010, the EMS identified that 56 (12.0%) of the 465 recreational vehicles were missing. We also found that 49 of the 56 missing recreational vehicles were assigned to the Department of Natural Resources.

We note that the 2006 Report referred to 80 missing recreational vehicles and indicated that *“To have this number of machines unaccounted [for] is unacceptable and increased monitoring of both ATVs and snow machines is strongly recommended.”* The Report noted that 67 of the 80 missing recreational vehicles were assigned to the Department of Natural Resources and the Department of Fisheries and Aquaculture.

### Rented Vehicles

- The Light Vehicle Acquisition Committee is, contrary to Government policy, approving rentals for periods in excess of 5 months. In the 2010 fiscal year, 107 of 154 (69.5%) rentals were approved for periods of 6 months or greater. For example, two 4WD pickups were approved for rental for a period of 18 months at a cost of \$13,725 each.
- We identified 13 rentals where rental costs were near the purchase price of a similar light vehicle in the fleet. For example, in the 2010 fiscal year, one pickup was approved for rental for a 12 month period at a total cost of \$19,140, while Government could have purchased a similar vehicle for an additional \$2,000. The 2006 Report indicated that *“...the annual cost of rentals may be better spent by obtaining vehicles in another process. Vehicle Fleet Management should undertake a detailed analysis of the rentals in the past five years to see if: - Similar rentals each summer would be more cost effective to assign a government vehicle instead of an annual rental...”* The Department conducted this analysis for the 2010 fiscal year and forwarded the results to Treasury Board for consideration. A more detailed analysis was ordered to explain the benefits and drawbacks of renting long-term and this was expected to be completed by 31 December 2010.

## Vehicle Fleet Management

- The Department has limited oversight with regard to rented light vehicles. Monitoring of these light vehicles is limited to a manual file that lists the rentals engaged for the fiscal period and the operating costs associated with the use of Government credit cards. The Department does not request information from departments on data for rented light vehicles, such as repair costs or kilometre reports.

## Background

### Overview

In 1979, Cabinet assigned the Department of Transportation and Works (the Department) with the responsibility for the monitoring and management of the light vehicle fleet (the fleet). To fulfill this mandate, the Department created the Vehicle Fleet Management Branch (VFM Branch) under the Equipment Maintenance Division. The VFM Branch is to monitor and review the operations of both the light and heavy vehicle fleets. The light vehicle fleet is comprised of both highway (cars, vans, pickups, SUVs) and recreational (ATVs, snowmobiles) vehicles and is used in various enforcement duties, transportation to remote worksites, and in support of the regulatory duties of Government departments.

The Department is responsible for the acquisition, monitoring, management, and disposal of all light vehicles. Light vehicles are monitored to ensure that they are operated and maintained according to the Vehicle Fleet Management Policy and Procedures Manual (the Policy Manual). Maintenance is permitted at a private business under Government direction or at one of the Department-maintained service depots. The fuel for the light vehicle fleet is provided by the depots or through the use of credit cards for fuel purchases at private businesses. The Department also maintains a computerized system known as the Equipment Management System (the EMS) which is designed to track a variety of information about the light vehicle and heavy equipment fleets (e.g. age, maintenance schedule and costs).

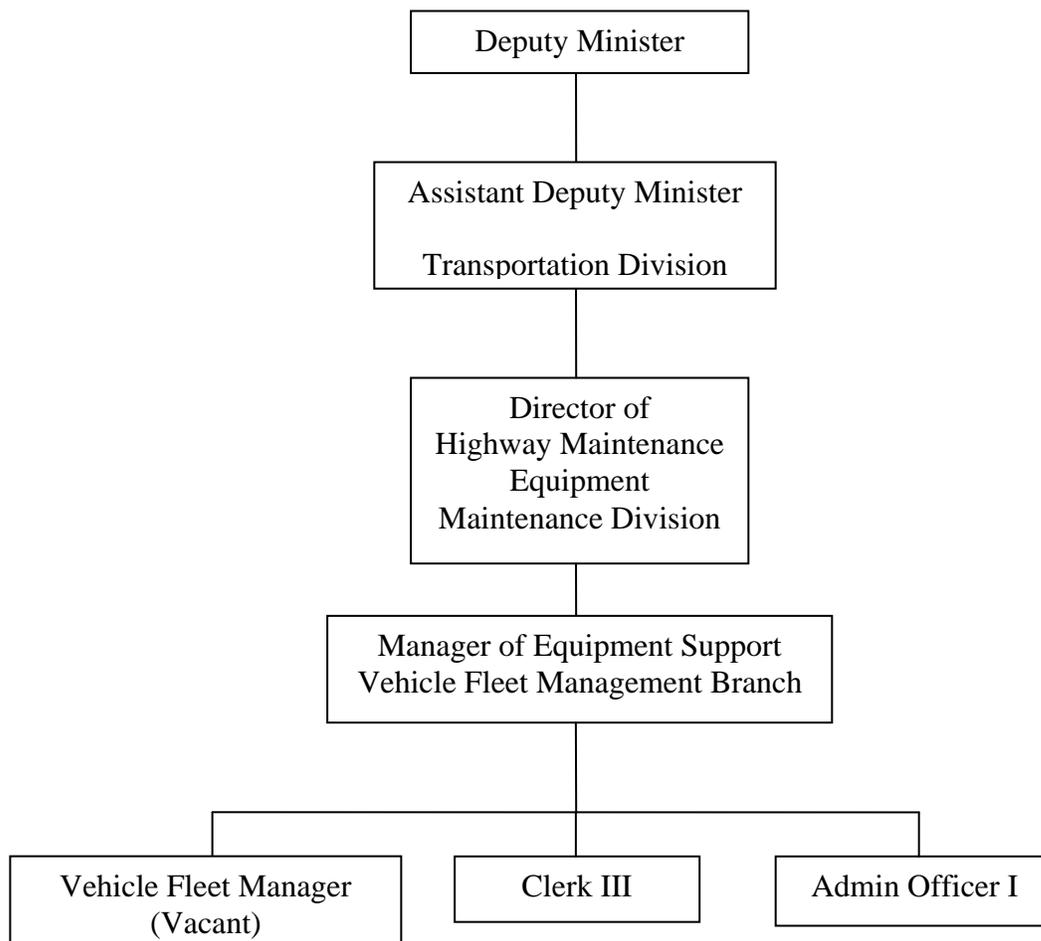
Departments are responsible for ensuring that light vehicles are used according to Government policies and regulations. Employees are required to complete all appropriate driver information forms related to the use of a light vehicle as well as keep a log of all light vehicle operations. Maintenance schedules are to be followed to minimize the costs of operation and the risks of mechanical failure. Departments are also responsible for ensuring that all rules of the road are obeyed and that light vehicles are not operated for non-Government or personal purposes.

## Vehicle Fleet Management

**Prior Report** In the 1997 Annual Report of the Auditor General, we reviewed the operations of the Vehicle Fleet Management Branch (VFM Branch) of the Department of Works, Services and Transportation (now Transportation and Works). In that Report, we highlighted a number of weaknesses in the processes of the VFM Branch and areas where these operations could be improved. A significant amount of time has passed since that last report and a new review was conducted to determine the current condition of light vehicle fleet management within Government. The organizational structure of the VFM Branch and the Division in which it is situated has experienced little change since our previous Report. Figure 1 provides information on the organizational structure of the VFM Branch of the Equipment Maintenance Division.

**Figure 1**

**Vehicle Fleet Management  
Organizational Chart  
31 March 2010**



## Vehicle Fleet Management

As Figure 1 shows, the VFM Branch is comprised of four staff positions. The position of Vehicle Fleet Manager has been vacant since the 2006 fiscal year, with the responsibilities falling to the position of Manager of Equipment Support. This manager is responsible for the administration of the heavy equipment and light vehicle fleets.

### Light vehicle fleet

A light vehicle is considered to be any vehicle that is primarily used as a means of transportation for Government personnel. These range from small compact sedans to full sized 4x4 pickups and SUVs, as well as various recreational vehicles. Vehicles that are designed to fill a specific function (such as clearing roads or digging a trench) are considered to be heavy equipment. Figure 2 shows inventory information on the light vehicle fleet.

**Figure 2**

### Operational Light Vehicle Inventory As at 19 March 2010

Department	Highway Vehicles						Recreational Vehicles			Grand Total	Estimated Cost (000's)
	Cars	Vans	2WD Pickups	4WD Pickups	SUVs	Sub-Total	ATVs	Snow-mobiles	Sub-Total		
Environment and Conservation	4	7	28	49	10	98	35	58	93	191	\$ 3,111
Executive Council	2	-	-	1	-	3	-	-	-	3	61
Finance	-	-	4	-	-	4	-	-	-	4	74
Fisheries and Aquaculture	14	1	12	6	-	33	-	3	3	36	717
Government Purchasing Agency	-	1	-	-	-	1	-	-	-	1	21
Government Services	46	1	33	14	1	95	6	5	11	106	2,060
Human Resources, Labour and Employment	-	-	-	-	-	-	1	3	4	4	31
Innovation, Trade and Rural Development	6	-	-	1	2	9	-	2	2	11	188
Justice	93	36	3	5	12	149	19	17	36	185	4,301
Labrador and Aboriginal Affairs	-	-	-	-	-	-	-	1	1	1	8
Municipal Affairs	-	1	6	3	-	10	-	-	-	10	266

## Vehicle Fleet Management

Department	Highway Vehicles						Recreational Vehicles			Grand Total	Estimated Cost (000's)
	Cars	Vans	2WD Pickups	4WD Pickups	SUVs	Sub-Total	ATVs	Snow-mobiles	Sub-Total		
Natural Resources	4	14	55	207	20	300	137	178	315	615	10,233
The Rooms Corporation	1	-	-	-	-	1	-	-	-	1	15
Tourism, Culture and Recreation	-	1	-	-	-	1	-	-	-	1	21
Transportation and Works	21	45	173	81	9	329	-	-	-	329	7,163
<b>Total</b>	<b>191</b>	<b>107</b>	<b>314</b>	<b>367</b>	<b>54</b>	<b>1,033</b>	<b>198</b>	<b>267</b>	<b>465</b>	<b>1,498</b>	<b>\$ 28,270</b>
<b>Estimated Cost (000's)</b>	<b>\$ 4,019</b>	<b>\$ 3,120</b>	<b>\$ 6,556</b>	<b>\$ 9,245</b>	<b>\$1,778</b>	<b>\$ 24,718</b>	<b>\$ 1,493</b>	<b>\$ 2,059</b>	<b>\$ 3,552</b>	<b>\$ 28,270</b>	

Source: Equipment Management System

As shown in Figure 2, Government had 1,498 light vehicles in operation as of 19 March 2010. The estimated cost of the fleet was \$28.2 million.

### Light vehicle replacement

Light vehicles are replaced on a regular basis as per the Policy Manual and each year Government purchases several hundred highway and recreational vehicles.

Figure 3 shows the Government light vehicle purchases for fiscal years 2006 through to 2010, according to the date they were added to the EMS.

**Figure 3**

### Government Light Vehicle Purchases Fiscal Years 2006 through to 2010

Department	2006	2007	2008	2009	2010	Total
Environment and Conservation	19	20	28	49	27	143
Executive Council	-	-	1	1	-	2
Fisheries and Aquaculture	6	3	10	5	4	28
Government Purchasing Agency	-	1	-	-	-	1
Government Services	24	13	14	10	11	72
Innovation, Trade and Rural Development	4	-	-	-	1	5
Justice	18	23	23	36	32	132
Labrador and Aboriginal Affairs	-	-	-	1	-	1
Municipal Affairs	3	3	2	2	-	10

## Vehicle Fleet Management

Department	2006	2007	2008	2009	2010	Total
Natural Resources	78	54	135	117	78	462
Tourism, Culture and Recreation	1	-	-	-	-	1
Transportation and Works	33	65	57	50	50	255
<b>Total</b>	<b>186</b>	<b>182</b>	<b>270</b>	<b>271</b>	<b>203</b>	<b>1,112</b>

Source: Equipment Management System

As shown in Figure 3, Government has purchased 1,112 vehicles since 1 April 2005.

### Figure 4

**Parked Government Light Fleet Vehicles  
Confederation Building Parking Lot  
St. John's, 26 March 2010**



### Audit Objectives and Scope

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<b>Audit objectives</b>	<p>The objectives of our review of the Vehicle Fleet Management Branch (VFM Branch) were to determine whether:</p> <ul style="list-style-type: none"><li>• the policies and procedures with regard to the acquisition, operation and disposal of light vehicles were being followed;</li><li>• the systems and processes used to monitor the light vehicle fleet were providing reliable and usable data on a timely basis; and</li><li>• all costs associated with use of the light vehicle fleet were being monitored.</li></ul>
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<b>Audit scope</b>	<p>Our review included an examination of the Equipment Management System maintained by the Department of Transportation and Works as well as other documentation of the fleet management function. Interviews were held with officials of the VFM Branch in the Department. Our review covered the period of 1 April 2005 to 31 March 2010.</p>
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### Detailed Observations

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

1. Light Vehicle Fleet Review (the 2006 Report)
  2. Equipment Management System
  3. Rentals
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#### 1. Light Vehicle Fleet Review (the 2006 Report)

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<b>Overview</b>	<p>Government's light vehicle fleet has been the subject of two reviews over the past eight years. These reviews were conducted by intergovernmental teams created by Treasury Board to analyze the management of the light vehicle fleet (the fleet) and provide recommendations for the improvement of Vehicle Fleet Management Branch (VFM Branch) operations.</p>
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## Vehicle Fleet Management

The first report (Light Vehicle Fleet Management Review or the 2003 Report) was commissioned by the Light Vehicle Fleet Management Review Committee created by Treasury Board to review the light vehicle fleet. It was conducted in 2002 and completed in 2003. An intergovernmental team reviewed the entire light vehicle management function within Government. It produced 14 major recommendations and 68 secondary recommendations on improving the systems, tools and operations of the VFM Branch to facilitate better monitoring of the light vehicle fleet. One of these recommendations created the Light Vehicle Acquisition Committee (LVAC) which reviews and approves all light vehicle purchases within Government.

The second report, (the Light Vehicle Fleet Review or the 2006 Report) was commissioned by the LVAC in 2005 and completed in 2006. In this case, the intergovernmental team was to complete a comprehensive review of the Vehicle Fleet Management Policy and Procedures Manual (the Policy Manual) and make recommendations for improvements to the Policy Manual and to the VFM Branch operations in line with the previous 2003 Report. The 2006 Report produced 12 additional recommendations, which supported the recommendations of the 2003 Report. As well, the 2006 Report also proposed a new policy manual which was submitted to Treasury Board for approval. As at 31 March 2010, this proposed new policy manual had not yet been approved.

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From our review of the VFM Branch, we determined that few of the recommendations in either report have been implemented. The proposed new policy manual for the VFM Branch has not yet been implemented, though it does not differ significantly from the current Policy Manual. The implementation deadline of 31 January 2006 noted in the reports has passed with no changes made to the VFM Branch or the Division that operates it.

Details on our findings are discussed in the following sections:

- 1A. Vehicle Identification Markings
- 1B. Vehicle Justification
- 1C. Vehicle Usage
- 1D. Repair Costs
- 1E. Vehicle Replacement

1F. Vehicle Specification

1G. Year-end Purchasing

1H. All Terrain Vehicle / Snowmobiles

1I. Employee Licence Status

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### 1A. Vehicle Identification Markings

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#### Introduction

The 2006 Report found that there were light vehicles within Government's fleet that violated the Policy Manual requirement for proper markings on all light vehicles. The Policy Manual indicates that "*all Government vehicles must be identified and bear the appropriate markings...*" The 2006 Report cited 5 light vehicles that were found without a Government licence plate, proper logo or departmental symbols or a clearly visible light vehicle identification number. Light vehicles must be clearly marked so as to identify them to the public and provide the means to report inappropriate behaviour to the operating department. It should be noted that special exception is made for unmarked police vehicles used by the RNC as well as those of Government House.

The lack of markings on light vehicles was determined in the Report as not being solely due to the requirements of a given position. Instead, it was noted that "*It is further suggested that the requests for unmarked vehicles are not totally for undercover operational reasons but more of a user preference.*"

#### Vehicles without proper identification

During our review, officials within the VFM Branch indicated that a number of light vehicles in the fleet still did not have the proper markings as per the Policy Manual. These light vehicles were separate from light vehicles assigned to enforcement activities with the RNC or Government House. Examples include:

- One highway vehicle reviewed was a pool vehicle for Transportation and Works that was primarily driven by the executive and senior management of the Department. This light vehicle had a Government licence plate, but did not have any of the other required markings (vehicle number and Government logo).
- Eight highway vehicles identified on the Equipment Management System did not have a Government licence plate.

## Vehicle Fleet Management

- One highway vehicle used by the Occupational Health and Safety Division of the Department of Government Services had Government licence plates and the logo, but no identifying vehicle number was displayed.

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### Recommendation

The Department should ensure that all Government light vehicles comply with the Policy Manual which requires proper markings and licence plates.

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### 1B. Vehicle Justification

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#### Introduction

The 2006 Report included an examination of the size and composition of the light vehicle fleet in order to determine potential areas for cost savings. The examination identified 18 highway vehicles out of the fleet of 942 (as of July 2006) whose operations were difficult to justify. These were light vehicles that had very low overall usage at the time of the review (low number of kilometres logged over the period owned) or were assigned to a user who had access to more than one light vehicle.

The recommended usage rate for a Government Highway vehicle per the Policy Manual is a minimum of 20,000 kilometres per year. The Policy Manual applies only to highway vehicles. The 2006 Report concluded that 18 highway vehicles should be transferred to departments that will make use of the light vehicles or they should be removed from the fleet altogether.

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#### Vehicles underutilized

During our review, we conducted an examination of the composition of the light vehicle fleet and found 1,033 operational highway vehicles. This represents an increase of 91 light highway vehicles (9.7%) since the 2006 Report (942 vehicles). While it is unknown whether the 18 identified highway vehicles from the 2006 Report were included in this total, it is clear that the size of the fleet had not been reduced.

A detailed analysis of the usage rates for the current fleet was compiled from information from the Equipment Management System (EMS) and internal departmental inventories. As the Policy Manual requires that highway vehicles be driven 20,000 kilometres per year or more, the information is divided into light vehicles that meet the requirement and ones that do not. Figure 5 shows the highway vehicle kilometre usage, based on the data found in the EMS.

**Figure 5**

**Highway Vehicle Kilometre Usage  
As at 19 March 2010**

<b>Number of Kilometres</b>	<b>Number of Vehicles</b>
Less than 5,000	23
Greater than 5,000, less than 10,000	49
Greater than 10,000, less than 15,000	83
Greater than 15,000, less than 20,000	64
<b>Sub-total</b>	<b>219</b>
Greater than 20,000	537
Unable to determine	277
<b>Total Highway Vehicles</b>	<b>1,033</b>

Source: Equipment Management System

As Figure 5 shows, the total number of highway vehicles driven less than the required 20,000 kilometres a year was 219 out of 1,033 (21.2%). These light vehicles were underutilized according to the Policy Manual.

### **Recommendations**

The Department should:

- perform a review of all light vehicles in the fleet to determine if they are being underutilized; and
- consider transferring or disposing of light vehicles which are not utilized to the extent required by the Policy Manual.

### 1C. Vehicle Usage

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#### Introduction

The 2006 Report reviewed the usage of light vehicles in the fleet for personal purposes by Government employees. Under the Policy Manual, all personal travel with a Government light vehicle is prohibited, except for limited circumstances in which a Deputy Minister may authorize an employee to park their assigned light vehicle at their residence. Unauthorized personal use of light vehicles was of particular concern, given that it was prohibited by the Policy Manual. The ability of employees to take the light vehicle to their personal residence allows for potential unauthorized use. A survey conducted by the VFM Branch in 2001 noted 283 light vehicles (estimated to be 32.2% of the fleet) that were approved to be taken to the employees residence in this manner. The 2006 Report noted that *“most of these “approvals” benefit the employee rather than the department as well as lead to unauthorized after hours personal use of some vehicles”*. Many public complaints have also been raised in the past about alleged personal use of Government light vehicles by employees.

To combat this, all employees are required to maintain and submit vehicle log books detailing the kilometre use of their assigned light vehicle. The 2006 Report noted that the log book in use was inconsistent, providing limited information and having little comparability. The 2006 Report also indicated that *“Without individual log book information, many of the analysis and fleet management process will not perform efficiently”*.

It was recommended in the 2006 Report that these approvals be restricted to only those employees who are required on an emergency basis as opposed to those “on call” for Government. It was also recommended that log books be redesigned to better gather information in a comparable manner for management purposes.

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## Vehicle Fleet Management

### Usage data unavailable or inadequate

During the course of our review, we found similar issues with regard to log books present within the VFM Branch. According to Departmental officials, log books are rarely forwarded to the VFM Branch for review and monitoring. Those that are forwarded lack sufficient details to draw conclusions, such as detailed repair information. Officials also noted that the lack of these log books makes it impossible to track personal use of Government light vehicles at the VFM Branch or to verify the validity of public complaints of misconduct by an employee. Determining whether there are any tax implications of such personal use is also impossible to achieve from within the VFM Branch. Equipment Maintenance Division officials at the Department indicated that the VFM Branch does not receive information and does not monitor the number of light vehicles that have been authorized to be parked at an employee's residence.

### Recommendations

The Department should:

- establish a new log book designed to capture all relevant data about light vehicles and their use; and
- contact all Government departments and light vehicle users and ensure that they are following the policies for operating a light vehicle and forwarding information to the VFM Branch.

### 1D. Repair Costs

#### Introduction

The 2006 Report reviewed the maintenance function for light vehicles in the fleet to determine if servicing was conducted in an economical and timely manner. There were three processes identified for performing maintenance and repairs on Government light vehicles:

1. work performed at Transportation and Works depots;
2. repairs on contract to a single commercial garage for the RNC; and
3. repairs from various garages throughout the Province.

## Vehicle Fleet Management

The 2006 Report found that repairs conducted at Government depots had been economical, but had also taken excessive amounts of time to be completed. Repairs performed at commercial garages had been generally faster, but had resulted in several trends, such as excessive repairs, repairs costing more than the value of the vehicle, high parts and labour costs, and repairs completed that should have been warranty claims. This issue was also addressed in the 2003 Report which recommended numerous improvements to the monitoring of repair costs by the VFM Branch. The 2006 Report also recommended improvements in the monitoring of these costs and the repair of all light vehicles in the fleet at private garages under a nationally accepted repair cost reference.

### **Monitoring of repair costs not improved**

During the course of our review, we found that the recommendations for improvement in the monitoring of repair and maintenance costs have not been implemented. As well, VFM Branch officials indicated that the Equipment Management System (EMS) is not able to track or monitor these types of costs. Only approximately 10% of all such repair costs have been forwarded to the VFM Branch and these were only entered into the EMS when staff were able to do so. Due to this lack of data, it is impossible to determine if the repair costs at private garages have been economical.

In addition, we found that information on repairs undertaken on light vehicle warranties were not forwarded to the VFM Branch. Of the regular repairs forwarded, we identified three instances of work that could have been claimed under warranty:

- a 2005 Dodge SX 2.0 that was repaired on 21 August 2008 for a \$210 total cost on an alternator, a component that is covered under the power train warranty. The vehicle had a 7 year/115,000 kilometre warranty and the kilometres per the EMS at the time were 100,000;
- a 2009 Dodge RAM that was repaired on 26 November 2009 for \$69 in parts and \$29 in labour to replace a tie rod end. Tie rod ends are covered under the bumper to bumper warranty. This vehicle was less than one year old and had 40,000 kilometres on it at the time, with a warranty that covered 3 years and 60,000 kilometres; and
- a 2009 Chevrolet Silverado that was repaired on 6 July 2009 for \$239 in parts and \$95 in labour to replace the u-joints. U-joints are covered under the power train warranty. This vehicle was less than one year old and had 63,319 kilometres on it at the time, with a warranty that covered 5 years and 100,000 kilometres.

Officials indicated that with the information available to the Department at this time, it was not possible to determine if warranties have been used to their full potential and there was no way to know if departments have been using the warranties available to them. Most Government light vehicles were purchased new and had the standard 36 month bumper to bumper warranty on most parts and related labour as well as the extended warranty over the engine components. As repair costs were not forwarded to the VFM Branch, it is impossible to determine the impact of this finding.

### Recommendations

The Department should:

- ensure that all departments are aware of the requirement to forward all repair costs to the VFM Branch;
- ensure that all repair information is entered into the EMS in a timely manner; and
- remind all departments to use the manufacturer's warranty whenever possible to repair Government light vehicles.

### 1E. Vehicle Replacement

#### Introduction

The 2006 Report reviewed the management of the life cycle for the fleet with particular attention paid to the replacement of light vehicles. Monitoring the life cycle requires that the VFM Branch track the acquisition, operation, and disposal of Government light vehicles. The goal of such monitoring is to pay the minimum amount for acquisition and maintenance while receiving the maximum return on disposal. According to the Policy Manual, light vehicles are to be replaced when they have met one of three criteria:

1. the light vehicle meets or exceeds the estimated useful age (8 years for most light vehicle models);
2. the light vehicle meets or exceeds the estimated kilometre usage (250,000 kilometres average); or
3. the light vehicle has a mechanical condition report completed at a Government depot that recommends replacement.

## Vehicle Fleet Management

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Light vehicles that exceed the age or kilometre requirement must still be reviewed at a depot and a condition report placed on file. As well, a needs assessment is made by the Light Vehicle Acquisition Committee to determine if the light vehicle should be replaced. As light vehicles in the fleet age, the costs associated with maintaining them begin to rise. Many of the components in the light vehicle are rated for at least three years or 60,000 kilometres. During these initial years, maintenance is generally limited to oil changes and fluid level checks, as well as the occasional mechanical defect. As the light vehicle gets older, components begin to wear out and fail, requiring repairs. After a certain age, some parts cannot be repaired and must be replaced. This can become more expensive than what the light vehicle is worth. The cost of operating also increases, as the fuel economy and power output of the engine begins to decrease over time.

The 2006 Report found that 337 light vehicles exceeded their useful life under the first two criteria as of July 2006. It was recommended that these light vehicles be replaced to reduce the operating costs of the fleet. It was also recommended that the third criteria be eliminated for light vehicles that are over the useful life in years or by kilometres, rather than require them to be given a condition report as the light vehicle already meets the criteria for replacement.

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### **Vehicles used beyond useful life**

During the course of our review, we found that light vehicles in the fleet were still retained and used beyond their useful life. According to information acquired from the EMS, there were 127 highway vehicles that exceeded either the kilometre usage or age limits for operating a light vehicle. As well, we found 119 recreational vehicles that were also past their useful life. This number may not be reliable as the EMS does not consistently track kilometres (readings were either dated, non-existent, or entered incorrectly). Ages for the light vehicles were tracked, but there was no report available that provided these ages to the users, significantly increasing the labour involved in determining which light vehicles should be replaced.

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### Recommendations

The Department should:

- create a new report inside the EMS that will provide vehicle ages for monitoring and replacement analysis; and
- consider recommending replacement of light vehicles past their useful life to the Light Vehicle Acquisition Committee.

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### 1F. Vehicle Specification

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#### Introduction

The 2006 Report reviewed the specifications of light vehicles to be assigned to Government employees. This Report indicated that the choice of light vehicles in the past has been a combination of the wishes of the employee, the approval of the Deputy Minister and the recommendation of the VFM Branch. This process created inconsistencies in the choice of light vehicle assigned to each job position. Within the same job classification, the choice of light vehicle has varied considerably. The 2006 Report also indicated that requests for light vehicles have often far exceeded the need for basic transportation, stating that *“requests for high cost large SUV’s with CD players and tinted windows, or 4x4 pickups with extended cabs, tinted windows and other extra options were being approved in departments where the same or similar [job] classifications were driving lesser vehicle types such as 4x2 regular pickups with no extra options.”*

Light vehicles held in the fleet cannot be uniform across all classifications as the needs in different positions can vary significantly. An inspector for Workplace Health, Safety and Compensation Commission may only require a small sedan while a fisheries enforcement agent may require a pickup to reach remote locations. The 2006 Report noted that the cost differences between two types of the same light vehicle can be large. For example, the 2006 Report indicated that a 4x4 pickup costs \$2,800 more than a similar sized 4x2 pickup, while an extended 4x2 pickup costs \$4,600 more than a regular 4x2 pickup. The 2006 Report noted that departments justify the differences in light vehicles by claiming they are required for the job classification, but they often have employees in identical job positions driving lesser cost light vehicles.

## Vehicle Fleet Management

The 2006 Report reviewed the fleet as of July 2006 and recommended a new vehicle classification system that aligned position requirements with light vehicle specifications. It was recommended that this new vehicle classification system be implemented in the acquisition process. This would have resulted in 97 of the 942 highway vehicles being replaced by a lower grade of light vehicle when they were to be replaced in the future.

### Increase in vehicle size and specification

During the course of our review, we found that the classification of highway vehicles (cars, pickups, SUVs) has been increasing in size and specification over the past decade. Figure 6 shows a comparison of the fleet from October 2002 as provided in the 2003 Report on the VFM Branch and the fleet composition as of 19 March 2010.

**Figure 6**

### Vehicle Fleet Comparison Between October 2002 and 19 March 2010

Highway Vehicle Type	October 2002		19 March 2010		Increase (decrease)	
	No. of Vehicles	% of Fleet	No. of Vehicles	% of Fleet	No. of Vehicles	% change
Sedans	156	18.1%	191	18.5%	35	22.4%
Pickups 4x2	405	46.8%	314	30.4%	(91)	(22.5%)
Pickups 4x4	156	18.1%	367	35.5%	211	135.3%
Vans	97	11.2%	107	10.4%	10	10.3%
Other (utility, etc)	50	5.8%	54	5.2%	4	8.0%
<b>Total Vehicles</b>	<b>864</b>		<b>1,033</b>		<b>169</b>	

Source: Light Vehicle Fleet Management Review Report to the Secretary of Treasury Board and the Equipment Management System

As Figure 6 shows, the number of 4x4 pickups as a percentage of the fleet has increased from 156 to 367, an increase of 135.3%. The number of 4x2 models has decreased by 91 vehicles over the same period. This leads to the observation that these light vehicles have been upgraded to 4x4 models in circumstances where 4x2 models were adequate in 2002. It must be noted that all light vehicles requested were reviewed and approved by the Light Vehicle Acquisition Committee before they were purchased.

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### Recommendation

The Department should conduct a review of the light vehicle fleet and match the size, features, and power of light vehicles to position classifications to ensure consistency and economy within the fleet.

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### 1G. Year-end Purchasing

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#### Introduction

The 2006 Report reviewed the purchasing function for the light vehicle fleet to identify any areas that could be improved. It was determined that departments with available funds often forward purchasing requests to the Light Vehicle Acquisition Committee for rush consideration before the fiscal year end on 31 March. This has historically resulted in increased costs for the light vehicles, due to the bulk purchase standing offer being unavailable outside the August to December period. Standing offers provide vehicles according to a defined set of specifications. Vehicle requests outside the standing offer period are sent to local commercial lots or out-of-Province lots for pricing. These light vehicles often come with options that are not needed on fleet vehicles, but must be paid for with the purchase due to the vehicles being immediately available for purchase. As well, additional costs must be paid such as the cost of shipping the light vehicle to the Province and re-painting to match the Government specification.

In the 2006 Report, it was determined that these purchases cost an average of \$3,000 to \$5,000 more than vehicles on the standing offer. The Report indicated that purchasing light vehicles on the standing offer would have saved Government an estimated \$150,000.

The 2006 Report recommended that departments not be permitted to purchase light vehicles late in the fiscal year. Departments could be allowed to retain funding for purchasing the light vehicles when the standing offer was available or the VFM Branch could be allowed to stockpile light vehicles in case of emergency when the standing offer was closed.

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## Vehicle Fleet Management

### **Purchases outside standing offer**

During our review, we found that 28 highway vehicles and 9 recreational vehicles were purchased between February and March 2010 at a cost of \$800,000. During the same period in 2009, 45 highway vehicles and 31 recreational vehicles were purchased at a cost \$1.5 million. Compared to similar light vehicles purchased during the tender period, these light vehicles cost an additional \$75,147 in 2010 and \$253,324 in 2009. A number of the light vehicles reviewed were purchased only during the non-tender period.

Discussions with VFM Branch officials indicated that such purchases may not always be the result of an urgent need for a replacement, but rather as a result of the personal preferences of the employee. Light vehicles purchased on the standing offer do not provide any of the options available for commercial light vehicles, lacking such things as CD or MP3 players and heated seating. If the employee waits a sufficient amount of time before requesting a replacement light vehicle, the light vehicle is more likely to include these extra components. As well, the Policy Manual requires that all Government light vehicles appear in manufacturers grey. Commercial light vehicles were in various colors which required repainting to meet the fleet requirements. This further increases the cost of the light vehicle as well as resulting in a less effective protective paint layer for the light vehicle.

Examples of these purchases include:

- purchase of a Ford Expedition SUV on 18 March 2010 for the Office of the High Sheriff at an approximate cost of \$62,000. The regular cost for an Expedition with RNC specifications is approximately \$41,800, a difference of \$20,200;
- purchase of a Ford E-150 Van on 26 March 2009 for Youth Secure Custody at a cost of approximately \$39,300. A similar vehicle purchased for Adult Corrections cost approximately \$23,400, a difference of \$15,900; and
- purchase of a Ford Fusion Car (non-hybrid) on 25 August 2009 for the Department of Government Services at an approximate cost of \$18,800. A similar vehicle purchased for the Department of Government Services cost approximately \$14,600, a difference of \$4,200.

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### Recommendations

The Department should:

- request that the Light Vehicle Acquisition Committee suspend or limit the approval of light vehicle purchases outside the regular tender except under emergency circumstances; and
- perform an analysis to determine the best means of providing departments with emergency transportation outside the tender period, whether through renting, leasing, employee reimbursement or the creation of a light vehicle pool.

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### 1H. All Terrain Vehicles / Snowmobiles

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#### Introduction

The 2006 Report conducted a preliminary review of the recreational equipment that is classed as light vehicles by the VFM Branch. It was determined that *“...control of these vehicles is very lacking in the departments concerned.”* Recreational vehicles refer to ATVs and snowmobiles. As of July 2006, there were 386 machines that made up this portion of the fleet. The 2006 Report found that 80 of these machines (20.7%) were unable to be located in the system or by the departments (67 of these machines were in the Department of Natural Resources and the Department of Fisheries and Aquaculture). The 2006 Report stated that *“To have this number of machines unaccounted [for] is unacceptable and increased monitoring of both ATVs and snow machines is strongly recommended.”*

The 2006 Report recommended that missing machines older than 7 years be purged from the system and the remaining machines be investigated to determine if they can be found. It was also recommended that the monitoring of both ATVs and snowmobiles be increased through the use of a special log book for these light vehicles as well as the development of a system to monitor the equipment over its lifecycle.

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## Vehicle Fleet Management

### Missing recreational vehicles

During our review, we found that the size of the recreational portion of the fleet has increased since July 2006 and as at 19 March 2010 totalled 465 pieces of equipment (198 ATVs and 267 snowmobiles). Of the 80 recreational vehicles listed as missing in the 2006 Report, 56 were still listed on the EMS as lost as of 19 March 2010 (49 in the Department of Natural Resources). These recreational vehicles range in age from 9 to 36 years. Discussions with VFM Branch officials indicated that efforts were ongoing during February and March 2010 to locate the missing machines. As well, we found that the recommended log book system was not implemented for these recreational vehicles.

### Recommendations

The Department should:

- consider implementing a log book for recreational vehicles to facilitate monitoring and tracking; and
- consider purging all recreational vehicles from the EMS that have been missing for more than 5 years.

## 11. Employee Licence Status

### Introduction

The 2006 Report found that there were employees operating light vehicles within Government's fleet who did not possess a valid licence. A licence can be suspended for a variety of reasons such as:

- operating a vehicle while intoxicated or impaired;
- too many demerit points for moving violations; and
- medical requirement.

The 2006 Report indicated that "*Historically, VFM has found an alarming number of individuals who do not have a valid driver's license.*" This was identified as being caused by a lack of driver information forms being forwarded to the VFM Branch. It was recommended that all departments be informed of the requirement for forwarding these documents and that the VFM Branch be given the authority to periodically ensure that drivers have valid licences.

**No follow-up on  
licences  
checked**

During our review, we found that the issue of employee licence status had been partially addressed within the VFM Branch. Drivers were required to fill out a complete driver information form and the departments are responsible for forwarding this form to the VFM Branch. The form includes the name and licence number of the employee authorized to drive a Government light vehicle. These licences were placed into a spreadsheet which was compared semi-annually to the records in the Motor Registration Division (MRD) of the Department of Government Services. MRD maintains records on all licenced drivers within the Province and tracks the status of the licence holder. A search of the MRD records provided the licence status to the VFM Branch, indicating which licences were valid and which have been suspended. Licence numbers with driving restrictions are matched with the employee names from the driver information forms and are forwarded to the employee's department for action.

According to officials with the VFM Branch, there is no further contact or follow-up with a department regarding an employee with a suspended licence. The departments do not inform the VFM Branch of the status of the individual or whether they were still operating the light vehicle or not. As a result, this information is not reflected in the EMS.

This process also addresses only those employees who have had their licence suspended. Individuals who have been charged, but not convicted of an offence under the *Highway Traffic Act* as of the licence check will not be flagged through this process and will not be restricted from operating a Government light vehicle until the next check 6 months later. In addition, names were not removed from this list due to a change in status. A change in status means the individual has changed jobs to a position within Government that is not assigned a light vehicle, moved to a job outside Government, has retired, or has passed away. This means the list of licences increases in size between each check which increases the time required for personnel to perform this licence check.

As this process is carried out twice a year, there is the strong possibility that an employee may operate a Government light vehicle for as much as 6 months without a proper licence. This raises issues with public safety and leaves Government vulnerable to litigation should that employee have an accident in a Government light vehicle during this period.

## Vehicle Fleet Management

As of our review, the most recent check of licences occurred in November 2010 and had 3,627 licences listed. This check indicated that 143 licences were inactive, 167 were expired and 34 were identified as suspended.

We conducted our own check of licence numbers within MRD's information system. From our check, we found that individuals remain on the list and are checked long after they have left Government employment. For example, one individual who was checked during this process had been deceased for several years. Our analysis of the list of authorized drivers also noted that there were no driver details present for any employees within the Department of Justice. According to officials at the VFM Branch, the information had been requested from the Department of Justice, but had never been received.

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### Recommendations

The Department should consider:

- checking on a more frequent basis the licence status of Government employees authorized to operate a Government light vehicle;
- requesting that all departments inform them of the action taken relating to employees with suspended licences so that the records can be updated; and
- reviewing the list of licenced employees to remove former employees.

## Vehicle Fleet Management

Figure 7

**Government Light Vehicle Fleet - Van  
Confederation Building Parking Lot  
St. John's, 26 March 2010**



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## 2. Equipment Management System

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### Overview

To facilitate the monitoring and management of the fleet, the VFM Branch utilizes the Equipment Management System (EMS). This system serves as a comprehensive equipment management control system for all Government light vehicles. It is designed to record and summarize important information about the fleet, such as the purchase cost, make, model, vehicle identification number, internal fleet number, and licence plate number. As well, the system is designed to record the ongoing status of any vehicle in the fleet (i.e. operational, inoperable or sold) and their operating costs (i.e. fuel costs and repairs).

## Vehicle Fleet Management

The EMS is an in-house designed database, originally developed in 1997-98 by IT personnel, using Microsoft Access software. It is available only internally to Government personnel and is accessed through a network application. Only personnel within the VFM Branch can access the database directly for data entry and report generation. This includes the Department's main headquarters as well as depots maintained by the Equipment Maintenance Division.

In the 2007 Annual Report of the Auditor General, we conducted a review of the Equipment Maintenance Program for the Heavy Equipment fleet (which is also managed at this Division). In our 2007 Report, we found that the Department was unable to analyze its heavy equipment operating and maintenance costs and downtime as the information was not readily available on the system. In addition, we found the information in the EMS to be inaccurate and unreliable, with no input control and limited reporting capability.

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### Review of EMS

Our current review of the EMS included discussions with various departmental officials and direct access to their system. The EMS was designed primarily for the management and control of heavy equipment that is to be serviced at Government depots. To facilitate this management, the system records a variety of information on heavy equipment, information that is of limited use to the light vehicle fleet (the fleet). Data fields available within the EMS, such as internal repair cost or the average time to complete a repair are not relevant to the fleet as most servicing is performed at commercial garages.

As per the officials with the VFM Branch, the focus on heavy equipment maintenance and control is due to the importance of the work carried out on that equipment. Government equipment responsible for maintaining the Provincial roads year round is managed by the Equipment Maintenance Division. These pieces of equipment need to be ready for service whenever the need arises. This is one of the reasons why light vehicles were generally repaired at commercial lots. If a piece of heavy equipment is damaged and requires servicing, all other work at the local depot is halted until the repairs can be completed.

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## Vehicle Fleet Management

### Little improvement in EMS

In our review of the EMS within the VFM Branch, we found that there has been little improvement in the system since our 2007 Report. We also found that the EMS was not capable of tracking information in a manner that promotes the monitoring function of the VFM Branch. Our findings are contained in the following sections:

2A. System Completeness

2B. System Accuracy

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### 2A. System Completeness

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### Introduction

The EMS is designed to facilitate the management and control of the fleet by providing a single centralized database that can be used to track all relevant information. This includes information about light vehicles (such as make, model, date acquired, and engine type) as well as operating information (such as repair costs, kilometre readings, assigned location, and fuel costs).

For the EMS to perform this duty, the information entered into the system must be current and must be added within a reasonable time frame. The data must be reliable so that it can be used to manage the fleet, meaning that it should be both accurate and complete.

### Lack of input controls in EMS

Our review of the EMS noted that the system does not appear to have input checks (valid date, missing fields) or other control methods in the system to ensure that all information for a light vehicle is filled out. Such controls should ensure that information about a light vehicle cannot be incorrectly entered or omitted by staff accidentally.

We found cases of operational information not being filled out on light vehicles tracked by the system. Light vehicles were missing information on the original purchase cost, the driver assigned to operate the light vehicle, the location of the light vehicle, and the initial kilometre reading of the light vehicle. This information should be entered when the light vehicle is received by the Equipment Maintenance Division and provided to the departments. The EMS should return an error when a new record is made without all required fields being filled out.

## Vehicle Fleet Management

### **Repair information not tracked**

The cost of repairs for light vehicles in the fleet should be tracked by the EMS. This, along with the cost of fuel, represents one of the primary operating costs of the fleet. Tracking this information allows Government to determine what a light vehicle may be costing to maintain and whether continuing to operate the light vehicle is economical. Repair costs include any charge to Government to replace a part on a light vehicle that has broken down or become damaged. This is separate from maintenance costs which represent the ongoing replacement of consumable parts on the light vehicle per its maintenance schedule (such as oil changes, tires, and wiper blades).

Repairs have been carried out primarily by commercial garages as Government depots were used mostly for the maintenance of heavy equipment. According to the Policy Manual, the departments were responsible for the cost of these repairs and for forwarding all information to the VFM Branch for entry into the EMS.

Our review of the EMS and discussions with VFM Branch officials indicated that the system does not track repair costs. Officials indicated that of 1,498 light vehicles in the fleet, only 10% of all repair charges were forwarded to the VFM Branch for entry into the system. VFM Branch officials informed us that the other duties involved in monitoring the fleet limits the ability of the Branch personnel to enter the data received in a timely manner. Some records were years out of date before they were entered into the EMS, limiting their usefulness in monitoring operating costs.

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### **Maintenance schedule information not tracked**

As with repair costs, the EMS is designed to track information related to each light vehicle's adherence to its prescribed maintenance schedule. Preventive maintenance refers to the replacement and inspection of light vehicles on a standard schedule. This is carried out to avoid the cost of major repairs and any significant downtime in the operation of light vehicles. Preventive maintenance decreases the operating costs of the light vehicle by proactively dealing with the standard source of problems as a light vehicle ages.

Preventive maintenance, like repairs, is carried out primarily by commercial garages as depots were primarily used to maintain heavy equipment. According to the Policy Manual, departments were responsible for adhering to the maintenance schedule for the light vehicle and for informing the VFM Branch of adherence to that schedule.

## Vehicle Fleet Management

From our review of the EMS, we found that the system does not track any information regarding the maintenance schedules for light vehicles. Departmental officials indicated that, like repair information, this data is not forwarded to the VFM Branch for entry into the EMS. The light vehicles assigned to the departments were operated without contact with the VFM Branch until they were being replaced or decommissioned and sold.

### **Credit card monitoring system unavailable**

The largest operating expense for the fleet is the cost of fuel. Fuel for light vehicles in the fleet is acquired through the use of credit cards issued by the VFM Branch that were approved to work only at an authorized station. Authorized stations were those that were operated by the oil company that is awarded the contract for providing this service to Government through public tender. The credit cards have been authorized to purchase fuel, oil changes, and other required fluids for a light vehicle. As per the Policy Manual, all other uses are prohibited and subject to the credit limits on the cards. Each light vehicle is assigned a credit card that is to remain with that light vehicle until it is replaced or cancelled.

We attempted to perform a review of the credit card system and the monitoring of the related fuel expenses for our Report; however, we were unable to do so. At the time of our review, VFM Branch officials indicated that the credit card system was down for re-programming and upgrading by the Office of the Chief Information Officer. This operation was expected to take several months to complete. From our inquiries into the EMS, we determined that there was no monitoring performed of light vehicle operating expenses by the VFM Branch. Fuel costs and other related charges were neither tracked by nor available in the EMS. Systems had been programmed into the EMS to track the credit cards and related costs, but none of these functions operated at the time of our review. There was also no means to relate the cost of fuel for a vehicle to the kilometres driven to recheck the reasonableness of these charges. VFM Branch officials indicated that review of these expenses may be carried out at the departmental level, but the VFM Branch was not involved in this review. As a result, it was impossible to use the EMS to monitor the operating costs of the fleet.

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### 2B. System Accuracy

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#### Introduction

The EMS is designed to facilitate the management and control of the vehicle fleet by providing a single centralized database that can be used to track all relevant information about light vehicles. This includes static information about light vehicles (such as make, model, date acquired, and engine type) as well as operating information (such as repair costs, kilometre readings, assigned location, and fuel costs).

For the EMS to perform this function, the information entered into the system must be current and must be updated to reflect changes within a reasonable time frame.

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#### EMS database not accurate

During our review of the EMS, we found that information recorded in the system was not always accurate. Some light vehicles were classified as operational (in service) while the detailed records of those light vehicles indicated that they were inoperable (not in service) as of a particular date. Location information for light vehicles does not appear to be accurate, as this information is usually forwarded to the VFM Branch only in circumstances where a light vehicle is serviced at a Government depot. VFM Branch officials indicated that this does not occur often which creates inaccuracies in the database when the light vehicles were re-assigned within a department or loaned between departments. This resulted in 56 recreational vehicles being listed in the EMS as having an unknown location.

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#### Inconsistent kilometre tracking and reporting

One of the key pieces of information to be recorded into the EMS is the kilometre reading or “meterage” of the light vehicles in the fleet. This is due to several reasons related to the Policy Manual:

- The kilometre report is used to determine the usage rate of the light vehicle over time. The Policy Manual requires that highway vehicles be driven more than 20,000 kilometres a year in order to be considered required;
- One of the means of determining if a highway vehicle is due to be replaced is to compare the kilometres to the total allowable for that light vehicle type. If it is beyond the useful kilometres, it is likely in need of replacement; and

## Vehicle Fleet Management

- The amount of kilometres, used in conjunction with the required light vehicle logs, would allow Government to determine if there was personal use of the light vehicle. This is important as the Policy Manual states that all such use is strictly prohibited.

From our analysis of the EMS, this information was not tracked in a consistent or reliable manner within the system. Despite the Policy Manual requiring a kilometre reading to be recorded every three months, readings were recorded in the system infrequently. Some light vehicles have readings only months old while others have never had a reading taken. According to Departmental officials, this is due to non-compliance with the Policy Manual by the departments (in the forwarding of readings and the submission of log books). The readings generally get updated when the light vehicle is processed at a Government depot, but this is rare as most servicing for the fleet is done at commercial garages which have no connection with the depots.

Our review also found that one report available through the EMS designed to flag light vehicles without a kilometre reading for a period of time does not function properly. This exception report is meant to return all light vehicles that have not had a reading between two time periods. Any light vehicle that does not have a prior reading will not show up in this report, creating the false impression that these light vehicles were in compliance with the Policy Manual for kilometre readings. VFM Branch officials indicated that this report is known to be inaccurate and is not used in the monitoring of the fleet.

Mileage is not always entered on or near the date that the reading was taken. A typical delay for the entry of a reading can be days to weeks in length. This delay can be longer as we noted that some readings were more than a year old from the date when they were taken. In one case, a reading was entered for a light vehicle a full year after the vehicle had been listed as being disposed of.

The EMS does not have a report that enables VFM Branch officials to monitor the usage rates of light vehicles. Determining if a light vehicle was driven the required number of kilometres a year requires staff to manually retrieve and calculate the kilometre usage. As noted in section 1B of this Report, 219 highway vehicles were not driven the 20,000 kilometres required by the Policy Manual. These highway vehicles cannot be easily identified as they require each vehicle's kilometre readings to be compared to the date of purchase to calculate usage rates. Given that the kilometre readings have not been accurate, the reliability of such an analysis is low.

## Vehicle Fleet Management

### Inventory records not accurate

Our review of the VFM Branch included an analysis of the accuracy of the fleet inventory records. In late 2009, the Department conducted an inventory review of the fleet by sending the departments a request for confirmation of their light vehicles. We acquired these confirmations and compared the information to the inventory records within the EMS. We found that the EMS does not accurately reflect the inventory status of the fleet. Some light vehicles were noted as being operational by the departments that were flagged as inoperable in the system. Other light vehicles were listed as part of the inventory of the departments, but were disposed of as per the EMS. VFM Branch officials indicated that this was due to the lack of contact from departments regarding the light vehicles they possess. Light vehicles have been taken from Government depots and have not been seen again until they needed replacement. This makes tracking changes in the status of the inventory difficult to accomplish.

### Recommendations

The Department should:

- implement data entry controls into the Equipment Management System (EMS) to ensure that entries are complete;
- ensure that all repair and maintenance and kilometre information is added to the EMS in a timely manner;
- ensure that the credit card monitoring function within the EMS is updated to operate correctly and allow for cost tracking;
- consider adding reports to the EMS that compares kilometres traveled to fuel cost, tracks the maintenance schedule for each vehicle, and automatically calculates highway vehicle kilometre usage per year for monitoring purposes;
- conduct a review of all records in the EMS to ensure the accuracy of the data;
- contact departments on a regular basis to acquire kilometre readings on all highway vehicles as required by the Policy Manual; and
- repair the missing meterage report in the EMS so that it functions correctly.

## Vehicle Fleet Management

**Figure 8**

**Government Light Vehicle Fleet – Sport Utility Vehicle and Pickup  
Confederation Building Parking Lot  
St. John's, 26 March 2010**



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### 3. Rentals

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#### **Introduction**

To facilitate the need for light vehicles over short durations or special circumstances, the Vehicle Fleet Management (VFM) Branch rents light vehicles for Government departments. These light vehicles had been approved by the Light Vehicle Acquisition Committee from a list of local rental agencies through a standing offer with Government. This covers only those light vehicles which were rented for more than a month at a time.

## Vehicle Fleet Management

Rented light vehicles were used for such purposes as transportation for temporary employees during the summer and by the RNC when performing hidden surveillance of a criminal matter. Our review of the VFM Branch included a review of the rental function as it operates as an alternative to purchasing new light vehicles.

Rentals were briefly addressed in the 2006 Report, which concluded “...*the annual cost of rentals may be better spent by obtaining vehicles in another process. Vehicle Fleet Management should undertake a detailed analysis of the rentals in the past five years to see if: - Similar rentals each summer would be more cost effective to assign a government vehicle instead of an annual rental...*”

### **Inadequate rental monitoring**

In our review of rentals, we found that there is little monitoring performed of the light vehicles acquired. Once a light vehicle has been approved to be rented, the VFM Branch is provided with a copy of the rental agreement and the approval. This information is placed (in paper format) in a folder situated in the office of one of the staff members for the VFM Branch. If any information is required from these agreements, staff must manually review the documents within the folder and generate any totals or other aggregate data required.

Rented light vehicles were acquired with unlimited mileage as part of the agreement. Kilometre usage and repair costs are not forwarded to the VFM Branch for review or entry into the EMS for tracking. Without the kilometres for these light vehicles, it is impossible to determine if their usage was cost effective. The lack of repair information also limits the ability to accurately determine the cost effectiveness of the rental. The result is an overall lack of monitoring with regard to rented light vehicles.

For our Report, we reviewed the rental agreements for 2009-10. Figure 9 summarizes the information contained in the agreements.

## Vehicle Fleet Management

**Figure 9**

**Rental of Light Vehicles  
Periods Greater Than One Month  
Fiscal Year Ended 31 March 2010**

Department	Quantity Rented	# Months Rented	Total Costs
Transportation and Works	68	495	\$ 821,115
Natural Resources	60	307	543,397
Justice	22	132	258,036
Environment and Conservation	3	16	33,584
Education	1	6	11,094
<b>Total</b>	<b>154</b>	<b>956</b>	<b>\$ 1,667,226</b>

Source: Vehicle Fleet Management records

**Rentals not economical**

As shown in Figure 9, the total cost of rentals for all of Government was \$1,667,226, covering 956 rental months. Rentals ranged from 1 month to 18 months, with periods of 5 to 6 months making up 53.9% of all rentals.

Our findings from this review were:

- Two highway vehicles (single cab pickups) were rented for 18 months at a cost of \$13,725 each. For an additional \$7,000 each, Government could have purchased a pair of 4x4 pickups to use for 8 years rather than 18 months.
- One highway vehicle (pickup truck) was rented for 12 months at a cost of \$19,140. Government could have purchased a 4x4 pickup for an additional \$2,000.
- Two highway vehicles (pickups) were rented for 11 months at a cost of \$16,775 each. Government could have purchased a pair of 4x4 pickups for another \$5,000 each.
- Eight highway vehicles (pickups) were rented for 10 months at an average cost of \$18,160 each while a similar number of 4x4 pickups could have been purchased for an additional \$3,000 each.
- Many of the light vehicles rented were large, 4x4 pickups with full sized cabs. There is no information provided to justify renting these light vehicles or why a smaller light vehicle would not have sufficed.

## Vehicle Fleet Management

In addition, contrary to the Policy Manual, rented light vehicles were routinely rented for periods longer than five months (the limit imposed in the Policy Manual). More than half the light vehicles rented (107 of 154 or 69.5%) were for 6 months or longer. It is impossible to determine if each of these was special circumstances, but it appears unlikely.

From these findings, we conclude that the use of rented light vehicles does not appear to be done in the most economical and efficient manner. Light vehicles were rented for amounts that were near to the cost of purchasing a similar light vehicle which would be available to Government for longer periods. As well, light vehicle specifications for rentals appear to be higher than comparable light vehicles held in the fleet.

### Alternatives data not available

From our review of renting and purchasing vehicles, the VFM Branch is not responsible for deciding whether to rent, lease or purchase light vehicles to meet departmental needs. Light vehicles were requested by departments and approved by the Light Vehicle Acquisition Committee. The VFM Branch is not a part of this process since approval of light vehicles was moved to the Committee. As such, there is little data available at the VFM Branch regarding any analysis of the options for light vehicles available to Government.

The Department was directed to conduct a brief analysis of renting versus buying for the Light Vehicle Acquisition Committee before the 2009-10 rental period began. That analysis was forwarded to Treasury Board. A more detailed analysis was ordered to explain the benefits and drawbacks of long-term rentals. This analysis was expected to be completed by 31 December 2010.

### Recommendations

The Department should:

- create an electronic means of tracking repair and use information about rentals so that these light vehicles and related costs can be monitored; and
- request from the departments that all maintenance and repair costs and all mileage for rented light vehicles be provided to the VFM Branch so that the use of such light vehicles can be monitored.

## Vehicle Fleet Management

Figure 10

Government Light Vehicle Fleet - Sedan  
15 Dundee Avenue, Mount Pearl  
26 March 2010



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### Department's Response

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*The following is my response on the recommendations contained in the report.*

#### **Recommendation 1A:**

The Department should ensure that all Government light vehicles comply with the Policy Manual which requires proper markings and license plates.

**Response 1A:**

*The Department will ensure that all vehicles received by Vehicle Fleet Management are properly marked with unit numbers and license plate.*

**Recommendation 1B:**

The Department should:

- perform a review of all light vehicles in the fleet to determine if they are being underutilized; and
- consider transferring or disposing of light vehicles which are not utilized to the extent required by the Policy Manual.

**Response 1B:**

*The Department will request that all Departments perform a review of the light vehicles within the respective Departments to determine if there is underutilization. Should it be found that vehicles are being underutilized per current policy, each Deputy Minister will be responsible for the justification of such underutilized vehicles.*

**Recommendation 1C:**

The Department should:

- establish a new log book designed to capture all relevant data about light vehicles and their use; and
- contact all Government departments and light vehicle users and ensure that they are following the policies for operating a light vehicle and forwarding information to the VFM Branch.

**Response 1C:**

*The current log book captures all relevant data required for the EMS System. Departments will be reminded to ensure all log books are completed and returned to Vehicle Fleet Management for appropriate action in a timely manner.*

### **Recommendation 1D:**

The Department should:

- ensure that all departments are aware of the requirement to forward all repair costs to the VFM Branch;
- ensure that all repair information is entered into the EMS in a timely manner; and
- remind all departments to use the manufacturer's warranty whenever possible to repair Government light vehicles.

### **Response 1D:**

*Transportation and Works will advise all Departments that they are required to forward all repair costs to Vehicle Fleet Management. Every effort will be made to ensure that all repair and maintenance information is added to the EMS in a timely manner however it must be pointed out that the human resources required for this activity is not available at this time.*

*Transportation and Works will remind all Departments to use the manufacturer's warranty whenever possible to repair Government light vehicles.*

### **Recommendation 1E:**

The Department should:

- create a new report inside the EMS that will provide vehicle ages for monitoring and replacement analysis; and
- consider recommending replacement of light vehicles past their useful life to the Light Vehicle Acquisition Committee.

### **Response 1E:**

*A report providing vehicle age has been created within the EMS System.*

*The replacement of vehicles is dictated by the three requirements as noted in your report. What is not considered is the function of the vehicle. Departments should have authority and flexibility to retain and use vehicles outside of these requirements based on function and need.*

### **Recommendation 1F:**

The Department should conduct a review of the light vehicle fleet and match the size, features and power of light vehicles to position classifications to ensure consistency and economy within the fleet.

### **Response 1F:**

*The department must have the flexibility to select vehicles to ensure that program targets are maintained.*

### **Recommendation 1G:**

The Department should:

- request that the Light Vehicle Acquisition Committee suspend or limit the approval of light vehicle purchases outside the regular tender except under emergency circumstances; and
- perform an analysis to determine the best means of providing departments with emergency transportation outside the tender period, whether through renting, leasing, employee reimbursement or the creation of a light vehicle pool.

### **Response 1G:**

*A request will be forwarded to the Light Vehicle Acquisition Committee regarding the suspension or limiting of approval of replacement vehicles outside the tender period except for emergency circumstances.*

*An analysis will be undertaken to determine how best to deal with transportation issues during periods outside the normal tendering period.*

### **Recommendation 1H:**

The Department should:

- consider implementing a log book for recreational vehicles to facilitate monitoring and tracking; and
- consider purging all recreational vehicles from the EMS that have been missing for more than 5 years.

### **Response 1H:**

*A copy of the current log book will be included with the delivery of all new ATV's. Departments will be notified of the new requirement for the tracking of ATV use.*

*The EMS will be purged of all recreational vehicles missing for more than five years when a review has been completed and proper approvals have been received.*

### **Recommendation 1I:**

The Department should consider:

- checking on a more frequent basis the licence status of Government employees authorized to operate a Government light vehicle;
- requesting that all departments inform them of the action taken relating to employees with suspended licences so that the records can be updated; and
- reviewing the list of licenced employees to remove former employees.

### **Response II:**

*The status of licenses held by Government employees who operate Government vehicles will be checked a minimum of twice yearly.*

*All Departments will be requested to ensure that all drivers of Government vehicles are properly licensed and when advised of drivers issues by Vehicle Fleet Management that the employees are prohibited from driving a Government Vehicle.*

*The list of employees will be reviewed with the intent of having a more accurate listing of authorized operators of Government vehicles.*

### **Recommendations 2A and 2B:**

The Department should:

- implement data entry controls into the Equipment Management System (EMS) to ensure entries are complete;
- ensure that all repair and maintenance and kilometre information is added to the EMS in a timely manner;

## Vehicle Fleet Management

- ensure that the credit card monitoring function within the EMS is updated to operate correctly and allow for cost tracking;
- considering adding reports to the EMS that compare kilometres traveled to fuel cost, tracks the maintenance schedule for each vehicle, and automatically calculates highway vehicle kilometer usage per year for monitoring purposes;
- conduct a review of all records in the EMS to ensure the accuracy of the data;
- contact departments on a regular basis to acquire kilometre readings on all highway vehicles as required by the Policy Manual; and
- repair the missing meterage report to the EMS so that it functions correctly.

### **Response 2A:**

*Every effort will be made to ensure that the data entered into the EMS System is complete and accurate.*

*Every effort will also be made to ensure that all repair and maintenance information is added to the EMS in a timely manner however it must be noted that the human resources required for this activity are not available at this time.*

*Departments will be advised of the maintenance schedule associated with their vehicles.*

*Work is ongoing to ensure that the credit card monitoring function within the EMS is updated to operate correctly and allow for cost tracking.*

*Work is ongoing to ensure a report is created with EMS to compare kilometers traveled to fuel costs to monitor usage and reasonableness.*

### **Response 2B:**

*A review of all records in the EMS will be undertaken to ensure accuracy of the ongoing data. Cooperation from all Departments will be required for this activity to be successful.*

*Contacting other departments to obtain kilometer readings will not be required if all users return the log books as required and noted previously.*

## Vehicle Fleet Management

*We will amend the missing meterage report to correct deficiencies in the current structure.*

*We will ensure that all kilometer readings are entered into the EMS in a timely manner dependent on available human resources.*

*Transportation and Works is working with the OCIO to have a kilometers per year report finalized.*

### **Recommendation 3:**

The Department should:

- create an electronic means of tracking repair and use information about rentals so that these light vehicles and related costs can be monitored; and
- request from the departments that all maintenance and repair costs and all mileage for rented light vehicles be provided to the VFM Branch so that the use of such light vehicles can be monitored.

### **Response 3:**

*An electronic means of tracking rentals exists within the current EMS. Information will be entered on a go forward basis.*

*A request will be sent to all user Departments to provide the necessary information. The timing for the entry of such data will be dependent on available human resources.*

*In summary, the information requirements under the current policy are dependent on other Departments providing the information. These Departments will be asked for their cooperation in this matter. However, even with all aspects of the information flow being confirmed, the issue of human resources for Vehicle Fleet Management remains an issue. Many of the recommended actions cannot be completed with the current resources available.*

**Vehicle Fleet Management**

**CHAPTER  
3  
SUMMARY OF UPDATES  
ON PRIOR YEARS' REPORT ITEMS, 2010**

## Summary of Updates on Prior Years' Report Items, 2010



The Office of the Auditor General is committed to promoting accountability and encouraging positive change in the stewardship, management and use of public resources. To this end, each year 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.

Each year my Office reports on the status of the implementation of recommendations made in prior Reports to the House of Assembly on Reviews of Departments and Crown Agencies (Annual Reports). My objective is to monitor and report on the degree to which positive change has occurred as a result of the implementation of recommendations contained in my prior Annual Reports. Monitoring the implementation of past recommendations commences approximately two years after a Report is published and continues until I am reasonably satisfied that issues have been adequately addressed or are no longer applicable. My goal is that at least 80% of recommendations will be acted upon.

This year, included in this Report is a summary of my observations as to the progress made as of 31 March 2010 on the implementation of my recommendations contained in Annual Reports from 2004 through to 2008. In recognition of the trend across Canada to be environmentally conscious and issue reports electronically, details on the findings related to individual reports are only available on our website at [www.ag.gov.nl.ca/ag/priorupdates.htm](http://www.ag.gov.nl.ca/ag/priorupdates.htm).

### Overall Conclusion

I am pleased that entities have generally agreed with our recommendations and have taken reasonable steps to implement change. It is encouraging to find that, of the 193 recommendations monitored in this Report, 172 recommendations (89.1%) have been acted upon. As a result, our goal of having at least 80% of our recommendations acted upon has been met.

With regards to 21 recommendations (10.9%), officials at 10 entities had not taken action to implement the recommendations. I encourage these officials to revisit the recommendations and reconsider their position.

## Summary of Updates on Prior Years' Report Items, 2010

### Recommendations Identified for Monitoring

To compile this update on prior years' report items, I reviewed Annual Reports from 2004 to 2008 to determine, based on information provided by the entities in prior reports, which recommendations required further follow-up. My review identified 193 recommendations from 34 report items which required further follow-up.

The distribution of the 193 recommendations, by entity, over each of the five years is outlined in Figure 1:

**Figure 1**

### Distribution of Recommendations by Entity 2004 to 2008

Entity	2004	2005	2006	2007	2008	Total
Executive Council		1			25	26
Department of Education				4	18	22
Department of Environment and Conservation		1				1
Department of Fisheries and Aquaculture					17	17
Department of Government Services	1		3	5	10	19
Department of Health and Community Services				5		5
Department of Human Resources, Labour and Employment					3	3
Department of Innovation, Trade and Rural Development				1		1
Department of Justice			4	17	3	24
Department of Municipal Affairs				1		1
Department of Natural Resources					24	24
Department of Tourism, Culture and Recreation			1			1
Department of Transportation and Works				3		3
Fire Commissioner's Office	2					2
Labrador-Grenfell Regional Health Authority				5		5
Le Conseil Scolaire Francophone Provincial de Terre-Neuve et du Labrador					9	9
Memorial University of Newfoundland		3				3
Multi-Materials Stewardship Board (MMSB)					20	20
Newfoundland and Labrador Human Rights Commission					7	7
<b>Totals</b>	<b>3</b>	<b>5</b>	<b>8</b>	<b>41</b>	<b>136</b>	<b>193</b>

## Summary of Updates on Prior Years' Report Items, 2010

As Figure 1 shows, the 193 recommendations related to 19 separate entities. The 193 recommendations were contained in the following Annual Reports:

- 136 recommendations in 16 report items from the 31 March 2008 Annual Report;
- 41 recommendations in 10 report items from the 31 March 2007 Annual Report;
- 8 recommendations in 3 report items from the 31 March 2006 Annual Report;
- 5 recommendations in 3 report items from the 31 March 2005 Annual Report; and
- 3 recommendations in 2 report items from the 31 March 2004 Annual Report.

In February 2010, correspondence was sent to applicable Deputy Ministers and Chairs/Chief Executive Officers of Crown agencies requesting that they provide information related to the status of implementation for recommendations related to their entity. Following receipt of a written response, my staff met with senior officials to review the information provided. Based on our review and assessment of this information, we determined whether each recommendation had been acted upon (i.e. either fully implemented or partially implemented) or had no implementation action taken.

### Overall Assessment

Our follow-up work consisted primarily of enquiries and discussions with management officials at Government departments and Crown agencies, and a review of selected supporting documentation. This was not an audit, and accordingly, we cannot provide a high level of assurance that the actions described by entity officials have resulted in the recommendations being implemented effectively.

I found that, of the 193 recommendations:

- 172 (89.1%) have been acted upon as follows:
  - 79 - we agree that these recommendations have been fully implemented;
  - 79 - we agree that these recommendations have been partially implemented;
  - 3 - we agree that these recommendations have been partially implemented; however, given the entities' position on these recommendations, further follow-up would be of no further benefit. Therefore, we will not follow-up on these recommendations (Part 2.5, recommendation number 5; Part 2.7, recommendation number 4; Part 2.31, recommendation number 2 - details on these 3 recommendations are included in Figure 2); and

## Summary of Updates on Prior Years' Report Items, 2010

- 11 - we agree that some implementation has occurred; however, we disagree with officials at the entities regarding their assessment of the extent of the implementation. Given the entities' position on these recommendations, further follow-up would be of no further benefit. Therefore, we will not follow-up on these recommendations. (Part 2.7, recommendation numbers 1 and 7; Part 2.11, recommendation number 4; Part 2.15, recommendation numbers 2, 3, and 10; Part 2.21, recommendation numbers 1, 2, 3 and 4; Part 2.22, recommendation number 3 - details on these 11 recommendations are included in Figure 2).
- 21 (10.9%) had no implementation action taken as follows:
  - 14 had no implementation action taken. We will follow-up on these recommendations (Part 2.9, recommendation numbers 1 and 2; Part 2.12, recommendation numbers 1 and 4; Part 2.18, recommendation number 7; Part 2.20, recommendation number 3; Part 2.22, recommendation number 5; Part 2.25, recommendation numbers 11, 12, 13, and 15; Part 2.29, recommendation number 1; Part 2.32, recommendation numbers 1 and 5);
  - 1 had no implementation action taken; however, given the entities' position on this recommendation, further follow-up would be of no further benefit. Therefore, we will not follow-up on this recommendation (Part 2.27, recommendation number 6 - details on this recommendation is included in Figure 2); and
  - 6 had no implementation action taken and we disagree with officials as to why they will not implement these recommendations. However, given the entities' position on these recommendations, further follow-up would be of no further benefit. Therefore, we will not follow-up on these recommendations (Part 2.25, recommendation number 8; Part 2.28, recommendation numbers 1, 2 and 3; Part 2.32, recommendation numbers 3 and 6 - details on these 6 recommendations are included in Figure 2).

As a result, our goal of having at least 80% of our recommendations acted upon has been met.

### No Implementation Action Taken

My review indicated that there were 21 (10.9%) of the 193 recommendations at 10 entities where officials had not taken action to implement the recommendations. Of the 21 recommendations, we determined that there would be no benefit for my Office to follow-up on 7 recommendations because the entities clearly indicated that the recommendations will not be implemented. The remaining 14 will be followed-up by my Office because we are of the opinion that some action will take place.

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### No Further Follow-up Planned

Figure 2 contains details of the 21 recommendations (14 with some implementation action taken and 7 with no implementation action taken) where, based on the entity's position on the recommendation, further follow-up by this Office would be of no benefit. Therefore, no further follow-up is planned by my Office.

### Figure 2

#### No Further Follow-up Planned by the Office of the Auditor General

Entity	Description
<b>Part 2.5</b> <b>Conseil Scolaire Francophone</b> <b>Provincial de Terre-Neuve-et-</b> <b>Labrador</b>	<b>Recommendation Number 5</b>  Officials at the School District indicated that they agree with the recommendation and are developing the purchasing expertise of one board office employee, with only isolated incidents of non-compliance identified.
<b>Part 2.7</b> <b>Department of Education</b> Monitoring Air Quality in Schools	<b>Recommendation Number 1</b>  Department officials indicated that they did not consider it necessary to monitor the results of all annual inspections. However, we maintain that our recommendation is for the Department to have a process in place to be informed of and to review all issues that relate to air quality only.  <b>Recommendation Number 4</b>  Department officials indicated that the recommendation had been partially implemented. Schools now have a sufficient number of operable windows. However, installing mechanical ventilation systems in schools that do not have systems currently installed would be cost prohibitive and disruptive to students.  <b>Recommendation Number 7</b>  Department officials indicated that they do not intend to extend the enhanced inspection to all schools but instead intend to carry out building envelope inspections. However, in our opinion, building envelope inspections will not cover all areas included in the enhanced inspections and there is no plan by the Department to carry out the building envelope inspections on all schools periodically.
<b>Part 2.11</b> <b>Multi-Materials Stewardship</b> <b>Board (MMSB)</b> Used Beverage Containers	<b>Recommendation Number 4</b>  MMSB officials indicated that they are exempt from having to comply with the <i>Public Tender Act</i> when dealing with these contracts. It is our opinion that the contracts in question are subject to the requirements of the <i>Public Tender Act</i> as they are for the services of the Depot and not for the resale of the used containers.

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Entity	Description
<p><b>Part 2.15</b>  <b>Department of Fisheries and Aquaculture</b>            Aquaculture Inspections</p>	<p><b>Recommendation Number 2</b></p> <p>Department officials indicated that they have revised the Site Inspection and Directive Report to address some of the weaknesses noted in our report. However, we maintain that the Department has not revised the Report to address all the weaknesses noted. The Department informed us that it will not revise the inspection report to address the remaining weaknesses noted in our report because it is now satisfied with the level of documentation in the inspection files.</p> <p><b>Recommendation Number 3</b></p> <p>Department officials indicated that this recommendation has been fully implemented. While the hand delivery of Site Inspection and Directive Reports to site operators, or their authorized officials, is an improvement over using regular mail to deliver the Reports, we maintain that the Department is still not ensuring that site operators acknowledge inspection results because there is no requirement that the site operator, or their authorized official, sign the Site Inspection and Directive Report upon receipt. The Department informed us that it is satisfied with the manner in which inspection results are delivered to site operators.</p> <p><b>Recommendation Number 10</b></p> <p>Department officials indicated that they are sufficiently testing nets and that there is adequate inspection documentation to support the net testing. However, we maintain that the Department has not revised Cage System Audit Reports to indicate that all of the nets in the water were tested, of the appropriate age and were properly treated with UV and anti-foulant protectant. Furthermore, the Department has not demonstrated that annual net inventories submitted by site operators are sufficiently audited. The Department informed us that it is satisfied with the level of auditing and audit documentation in connection with cage systems.</p>
<p><b>Part 2.21</b>  <b>Department of Health and Community Services</b>            Hospital-Acquired Infections</p>	<p><b>Recommendation Number 1</b></p> <p>Department officials indicated that they have developed Province-wide policies and standards for hospital-acquired infections and are monitoring compliance at the Authorities. However, we maintain that, although the Department has developed seven guidelines which are included in the Newfoundland and Labrador Disease Control Manual, there is no requirement that the Authorities report regularly on their compliance with these guidelines. Instead, the Department maintains that monitoring is accomplished through continual contact with the Authorities at various committee meetings that they all attend.</p> <p><b>Recommendation Number 2</b></p> <p>Department officials indicated that, although they are receiving regular surveillance statistics, these statistics are limited to two specific multi-drug resistant infections. Surveillance statistics on these two infections are required by Health Canada. Also, these statistics are not limited to instances where these infections were hospital-acquired. We maintain that there are many other</p>

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Entity	Description
	<p>hospital-acquired infections that the Authorities are keeping statistics on which could be included in the surveillance statistics provided to the Department. However, the Department maintains that monitoring these other hospital-acquired infections is the responsibility of the Authority. The Department maintains that its responsibility is limited to infections targeted by Health Canada.</p> <p><b>Recommendation Number 3</b></p> <p>Department officials indicated that surveillance for hospital-acquired infections is completed and a reporting system is in place, whereas we maintain that this is only true for two specific drug resistant infections. It is the Department's position that surveillance of hospital-acquired infections and review by the Infection Control Committees (ICCs) is the responsibility of the Authorities. The Department maintains that its presence on certain committees with the Authorities provides the opportunity for it to determine whether surveillance activities are carried out on a consistent and timely basis, reviewed and documented by the ICCs and, where appropriate, deficiencies acted upon. As a result, the Department does not require any further reporting by the Authorities.</p> <p><b>Recommendation Number 4</b></p> <p>Department officials indicated that they have reviewed this recommendation with the Authorities and are satisfied with the systems that Authorities have in place to address audits of equipment/facilities hygiene. However, we maintain that the Department has not established minimum requirements for the Authorities to carry out and report on audits of equipment/facilities hygiene because, in the Department's opinion, this is an operational requirement of the Authorities and not the responsibility of the Department.</p>
<p><b>Part 2.22</b>  <b>Labrador-Grenfell Regional Health Authority</b></p>	<p><b>Recommendation Number 3</b></p> <p>Officials at the Authority indicated that the compensation package given to the Associate Vice-President of Medical Services is exempt to the rule of applying Government policy because of recruitment issues in the area. However, we maintain that Government policy should be applied consistently.</p>
<p><b>Part 2.25</b>  <b>Department of Justice</b>  <b>Adult Custody Program</b></p>	<p><b>Recommendation Number 8</b></p> <p>Department officials indicated that they determined that performance appraisals will not be possible for Adult Custody during the 2010-11 fiscal year and until such time as the Division is able to conduct appraisals, relevant policy will be changed to reflect that performance appraisals are not required. However, we maintain that the policy should remain in force and that the Department should ensure that a system is put in place to manage and support the process, and that all staff should have their work performance appraised on an annual basis.</p>

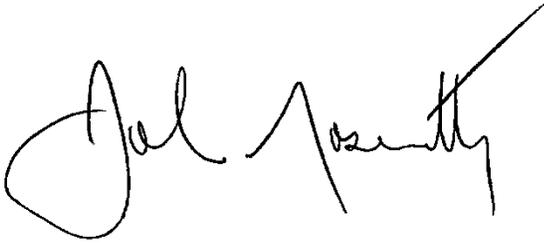
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Entity	Description
<b>Part 2.27</b> <b>Newfoundland and Labrador</b> <b>Human Rights Commission</b>	<b>Recommendation Number 6</b>  Officials at the Commission indicated that improving the perception of independence by submitting the Commission's annual report directly to the House of Assembly, can only be addressed by the Provincial legislature.
<b>Part 2.28</b> <b>Department of Justice</b> Fines Receivable	<b>Recommendation Number 1</b>  Department officials indicated that an increase to the late penalty fee would not result in an improvement in fine collection. We maintain that the Department should consider increasing the late payment penalty.  <b>Recommendation Number 2</b>  Department officials indicated that this recommendation has not been implemented due to the potential difficulties in implementing a system to deny, withhold, suspend or cancel various licences for non-payment of fines. We maintain that the Department should investigate attaching fine balances to all possible Government instruments to improve collection efforts.  <b>Recommendation Number 3</b>  Department officials indicated that this recommendation has not been implemented due to the possibility of interference with other initiatives and the potential requirement for additional liability insurance. We maintain that the Department should consider enacting a Fine Option Program as outlined in the <i>Provincial Offences Act</i> to allow debtors of the Province to discharge their fines by a means other than monetary compensation.
<b>Part 2.31</b> <b>Department of Natural Resources</b> Oil Royalties	<b>Recommendation Number 2</b>  Department officials indicated that they obtain this necessary information to gain audit assurance but no longer consider it necessary to request the Hibernia project operator to provide access to any Internal Audit Reports and Plans and the minutes of Hibernia Executive Committee meetings.
<b>Part 2.32</b> <b>Department of Natural Resources</b> Seized Property	<b>Recommendation Number 3</b>  Department officials indicated that it is too costly to implement this recommendation. However, we maintain that the Department should ensure that seized property is preserved and protected.  <b>Recommendation Number 6</b>  Department officials indicated that it is too costly to implement this recommendation. However, we maintain that the Department should require that someone other than the Conservation Officer making the seizure be responsible for storing the seized property.

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### Acknowledgements

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

A handwritten signature in black ink, appearing to read "John L. Noseworthy". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

**JOHN L. NOSEWORTHY, CA**  
**Auditor General**