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Chapter 1

Introductory Comments

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Introductory Comments

New Auditor General appointed

1.1 The past year has been one of transition for our Office. Mr. Daryl Wilson's term as Auditor General ended on August 31. Mr. Ken Robinson served as Acting Auditor General until October 31, and my appointment was effective November 1, 2005. These significant changes, while having some minor impact on the timing of our work, have not affected the volume of work performed by our Office and our ability to offer objective information and recommendations to government and the Legislative Assembly.

1.2 Volume 1 of our 2005 Report was issued in August 2005 by my predecessor, Mr. Wilson. It contained his reflections on his eight-year term as Auditor General. It also reported on work we did to determine if Service New Brunswick complies with the *Assessment Act* by assessing real property at "real and true value." This current volume of our 2005 Report includes the results of audits that were still in progress at the time Volume 1 was issued.

Comments on the Province's financial position

1.3 The Province made significant changes to its financial statements in 2005 to comply with the recommendations of the Canadian Institute of Chartered Accountant's Public Sector Accounting Board (PSAB). The financial statements now provide more information on the Province's investment in roads, buildings and equipment. These "tangible capital assets" were previously recorded as expenditures in the financial statements as the assets were purchased or constructed, even though they provided services to citizens over a much longer period. Now these assets are recorded as expenses (amortized) over their useful service lives. This change provides readers of the financial statements with a better view of the annual cost of government operations.

1.4 Net debt remains a key focus of the financial statements. However, a new term has also been introduced to the financial statements, the "accumulated deficit." This represents the portion of the net debt that has not been invested in assets having ongoing value to the Province. It is an accumulation of all previous annual deficits, less any annual surpluses, arising from the day-to-day operations of government. To draw a simple analogy, it could be said to be the amount borrowed in the past to pay for the groceries.

1.5 Readers of the Province's financial statements will need to become familiar with this new method of reporting. Under the old method, the results for the year could be summarized in one number, the increase or decrease in net debt for the year. Under the new model, there are two summary indicators of the results for the year. The increase or decrease in net debt is still reported, but it is no longer the bottom line on the Province's Statement of Operations. The new bottom line is simply called the annual surplus or deficit. For the year ended 31 March 2005, both of these numbers were positive. The surplus for the year was \$242.2 million and the net debt reduced by \$131.5 million.

1.6 Our Office has long been an advocate of more timely release of information on the Province's financial results. The government has not yet achieved this. This year, the Province's audited financial statements were released on December 1, eight months after the year end.

1.7 For the past eight years we have been tracking six financial indicators which show the Province's financial condition from the perspective of sustainability, flexibility and vulnerability. The trends shown by these indicators have, for the most part, been positive.

1.8 Chapter 2 of this Report provides more details on the topics outlined above.

Maintenance of school facilities

1.9 The Department of Education is the primary government department responsible for maintaining school facilities. Legislation clearly assigns the responsibility for the overall health and safety of students to the Minister of Education. We concluded that the Minister does not have adequate systems and practices in place to ensure that school facilities are appropriately maintained, although we found that appropriate practices are in place in some areas such as drinking water safety. We also raise some issues relating to District Education Councils and their role and responsibilities relating to facilities maintenance. The results of our work are found in chapter 3.

Special care homes and community residences

1.10 There are approximately 465 special care homes and 60 community residences in the Province where over 4,000 adults, who have functional limitations, live and receive personal care services. Although all these facilities are privately owned and operated, government has control over them through licensing, an inspection program and an assessment process for individuals seeking admission. We found that the Department of Family and Community Services does have clear requirements for the licensing of these facilities,

however these requirements are not always met before a license is issued. We also found inconsistencies in the licensing process. The results of our work are found in chapter 4.

Prescription Drug Program

1.11 During 2003-04, one in seven New Brunswickers were eligible beneficiaries of the Prescription Drug Program. Total expenditures for the program for that year were \$114 million. This program has been administered on behalf of the Province by Medavie Blue Cross (formerly Atlantic Blue Cross Care) since 1975. The results of our audit of the program can be found in chapter 5. We found that the Department of Health and Wellness does not have adequate procedures in place to manage the performance of the Prescription Drug Program. However, it does have adequate procedures to ensure the drug assessment process and the amount paid for drugs and dispensing fees are managed with due regard for cost effectiveness.

Governance of NB Power

1.12 Chapter 6 reports on the finding of our audit of the governance structures and processes established for NB Power. We found that there have been some recent important enhancements in the NB Power governance structures and processes. However, there is still room for improvement, and we encourage the board of directors of NB Power and the Province as shareholder to continue strengthening the governance framework of the corporation. The Province, as shareholder, has not provided clearly documented performance expectations to NB Power, nor has it identified one official shareholder representative to provide direction to NB Power on behalf of the shareholder. And the board of directors of NB Power had not, at the time of our audit, developed all the monitoring reports it might need from management to ensure that its policies are being complied with. There are also improvements that could be made to the NB Power annual report.

Other audit work in departments and Crown agencies

1.13 In chapter 7, we include commentary related to the process followed by the Department of Finance to ensure that the tax revenues collected on our behalf by the government of Canada are complete and accurate. We have concluded that the Province has appropriate measures in place to satisfy itself that the government of Canada is properly allocating to the Province its share of revenues collected by the government of Canada. We also report on a follow-up audit of recommendations we made to the Department of Transportation in 2000 related to the contracting of engineering services. This was outside our normal follow-up process, but was undertaken because we were not satisfied with the Department's initial response to our recommendations.

Comments on action taken to address our recommendations from prior years

1.14 Our policy is to track the disposition of our recommendations for a period of four years after they first appear in our Report. We have noted significant interest in this aspect of our work by legislators and citizens. They want to know how well government is doing in implementing our recommendations from audits of previous years. The results of our follow-up work are found in chapter 8. They show that forty-nine recommendations from 2001 have not been fully implemented. We also found that the Department of Supply and Services has still not awarded tenders for cellular phone airtime usage charges and long distance charges. This contravenes the *Public Purchasing Act*, and ignores potentially significant cost savings.

About our Office

1.15 Chapter 9 is our own accountability report to New Brunswickers. It sets out our goals and objectives, and discusses our own performance.

Acknowledgements

1.16 The work of our Office goes on regardless of changes at the Auditor General level. I have worked with many of the staff of the Office in the past, and I have talked to each of them about the work our Office does. I am impressed by the enthusiasm they have for the role of the Office, and I will depend heavily on them as I undertake my responsibilities. They are dedicated and professional people, and they produce high quality work. As I begin my term as Auditor General, I wish to express my appreciation to Mr. Ken Robinson, who managed this Report to its completion, even after I reported for duty, and to the staff who carried out their work despite there being three Auditors General during the process.

1.17 During my previous career, I worked with the past three Auditors General, Mr. John Astle, Mr. Ralph Black and Mr. Daryl Wilson, and it is my goal to build on the work of these fine examples.



Michael Ferguson, CA
Auditor General

Chapter 2

Comments on the Province's Financial Position

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Comments on the Province's Financial Position

Introduction

2.1 This chapter covers three separate, but related, topics:

- Our audit of the financial statements of the Province

This section explains the responsibilities of the government and our Office with respect to the financial statements.

- Comments on the financial statements of the Province

This section discusses anything that we believe to be significant in our audit of the Province's financial statements.

- Indicators of the Province's financial condition

This section takes some of the information disclosed in the Province's financial statements, adds other objective information such as the Province's Gross Domestic Product, and attempts to chart the results in a way that is clear and understandable. It shows trends in the Province's financial health over the past ten years as measured by sustainability, flexibility and vulnerability.

Our audit of the financial statements of the Province

Responsibilities of the government

2.2 The government is responsible for the preparation and the content of the Province's financial statements. The Statement of Responsibility at the front of volume 1 of the Public Accounts is signed by the Minister of Finance on behalf of the government. The Comptroller is responsible for preparing the financial statements in accordance with the government's stated accounting policies. When preparing the financial statements, the government must make significant estimates, as not all information is available or determinable at the time of finalizing the statements. Examples of where estimates are used include: the set up of tangible capital assets as only limited records were kept for prior years; the pension liability and pension expense for the public service and other groups; and allowances for loss on loans felt to be uncollectible.

Responsibilities of the Office of the Auditor General

2.3 Our Office is responsible for auditing the financial statements. An audit provides reasonable, but not absolute, assurance that the

Province's financial statements are free of material misstatement. Material misstatement refers to an item or group of items that if omitted or misstated, would alter the decisions of reasonably knowledgeable financial statement users. The tolerable level of error or misstatement is a matter of judgment.

2.4 We obtain reasonable assurance on the financial statement figures because it would not be cost effective to obtain absolute assurance - our auditors cannot test every transaction. By applying audit procedures to test the accuracy or reasonableness of the figures appearing in the financial statements, we achieve our desired level of assurance. We use audit procedures such as tracing samples of transactions to supporting documents, testing the effectiveness of certain internal controls, confirming year-end balances with third parties and reviewing the reasonableness of estimates.

2.5 We also obtain assurance on the Crown agencies we do not audit, by reviewing the agencies' audited financial statements and, on a cyclical basis, reviewing the work of auditors of these agencies. Such agencies include New Brunswick Power Holding Corporation, New Brunswick Liquor Corporation and all eight regional health authorities. We cannot finalize the audit of the Province's financial statements until we receive the audited financial statements of all significant Crown agencies.

Comments on the financial statements of the Province

Changes to the reporting model

2.6 In October 2002, the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants approved a new reporting model for federal, provincial and territorial governments. The new standards are effective for all fiscal years beginning on or after 1 April 2005, although many governments have chosen to implement the changes prior to that date. New Brunswick has adopted the new model for its fiscal year ended 31 March 2005. The government provided a good explanation of the new reporting model in its 2004-2005 budget documents, and summarized the effects of the changes in its discussion of the results of the year, which precedes the financial statements in volume 1 of the 2005 Public Accounts.

2.7 The purpose of the new model is to change the way people assess a government's financial performance. In the past, people tended to focus only on the surplus or deficit for the year. With the new model, PSAB wants people to focus on the following five indicators of financial performance: net debt; accumulated surplus or deficit; annual surplus or deficit; change in net debt in the year; and cash flows in the year. Governments will also be focusing on costs rather than spending.

2.8 The 2005 Statement of Financial Position now includes two main measures of a government's financial position. The first measure is the traditional one, the Province's net debt. The second is a new measure, accumulated deficit.

2.9 Net debt is the difference between the Province's financial assets and its total liabilities. It provides a measure of the future revenues required to pay for past transactions and events. The accumulated deficit adjusts the net debt amount by recognizing that government borrowing, in part, has been used to acquire assets that are being used to provide future government services. These assets would include roads, schools and hospitals. The remainder, the accumulated deficit, represents the total of all annual deficits, less any annual surpluses, to that point in time, arising from the day-to-day operations of government.

Compliance with Public Sector Accounting Board recommendations

2.10 The Province now fully complies with PSAB recommendations and standards. The government made the following changes in 2005 in order to comply with the PSAB recommendations:

- Tangible capital assets are now recorded on the Statement of Financial Position and amortized over their useful lives. In the past, the Province expensed these assets in the year they were acquired or constructed.
- Prepaid expenses and inventory not held for resale are reclassified from financial assets to non-financial assets.

Timeliness of provincial financial statements

2.11 Our Office has long encouraged the government to issue its financial statements sooner. The New Brunswick government continues to issue its financial statements later than most of the other provinces in Canada. Exhibit 2.1 compares financial statement issue dates between provinces. There are only two other provinces that released its financial statements later than New Brunswick in 2005 - Prince Edward Island and Quebec.

Exhibit 2.1

Provinces' financial statement issue dates

Province	2005 financial statement issue date	2004 financial statement issue date
British Columbia	June 29, 2005	June 29, 2004
Alberta	June 29, 2005	June 29, 2004
Saskatchewan	July 13, 2005	June 29, 2004
Manitoba	September 8, 2005	September 30, 2004
Ontario	September 27, 2005	September 27, 2004
Nova Scotia	September 28, 2005	September 30, 2004
Newfoundland and Labrador	November 29, 2005	November 30, 2004
New Brunswick	December 1, 2005	November 3, 2004
Prince Edward Island	*	February 3, 2005
Quebec	*	March 22, 2005

* not issued at the time of preparing this chapter.

Comments on the approach used by the Province for setting up tangible capital assets

2.12 As mentioned earlier, to comply with the recommendations of PSAB, the Province recorded tangible capital assets on its Statement of Financial Position. This new requirement provided the government with an excellent opportunity to determine what physical assets it owns and how much they cost. The government had a choice on the approach for setting up the assets. It could do the bare minimum to meet the PSAB requirements (generate a number for the financial statements) or it could spend extra time to develop an extensive inventory of its assets, their cost and remaining useful life. The government chose to do the bare minimum, which is shown by the following government decisions.

- It chose **high** thresholds for assets to be set up - higher than most other provinces. Individual assets that cost less than \$100,000 (except for vehicles and land) are not recorded as tangible capital assets.
- It chose **not** to capitalize any furniture and equipment (except for the first time equipping of new buildings), computer equipment or major software development projects, unlike other provinces. These assets represent significant expenditures for the Province.
- It chose **not** to separately identify costs for individual buildings and highways. Instead, it allocated all expenditures for buildings and all expenditures for highways into two pools. This means that the amounts showing in the financial statements cannot be supported by listings of individual assets, or records of particular road construction projects.

Indicators of the Province's financial condition

Background

2.13 We believe that by making these choices, the Province lost a great opportunity to demonstrate good stewardship and improve asset management.

2.14 In 1997, a research report published by the Canadian Institute of Chartered Accountants (CICA) defined financial condition as a government's "financial health as measured by sustainability, vulnerability and flexibility, looked at in the context of the overall economic and financial environment."¹

2.15 Some of the information presented below has been included in the discussion of the Results for the Year in volume 1 of the Public Accounts. We are pleased to see such analysis included in the Public Accounts. However not all of the indicators are presented there and the Public Accounts information is for a five not a ten-year period. For these reasons, we will continue to present this section as we have in prior years. We continue to encourage the government to include in the Public Accounts a comprehensive discussion and analysis of its financial results.

Scope

2.16 The purpose of this section is to provide readers with useful information about the Province's financial condition using the CICA research report as a guideline.

2.17 Though many potential indicators of sustainability, vulnerability and flexibility were considered in preparing the research report, only ten indicators were found which were relevant, necessary, measurable and clear to users of government financial information. Of these, our Office has concluded that six can be considered meaningful in the context of the Province of New Brunswick. We have, over the years, focused on these same six indicators in order to present readers with consistent analysis over a ten-year period. They are:

- | | |
|-----------------------|---|
| <i>Sustainability</i> | · <i>Net debt as a percentage of gross domestic product (GDP)</i> |
| | · <i>Change in net debt and GDP</i> |
| <i>Flexibility</i> | · <i>Own source revenue as a percentage of GDP</i> |
| | · <i>Cost of servicing the public debt as a percentage of total revenue</i> |

1. Indicators of Government Financial Condition, 1997 published by the Canadian Institute of Chartered Accountants.

- Vulnerability*
- *Federal government transfers as a percentage of total revenue*
 - *Foreign currency debt as a percentage of total debt for provincial purposes*

Financial results used in analyses

2.18 In this section, our analyses are based on the current year financial statements as presented in the Public Accounts. These financial statements report a decrease in net debt for the year of \$131.5 million. Prior year numbers used in our analyses may include restated figures obtained from the Office of the Comptroller.

2.19 The 31 March 2000 financial statement expenditure figures included \$903.8 million relating to the capital cost of the Fredericton to Moncton highway. This transaction resulted in a one-time increase in net debt of \$903.8 million. The magnitude of this transaction can be seen in Exhibit 2.2. The net debt increased to a higher level in that year and has remained at, or close to, that level ever since.

Results in brief

2.20 In general, the indicators for the last ten years show that the Province of New Brunswick's financial condition has improved in sustainability, flexibility and vulnerability, with some deviations from this trend showing in 1999 and 2000. For the most part, the indicators affected by these deviations showed more positive results in the past five years.

Sustainability

2.21 Sustainability is the degree to which a government can maintain existing programs and meet existing creditor requirements without increasing the debt burden on the economy.¹

2.22 It is now well understood by the general public that increases in the cost of servicing the public debt can directly impact the quantity and quality of programs and services to which the public has access. Accordingly many provinces, including New Brunswick, are striving to control their debt in order to ensure an optimum amount of funding is allocated to programs and services.

2.23 There are circumstances when governments may tolerate increases in their debt load. For example, when revenues are increasing, a higher cost of servicing the public debt might be tolerated without impacting existing programs and services. However, the

1. Indicators of Government Financial Condition, 1997 published by the Canadian Institute of Chartered Accountants.

ability to generate such revenues (e.g. through taxes, user fees, or licenses) is closely linked to the performance of the economy.

2.24 Therefore, any growth in New Brunswick's debt must remain in line with growth in the economy to ensure that our Province can sustain its programs and services. If debt is growing faster than the economy, New Brunswick will suffer reduced capacity for sustainability. Programs and services offered to the public may eventually suffer.

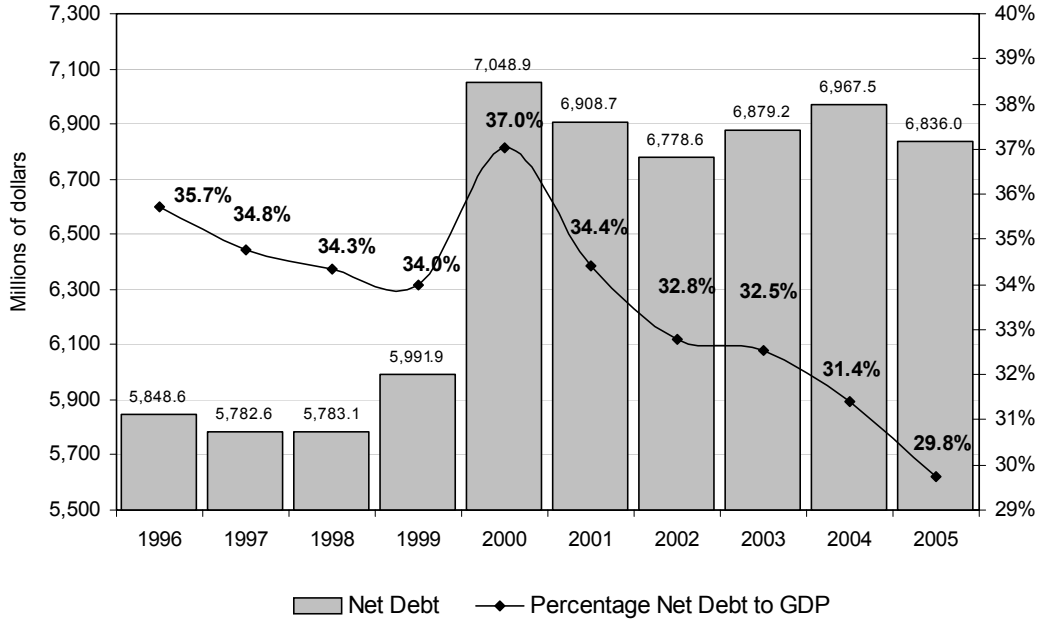
2.25 Gross Domestic Product (GDP) is the total value of all goods and services produced in the Province during a specific period. GDP is often used to measure the growth of the economy.

Net debt as a percentage of GDP as a measure of sustainability

2.26 Net debt is an accounting measure of the extent to which total liabilities of the Province exceed financial assets. The net debt of the Province increases with deficits and decreases when surpluses are experienced. The financial statements for 2005 indicate that net debt stands at \$6.836 billion - \$987.4 million more than its level ten years ago, but \$212.9 million less than in 2000.

Exhibit 2.2

Net debt as a percentage of GDP¹ for the last ten years



1. GDP is measured on a calendar year basis. The GDP used in our tables for each 31 March year end is the GDP for the calendar year ended during that fiscal year. GDP information is provided by N. B. Department of Finance: actual GDP for calendar years 1995-2004.

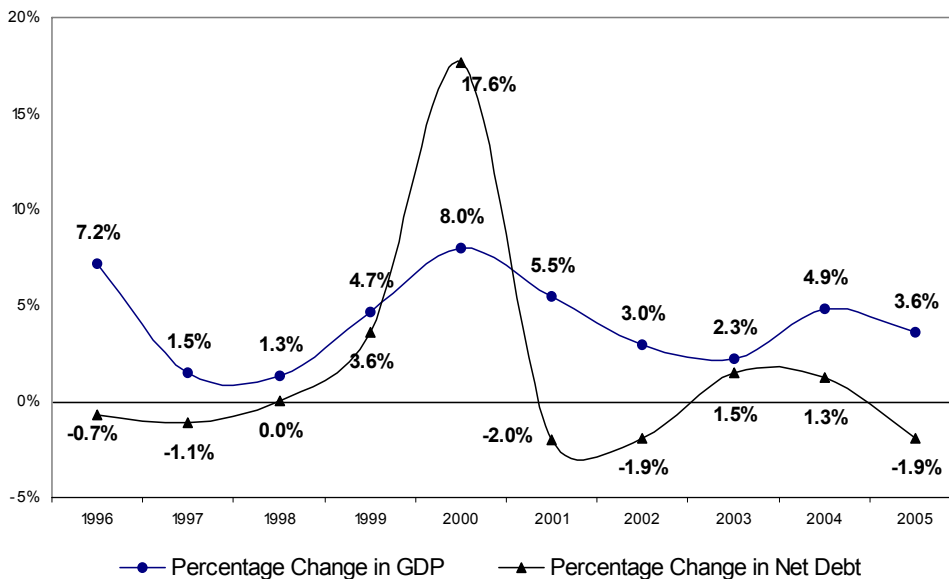
2.27 The New Brunswick economy has also grown. Exhibit 2.2 shows that the Province's net debt to GDP ratio generally decreased (favourable) over the last ten years – showing the Province's increasing ability to sustain existing programs and services. The only exception to this trend came in the year 2000 as a result of recording the debt for the Fredericton to Moncton highway.

Change in net debt and GDP as a measure of sustainability

2.28 The Province can positively influence sustainability in two ways: by increasing surpluses and by increasing growth in the economy. Though governments use various political, legislative and regulatory powers to stimulate the economy, the effect is neither guaranteed nor timely.

Exhibit 2.3

Change in net debt and GDP¹ for the last ten years



2.29 The rate of growth in the surplus or deficit and their impact on net debt is much more controllable. Exhibit 2.3 shows that the Province has experienced economic growth in excess of growth in the net debt (favourable) every year since 1996, with the exception of the year 2000. The deviation in the year 2000 resulted from the effects of the Fredericton to Moncton highway.

Flexibility

2.30 Flexibility is the degree to which a government can increase its financial resources to respond to rising commitments, by either expanding its revenues or increasing its debt burden.²

1. GDP information provided by N. B. Department of Finance
 2. Indicators of Government Financial Condition, 1997 published by the Canadian Institute of Chartered Accountants

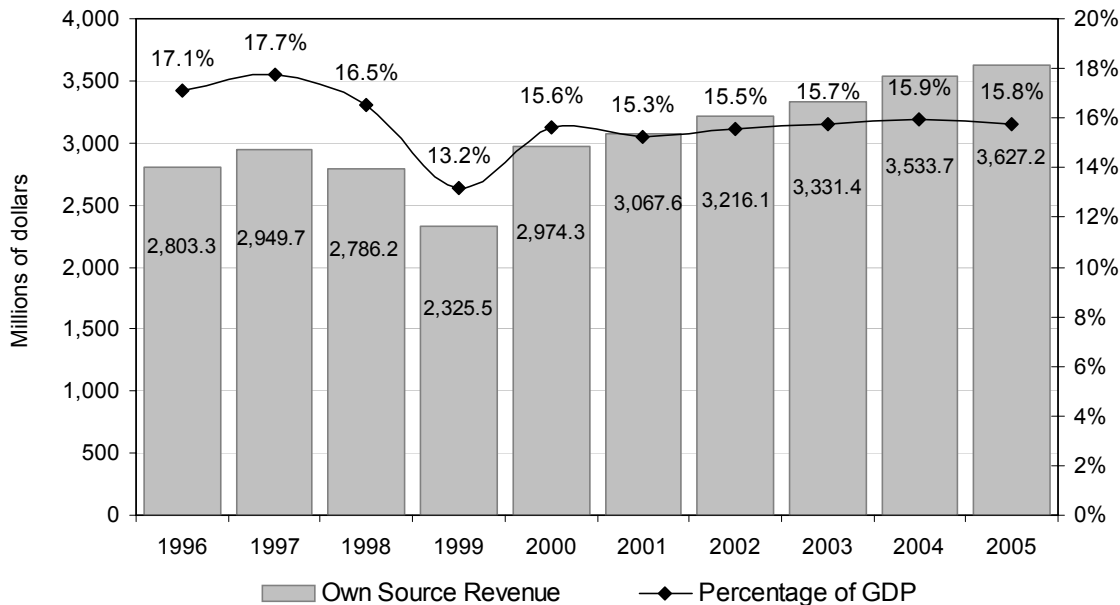
2.31 Funding for programs and services is provided by either revenue or borrowing during the year. It is a useful measure of flexibility to know to what extent the Province is able to raise revenue from existing and potential sources should new commitments arise.

Own source revenue as a percentage of GDP as a measure of flexibility

2.32 One could assume that any additional funding for new programs or services might not be possible from existing revenue sources. A reasonable alternative would be to raise revenue from new provincial sources. However, the Province is only able to extract a finite amount of dollars from the economy of New Brunswick before the economy begins to falter. Though the exact capacity of the economy to bear such a burden is not known, one can determine the relative increase or decrease over time.

Exhibit 2.4

Own source revenue as a percentage of GDP¹ for the last ten years



2.33 Exhibit 2.4 shows the extent to which the Province has removed dollars from the provincial economy through taxes and user fees/licenses during the last ten years. This exhibit shows that the dollars extracted by the Province from the New Brunswick economy as a percent of GDP decreased (favourable) during the first four years of the ten-year period, but has been relatively stable for the past six years. However, the current percentage is still lower than the 1996 to 1998 period.

1. GDP information provided by N. B. Department of Finance

2.34 The large reduction in own-source revenue in 1999 was due to a \$450 million one-time write-down in the Province's investment in the New Brunswick Power Corporation.

Cost of servicing the public debt as a percentage of total revenue (or "interest-bite") as a measure of flexibility

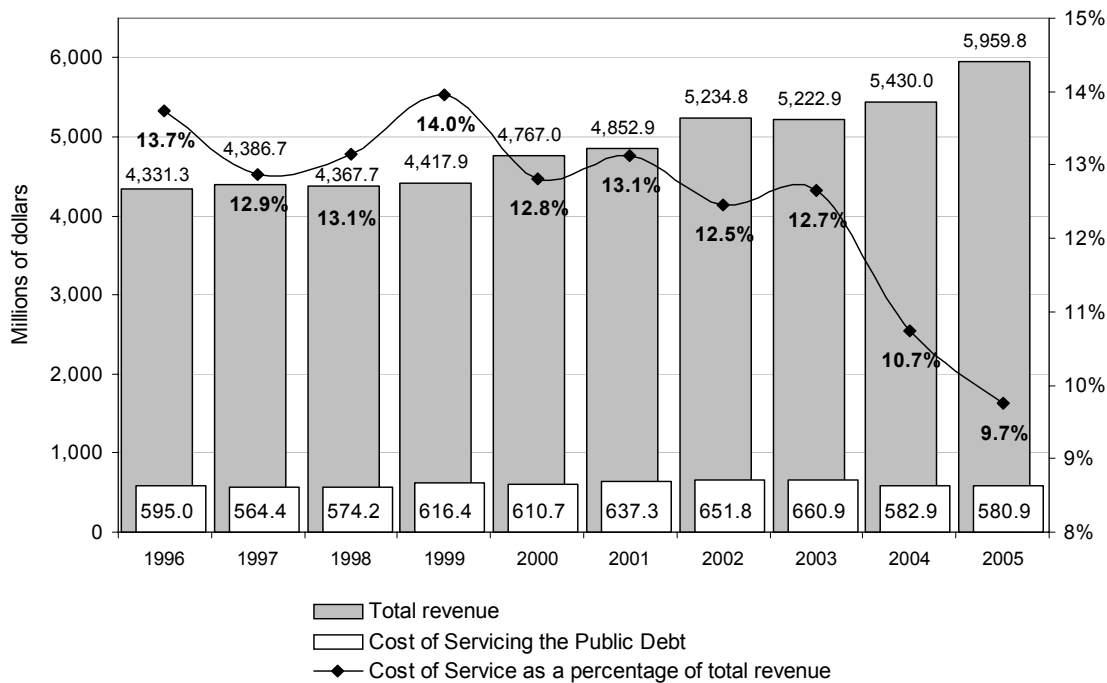
2.35 One of the most publicized factors which affects the flexibility of governments is the cost of servicing the public debt.

2.36 The cost of servicing the public debt is comprised mainly of interest on the funded debt of the Province. It also includes foreign exchange paid on interest and maturities during the year, the amortization of foreign exchange gains and losses, and the amortization of discounts and premiums which were incurred on the issuance of provincial debt. It does not include principal repayments on the funded debt of the Province.

2.37 Exhibit 2.5 shows debt servicing costs as compared to total provincial revenue for the last ten years.

Exhibit 2.5

Cost of servicing the public debt as a percentage of total revenue for the last ten years



2.38 This exhibit shows the cost of servicing the public debt decreased in 2005 over 2004 by \$2 million to \$580.9 million. It also shows that the Province has decreased its overall "interest-bite" percentage from its 2003 level of 12.7% to its current level of 9.7%. This is a significant decrease, attributable mainly to the strengthening of the Canadian dollar against its U.S. counterpart, and also to a

general lowering of interest rates. The exhibit indicates that, on a percentage basis, the Province has more of its total revenues available for current needs today than it did ten years ago.

Vulnerability

2.39 Vulnerability is the degree to which a government becomes dependent on, and therefore vulnerable to, sources of funding outside its control or influence, both domestic and international.¹

2.40 Funding for programs and services can only come from two sources: revenue or borrowing.

Federal government transfers as a percentage of total revenue as a measure of vulnerability

2.41 In 2005, 39.1% of the Province's total revenue came from federal transfers. This is significant because revenue from federal sources is not considered to be as controllable as revenue generated in the Province.

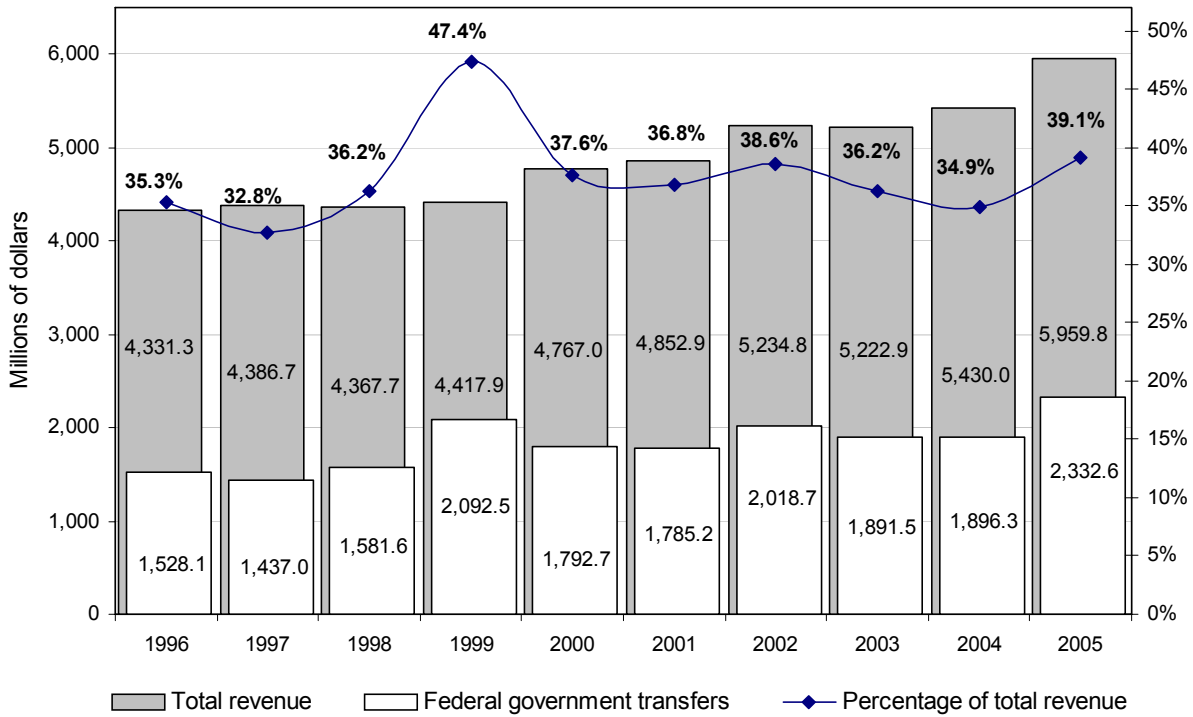
2.42 Own-source revenue is more controllable because the government can directly impact the amount generated using tax legislation as well as implementation or adjustment of user-fees/licensing rates. Federal transfers are subject to very different variables, few of which are under the jurisdiction of the provincial government. Federal fiscal policy decisions can severely impact provincial governments by determining the amount and timing of future transfers.

2.43 Increasing New Brunswick's reliance on federal transfers will leave the Province more vulnerable to variables outside of its own control. Exhibit 2.6 details the Province's reliance on federal transfers over the last ten years. Though a significant fluctuation occurred in 1999, this exhibit shows that the trend over the past ten years has been relatively stable. Nevertheless, except for the anomaly in 1999, as a percentage of total revenue, and also in absolute terms, federal transfers in 2005 were the highest they have been in the last ten years. To maintain comparability, revenue from 1996 to 2004 has been restated to reflect current accounting policy.

1. Indicators of Government Financial Condition, 1997 published by the Canadian Institute of Chartered Accountants.

Exhibit 2.6

Federal government transfers as a percentage of total revenue for the last ten years



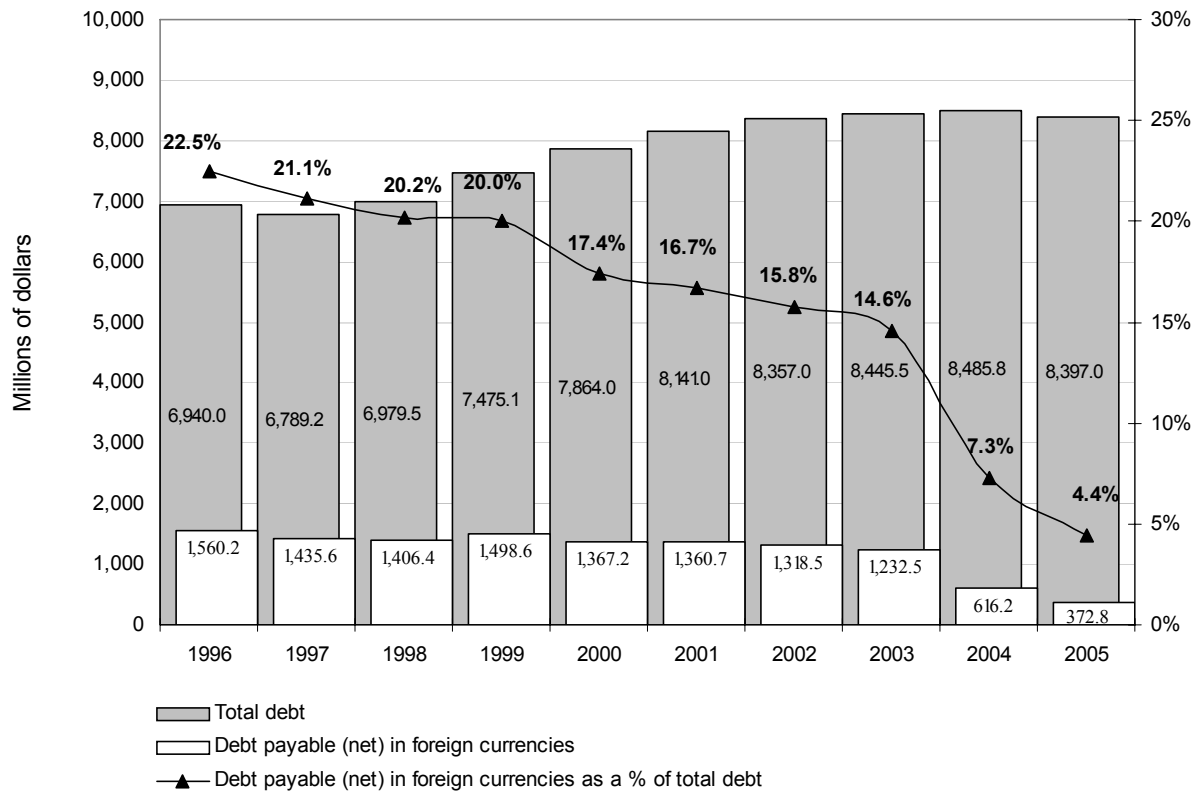
Foreign currency debt as a percentage of total debt for provincial purposes as a measure of vulnerability

2.44 When borrowing is required, there are choices to be made by the Province. For instance, if the Province chooses to issue its debt in a foreign currency instead of Canadian dollars, the Province will assume the risk of foreign exchange fluctuations. Such fluctuations can increase or decrease the amount ultimately payable in Canadian dollars for interest, and later, redemption of foreign currency debt.

2.45 Exhibit 2.7 shows the relationship of foreign currency debt to total debt for provincial purposes over the last ten years. The Province has several alternatives to reduce (hedge) the risk associated with debt repayable in foreign currencies:

- purchasing assets denominated in foreign currencies for the Province's sinking fund;
- entering into debt swap agreements which allows repayment of the debt in Canadian dollars; and
- entering into forward contracts (which allow the Province to purchase foreign currency at a stipulated price on a specified future date).

Exhibit 2.7
Exposure to foreign currency risk for the last ten years



2.46 The exhibit reflects the Province's exposure to foreign currency risk after eliminating the effect of hedges against foreign currency fluctuations.

2.47 The exhibit demonstrates that the Province's vulnerability to foreign currency risk has experienced continuous decline (favourable) since its 1996 peak of 22.5% to the 2005 level of 4.4%.

Summary

2.48 In general, over the last ten years, the indicators of sustainability, flexibility and vulnerability show that the Province of New Brunswick's financial condition has improved. While there were unfavourable deviations in 1999 and 2000 with some of the indicators, these for the most part have improved in the past five years.

Chapter 3

Department of Education

Facilities Maintenance

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Department of Education Facilities Maintenance

Background

3.1 There are currently fourteen school districts in the Province of New Brunswick - five French and nine English. As of September 2004, there were a total of 336 schools housing 124,688 students and educators. The replacement cost of these buildings is estimated to be \$2.3 billion.

3.2 The Department of Education is the primary government department responsible for maintaining school facilities. Other government departments provide supportive services. For example the Department of Supply and Services provides roof inspections and determines service providers for capital construction. The Department of Public Safety, through the Office of the Fire Marshal, examines fire safety via a yearly building inspection.

3.3 Because government wanted to increase the level of local decision making, District Education Councils (DECs) were introduced in the year 2001. DEC members are responsible for establishing the direction and priorities for the school districts and making decisions as to how the districts and schools are operated.

3.4 DECs have authority over:

- hiring, firing and directing the superintendent who will, in turn, hire all school district staff on behalf of the DEC;
- managing and controlling school property;
- making policy;
- operating schools;
- initiating school establishment and closures; and
- identifying priorities respecting capital construction projects.

3.5 Our Office has a continued interest in both the health and safety of New Brunswickers and the protection of government-owned assets. In keeping with this, we completed an audit in the area of maintenance of school facilities. Our review included both school buildings and the surrounding grounds.

Scope

3.6 Our audit objective was:

To determine if the Minister of Education has adequate systems and practices in place to ensure that school facilities are appropriately maintained.

3.7 Our audit objective refers to the Minister of Education. However the *Education Act* clearly defines the Minister as including persons designated by the Minister to act on his or her behalf. We addressed our recommendations to the Department, with the understanding the Department carries out the day to day operations on behalf of the Minister.

3.8 Ensuring school is a safe place to spend the day involves a number of issues. While we examined overall systems and practices in place to maintain school facilities, we also reviewed inspection practices for water quality, fire code compliance, playground safety, and roof maintenance. We interviewed district staff and DEC chairpersons in five randomly selected districts and substantially completed our audit in February 2005.

3.9 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Conclusion and results in brief

3.10 The 2002 government document entitled “A Quality Learning Agenda” states the Province will take specific actions to “monitor our schools to ensure we have healthy school buildings, safe playgrounds and adequate safety and crisis response planning”. The focus of our work was to examine the systems in place to support government’s commitment.

3.11 Based our audit findings, we have concluded the Minister does not have adequate systems and practices in place to ensure that school facilities are appropriately maintained. We have noted a number of areas for improvement, and trust that because the safety of building occupants is of utmost concern, the Department will take action on the recommendations that have been generated.

3.12 Legislation clearly assigns the responsibility for the overall health and safety of students to the Minister of Education. As a result, the ultimate responsibility for the condition of school facilities also rests with the Minister. Our audit revealed some

cases where adequate standards have not been formalized by the Department. In other instances, such as with playgrounds, standards have been formalized in policy but not adhered too. We noted a lack of monitoring on behalf of the Department to ensure building and school ground standards are met. The Department needs to improve its monitoring practices to fulfill its responsibilities stated in legislation.

3.13 Furthermore, decision makers and the public have not been provided with adequate information on how well government is doing at achieving its goals relating to building maintenance. Information is lacking regarding the amounts of deferred maintenance and the risks associated with it.

3.14 In 2001 government introduced District Education Councils with the intention of increasing local autonomy. In keeping with this, legislation assigned the DEC's responsibility to operate and maintain schools. Further, departmental policy outlines specific responsibilities for DEC members. Despite the fact that DEC's have been in place for a number of years, the Department has not taken adequate steps to ensure DEC's are maintaining schools in a safe, effective manner.

3.15 We have noted some significant issues with the current legislated delegation of such responsibilities to the DEC's.

3.16 Firstly, how can DEC's be truly held responsible for the operation and maintenance of schools when they have no control over their funding? While funding for both capital repairs and new construction has increased in recent years, government has not provided adequate funding to address identified repairs. As of 2004, there were over \$182 million worth of identified necessary capital repairs, of which \$51.1 million are defined by the Department as having "major risks to the health and safety of the building occupants". However, in that same year, with funding of only \$46 million, over 62% of the funding went towards the construction of new facilities.

3.17 Secondly, while legislation has clearly assigned DEC's the responsibility to operate and maintain schools, the Department has neglected to adequately inform DEC members on how to do this. DEC chairpersons we interviewed showed no knowledge of building inspection requirements, fire safety issues, minor repair budget shortages or overall building condition. The Department

needs to clearly define building standards, and provide verification to the DEC's that these standards were satisfactorily met.

Roles and responsibilities

3.18 Our first criterion was:

Relative roles and responsibilities of the Minister and District Education Councils regarding the maintenance of school facilities should be clearly defined, documented and communicated.

3.19 A critical first step in ensuring the appropriate maintenance of school facilities is to define, document and communicate roles and responsibilities to the appropriate parties. Such clarification not only sets expectations, but also serves as an important link to accountability.

Ministerial responsibilities are defined, documented and communicated

3.20 With respect to school property, responsibilities of the Minister are clearly defined in the *Education Act*. The Act states:

(45) (1) All school property is vested in the Minister.

and

(45) (4) (b) The Minister shall determine the physical plant standards for a safe healthy school facility.

3.21 The Minister owns all school facilities and thus has the ultimate responsibility to protect these assets. And legislation makes the Minister responsible for the safety of students. We noted that departmental officials indicated clear understanding and agreement with these ministerial roles.

DEC responsibilities are clearly defined and documented

3.22 With respect to school property, responsibilities of the DEC's are clearly defined and documented. Such responsibilities are detailed in the *Education Act*. They are also shown on the departmental website and within various government documents.

3.23 Section 3(2) of the Act describes the transfer of responsibility for operation of schools from the Minister to the DEC's.

The responsibility for the operation of schools in existence on July 1, 2001, within each school district is transferred effective July 1, 2001, from the Minister to the District Education Council that is established for the school district in which the schools are located.

3.24 Further, section 45(2) of the *Education Act* specifies that DEC's shall at all times have management, care and control of all school property.

3.25 The Department of Education website describes the DEC's as the primary decision makers as to how schools are operated. This is a clear indication of the responsibility of the DEC's regarding the maintenance and operation of school facilities.

3.26 Various departmental policies also describe the DEC's responsibilities. For example, Policy 406 entitled "Outdoor School Play Areas" - clearly defines the roles and responsibilities of the DEC's. The policy states:

6.1 District Education Councils shall ensure that play area conditions on school property conform, at minimum, with CSA standard CAN/CSA-Z 614-98 entitled Children's Play spaces and Equipment, and any subsequent update to this standard.

6.2 District Education Councils will ensure compliance of existing equipment with the CSA standards by August 31, 2005.

DEC responsibilities have not been well communicated

3.27 The Department provides orientation and training material to new DEC members. Generally, new DEC members attend a two-day orientation session which covers a host of topics related to their expansive role.

3.28 We were pleased to note orientation material provides excerpts from the *Education Act* with respect to facilities. Of significant importance to our audit was the inclusion of section 45(2) which specifies that DEC's "shall at all times have management, care and control of all school property". However, the orientation material provided lacked specific information on DEC responsibilities stated in departmental policies. None of the DEC chairpersons we interviewed had a clear understanding of section 45(2) of the *Education Act*.

3.29 One chairperson believed DEC's should be playing an important role in maintaining schools, but was unsure of the level of responsibilities assigned to them. Other chairpersons felt facility maintenance was beyond their scope and capabilities.

3.30 As well, chairpersons we interviewed were unaware of the DEC's responsibilities as stated in Policy 406 relating to play spaces.

They did not know the standards for the acquisition, installation, inspection, and maintenance of play areas. They were also unaware of the policy requirement for DEC members to ensure compliance of existing equipment with the CSA standards by August 31, 2005.

Recommendation

3.31 We recommended the Department of Education take action to ensure DEC members clearly understand the responsibilities for facilities maintenance assigned to them under legislation and policy.

Departmental response

3.32 Section 3.1 of the Education Act outlines the relationship between the Superintendent and the District Education Council (DEC). DECs delegate to superintendents the operation of the school district. Superintendents are accountable to the DEC for the overall management of the school districts. DECs have a legislated responsibility to oversee the superintendent's compliance with legislation and therefore should be aware of policies, all of which are on the DOE website. The Department will review the content of the orientation manual and determine if additional information is required on facilities management responsibilities for DEC members.

Conclusion

3.33 This criterion was partially met. Roles and responsibilities of the Minister and DECs have been clearly defined and documented. However, improvements need to be made in the area of communication. DEC members were unaware of several aspects of departmental policy and legislation.

Physical plant standards

3.34 Our second criterion was:

The Minister should ensure that there are documented and clearly communicated physical plant standards for a safe and healthy school facility.

3.35 Section 45(4)(b) of the *Education Act* states:

The Minister shall determine the physical plant standards for a safe healthy school facility

Lack of comprehensive physical plant standards

3.36 Although there are various pieces of legislation describing inspection requirements and certain safety standards, the Minister has not developed comprehensive physical plant standards. Notably lacking are standards for acceptable overall building condition. In our review of school facilities, we noted that the condition of these facilities varied greatly, with some needing significantly more repairs than others. The Department has not developed guidelines as to when a facility condition is considered unacceptable. Comprehensive

standards should be developed and DEC members informed what is required of them to ensure such standards are met.

Recommendation

3.37 We recommended the Department of Education clearly define comprehensive standards regarding school facility condition.

Departmental response

3.38 *Standards are currently in place regarding school facilities. These include water test inspections for schools with artesian wells to ensure conformity with the Clean Water Act, roof inspections on a rotating basis, contracts with private contractors for the inspection of control system, elevators and sprinkler systems. All new construction and renovation projects must be completed in accordance with the building code as well as provincial and federal legislation. Fire Marshal Officers inspect school buildings on a yearly basis to ensure compliance with the Canadian Building Codes. The Department will work in consultation with the Department of Supply and Services and other stakeholders to evaluate the need for additional standards.*

Few standards for timeliness of repairs

3.39 In our review of various inspection reports, we noted varying expectations regarding an acceptable time frame to complete necessary repairs. Inspections from the Office of the Fire Marshal clearly specify a timeframe for completion of noted deficiencies. For example, inspections note whether a particular problem is to be rectified immediately or within thirty days.

3.40 However, for other inspections, the Department has not developed standards regarding an appropriate timeframe for the completion of various repairs. The Department informed us they attempt to resolve safety problems as soon as possible.

3.41 We observed several cases where deficiencies noted in inspection reports were not addressed in a timely fashion. This was common in the case of fire code issues, window repairs, school ground repairs and playground repairs. We saw examples of inspections where the same problem was noted repeatedly without being rectified. Documented standards for completion would contribute to ensuring a consistent timely approach to rectifying noted deficiencies. It would further assist in ensuring the high risk items were prioritized.

Recommendation

3.42 We recommended the Department of Education establish standard timelines for completion of repairs of identified deficiencies.

Departmental response

3.43 *Deficiencies on school facilities are recorded by school districts in the School Physical Plant Review (SPPR). The SPPR provides a comprehensive data base on the types of work that should be completed in school facilities. The Department reviews the list of projects with the districts and assesses which ones need to be dealt with immediately. The Department will consult with school districts and the Department of Supply and Services on this recommendation.*

No preventative maintenance standards

3.44 A well established preventative maintenance program not only protects assets in the long run, but assists in the early identification and remediation of maintenance problems. We determined there are no province- wide preventative maintenance standards. Preventative maintenance practices varied greatly in the districts we visited. One district had no preventative maintenance program at all. In this case, the district is simply dealing with issues as they arise.

Recommendation

3.45 **We recommended the Department of Education implement a structured and documented preventative maintenance program. Such a program should include checklists of preventative maintenance tasks.**

Departmental response

3.46 *The Maintenance Planning and Control system (MPC) provides a structured and documented preventative maintenance program (including standard work documents which are basically a check list of tasks to be completed for preventative maintenance inspections). MPC is being used by a number of school districts. The Department will work with all the districts to have this system implemented province-wide.*

Conclusion

3.47 This criterion was not met. While there are some documented and communicated standards regarding certain types of inspections and expected results for school facilities, the Department has not developed acceptable standards for overall school facility condition to assist them in determining whether a facility is appropriately maintained.

Monitoring the condition of schools

3.48 Our third criterion was:

The Minister should ensure the condition of schools is regularly monitored.

3.49 The monitoring of school facilities provides a snapshot of the current building condition at any given point in time. Obtaining information on building condition also assists decision makers in allocating the resources required to address any noted deficiencies.

Responsibility for monitoring clearly documented

3.50 Because ownership of school facilities vests with the Minister, as does the responsibility for the health and safety of students, the responsibility to ensure the condition of schools is regularly monitored ultimately lies with the Minister.

3.51 The Quality Learning Agenda was developed and released in 2002 by government as a cornerstone to New Brunswick's ten-year Prosperity Plan. It describes government's commitment to "ensure safe, healthy learning and working environments". Government further agreed to "continue to monitor our schools to ensure we have healthy school facilities, safe playgrounds and adequate safety and crisis response planning."

Lack of monitoring reports provided to the Minister

3.52 We determined there are no reports prepared specifically for the Minister regarding whether or not facility standards were met. The Department has developed the School Physical Plant Review (SPPR). It details lists of capital priorities for each school and is produced yearly. The purpose of the SPPR is to give an overview of all repairs of a capital nature needed in provincial schools. This not only provides a snapshot of the current condition of schools, but assists in the prioritization of projects. However, this type of reporting is limited to stating what current repair needs are, not whether certain standards have been met.

3.53 While the Minister has access to this report detailing capital needs in each school, there is no reporting on several other aspects of building condition. Specifically, we noted a lack of reporting regarding compliance with legislation, inspection results, overall building condition, and the extent of unfunded minor repairs.

Recommendation

3.54 We recommended the Department of Education monitor the degree of compliance with legislation, results of inspections, overall building condition, and the extent of unfunded repairs.

Departmental response

3.55 *The Department of Education, along with staff from the Department of Supply and Services, is in constant communication with the school districts on all aspects related to the maintenance and construction projects in school facilities. ... As part of the K-12 Accountability Framework which is currently under development, the Department will implement a standard monitoring system.*

District Education Councils lack awareness of monitoring responsibility

3.56 As discussed earlier, DEC chairpersons were unaware of several aspects of legislation and policy relating to facilities management. While all DEC chairpersons we interviewed were concerned about building condition and well aware of needed capital

repairs, there was a general lack of knowledge regarding their specific responsibilities to monitor school facility condition.

Limited reporting on protection of assets

3.57 Three of the five DEC's we audited have developed their own policy regarding asset protection. In these districts, superintendents are providing yearly monitoring reports to the DEC's detailing how policy was implemented. However we noted that both the policy and reporting lack detail. An example of an asset protection policy developed by one DEC is:

The superintendent shall to the best of his/her ability ensure that assets are protected and adequately maintained.

Accordingly, the superintendent shall:

- 1. Subject plant and equipment to reasonable wear and sufficient maintenance*
- 2. Not unreasonably expose the organization, its Council or staff, to claims of liability.*

3.58 In our opinion, this policy is inadequate because it is incomprehensible and immeasurable. Compliance cannot be measured because of the subjective nature of the policy. Terms such as "reasonable wear" and "sufficient maintenance" are vague and have not been defined.

3.59 Further, the focus of protecting assets should be on the safety of the occupants of school facilities, not a level of tolerance for risk to the organization.

3.60 DEC's have been given the flexibility to develop their own policy. However, two districts we audited had not developed any policy as it relates to asset protection. We believe that this is one area where, because of ownership and safety concerns, the Minister should ensure a province-wide policy is developed and implemented.

Recommendation

3.61 We recommended the Department of Education ensure appropriate province-wide policy exists to protect assets and facility occupants. Such policy should detail specific actions and the level of subsequent reporting required.

Departmental response

3.62 *The Department will work with the school districts to develop an appropriate guideline.*

Inspections as a monitoring tool

3.63 The primary tool for monitoring the condition of school facilities is inspection. Several types of inspections are required by

legislation and/or departmental policy. Examples of these are inspections of playgrounds, drinking water, fire extinguishers and elevators. More informally, district staff often report repair items of concern that have come to their attention throughout the year.

3.64 We reviewed a number of inspection files with the purpose of determining the level of compliance with legislation and policy, as well as consistency of established practice. In particular, we looked at inspections of:

- drinking water;
- fire safety;
- roofing; and
- playgrounds.

3.65 As a result of this review, we noted several areas for improvement.

Adequate water testing

3.66 As required under the *Clean Water Act*, a water sampling plan is completed for each school in every district on a yearly basis. This plan sets dates for a monthly sample of water to be submitted for testing. Results are received by the Department of Education and the Department of Health and Wellness. We were pleased to note the responsibility for receipt, review and tracking of water results has been clearly assigned to a staff person at the Department. Further, we observed the Department is consistently comparing the water sampling plan to actual water sampling to ensure the timely completion of testing.

3.67 We reviewed water testing for 44 schools. We determined the Department is providing adequate follow up for negative results. In all cases we were able to conclude that any noted problems were well documented and had been remedied in a timely fashion.

Playground inspections not in compliance with CSA standards

3.68 Playgrounds and play equipment can pose some safety hazards if not properly maintained. According to a report by Health Canada in 2002, each year more than 10,000 children are injured on playgrounds and approximately 35% of these accidents occur at school.

3.69 This is one area where we were pleased to note clearly defined responsibility, as well as the reference to well known standards. As noted earlier, departmental Policy 406 details the requirements and refers to CSA standards for provincial playgrounds.

3.70 Policy 406 further states “District Education Councils shall implement, in compliance with the CSA standard, a regular inspection

program conducted by a certified inspector and a maintenance program”.

3.71 We noted that CSA standards for inspections are as follows:

1. *A visual inspection shall be carried out by the owner, maintenance inspector, care giver, or custodian on a daily basis, if possible, and at least once a week, to identify defects or emerging problems.*
2. *A detailed inspection shall be carried out every month, and the results and actions taken entered in a permanent record that can be examined if necessary.*
3. *Every year, comprehensive written reports shall be completed by the owner or a representative, and the results and actions taken shall be entered in a permanent record that can be examined if necessary.*

3.72 Despite these clear guidelines, there are currently no province-wide inspection practices. Both frequency of inspection and documentation of findings varied in the five districts we audited. One district’s informal policy is to inspect playgrounds on a yearly basis while three other districts stated they complete inspections monthly. One district informed us they perform inspections semi-annually but could provide no documentation of such.

3.73 None of the five districts were performing inspections on a consistent basis regardless of their informal policies to do so. We audited a sample of 41 schools in the various districts and determined that only 24% of these had monthly inspections in 2004. Eight school playgrounds had no inspection at all for that same year.

3.74 We were unable to obtain any documentation from the districts regarding daily or weekly visual inspection.

3.75 Additionally, we noted a lack of documentation of corrective action taken. While inspection reports we reviewed detailed deficiencies, they did not note corrective action taken. Thus, the reviewer is only able to determine what the problems were, not if they were corrected.

Recommendation

3.76 We recommended the Department of Education ensure DEC’s adopt adequate playground inspection practices. This would include requirements for meeting CSA requirements regarding the frequency of inspections and documentation of findings and remedial action taken.

Departmental response

3.77 *The Department will review Policy 406 (Outdoor School Play Areas) with the intent of establishing a mechanism to ensure compliance.*

Lack of monitoring completion of fire safety inspections

3.78 The consistent message we received from departmental staff was it is their priority to ensure fire safety in all schools. They informed us the protection of children is their number one concern. In keeping with this, the Department has several systems in place to assist in ensuring all buildings are fire safe. For example, inspections of kitchen facilities and fire extinguishers are incorporated in specific preventative maintenance plans. As well, students and staff receive extensive training on fire safety on a regular basis. A major component of building safety is ensuring buildings meet standards as set by the National Fire Code of Canada.

3.79 While legislation does not mandate a yearly inspection of school facilities by the Office of the Fire Marshal, the Department of Public Safety policy does. Results of these inspections provide the Department of Education with a monitoring tool to ensure school facilities meet the latest National Fire Code of Canada requirements.

3.80 If the Fire Marshal notes any deficiencies as a result of inspection, such items are recorded on a Fire Marshal's orders. The majority of violations identified in schools are of a non-capital nature. Examples of such are excessive paper on classroom walls, paper being too close to electric heaters, doors being blocked and broken emergency lighting. Time for completion of the remedial action is noted on the inspection. Usually this is either immediately or within thirty days.

3.81 As part of our audit we reviewed Fire Marshal Inspection Report files kept at the Department of Education head office and district offices. From these inspection files, we were only able to obtain evidence of inspection in 67% of the schools for the year 2004. Notably, in one district, we could only obtain evidence of inspection for 16% of schools. Subsequent to our audit, the Department informed us that in some cases inspection did take place, however the inspection reports were missing from their files. In order to monitor the frequency of fire inspections, the Department should ensure all inspection results are kept for review at head office.

Recommendation

3.82 **We recommended the Department of Education ensure annual fire safety inspections occur in all schools.**

Departmental response

3.83 *Annual fire inspections are required for all schools, The Department will formally request from the Fire Marshal, a copy of all*

annual inspection reports and department staff will ensure that a follow-up is done with the school districts when infractions are noted.

Recommendation

3.84 We recommended the Department of Education ensure all inspection results are kept for review at head office.

Departmental response

3.85 *The Department agrees with the recommendation.*

Adequate monitoring of roof inspections

3.86 Mould contamination in schools has been associated with illness and has resulted in school closings. To avoid such problems, regular roof inspection and maintenance is essential.

3.87 As part of our audit, we reviewed roof inspection practices for school buildings. We determined that the Department of Supply and Services inspects roofs on a five-year cycle on behalf of the Department of Education. Inspection reports are sent to the Department in hard copy form and are also available online.

3.88 We reviewed the completion of inspections in five districts and noted that, in all cases, roofs were inspected on a timely basis. Inspection report findings were well documented and reviewed by departmental staff.

Follow-up procedures

Adequate follow-up procedures for water quality

3.89 We noted the Department has adequate systems in place to review inspection results and record completion of remediation for problems noted with inspections of water quality. We reviewed 44 inspection files for water quality and noted in all cases identified problems were rectified in a timely and appropriate manner.

Inconsistent documentation of follow up for fire inspections

3.90 Subsequent to the yearly inspection of school facilities, the Office of the Fire Marshal submits the initial copy of the Fire Marshal Inspection Report to the Department. We were pleased to note that the Department has assigned to specific staff the responsibility to review inspection results and ensure the noted deficiencies are rectified.

3.91 As part of our audit, we obtained copies of 97 fire inspection reports for 2004. Of these, 85% had fire code deficiencies requiring remedial action. We noted that in all cases the assigned departmental staff had received and reviewed the inspection reports. All repairs of a capital nature had been added to the list of capital priorities and all items estimated at less than \$10,000 had been reported to the district. Thus, departmental staff is appropriately notifying districts of necessary fire code repair items.

3.92 However, the Department is not consistently ensuring the noted deficiencies were rectified in a timely fashion. For 2004, we could find

no documented evidence of follow-up procedures for the fire inspection reports we reviewed. For the years prior to 2004 we were able to find examples of documentation of follow up procedures.

No evidence of follow up for playground inspections

3.93 We also reviewed a total of fifty playground inspections with noted safety deficiencies. Unlike fire inspections, there has been no clear assignment of responsibility at the departmental level to ensure deficiencies are corrected in a timely fashion. We could find no evidence of follow-up procedures for any of these inspections. In fact, in some cases we noted the same problem recorded month after month, year after year.

Recommendation

3.94 We recommended the Department of Education develop appropriate follow-up procedures to ensure the timely completion of needed repairs identified by facilities inspection processes. Further, results of follow-up procedures should be well documented.

Departmental response

3.95 *In the case of fire code inspections, school districts have been reminded that they must provide the Department with evidence of follow-up procedures. The Department will monitor for compliance. As for playground inspection, a review of the requirements under Policy 406 – Outdoor School Play Area – will be conducted with the school districts.*

Minor repairs

Lack of monitoring of completion of minor repairs

3.96 Any repairs estimated at less than \$10,000 are classified as minor repairs. Examples of noted items in need of repair are broken windows, swings and slides, door hinges, washroom and fire code upgrades.

3.97 When a minor repair is identified it is recorded on a work order and assigned to a maintenance staff person at the district office.

3.98 The Department implemented a computerized work order system in 2000. It allows districts to:

- maintain an equipment inventory and then to identify the necessary maintenance and inspections on such;
- identify types of maintenance and frequency of services;
- train staff and assign inspection and maintenance routines;
- schedule maintenance and inspection work orders;
- follow up on repairs required through feedback from work orders;
- plan and schedule repairs;
- acknowledge receipt of a work order;
- allow districts to establish priorities; and
- verify that the work has been completed.

3.99 Given the noted benefits, we were surprised to find, in the five districts we visited, only two were actively using the system to its maximum potential. Two were using it to a limited degree and one not at all.

3.100 It is virtually impossible to monitor the completion of work orders using a paper based work order system. Due to the large volume of work orders, managers cannot efficiently review them to determine if and when they were completed.

3.101 Districts using a computerized work order system have the capability of producing reports by task, employee, date issued and completed. While we were impressed with the ease and convenience of the production of these reports, we could find no evidence these reports were being produced on a regular basis and used for monitoring completion of tasks. We further noted incidences in these reports where work was not completed for a number of months.

Recommendation

3.102 We recommended the Department of Education ensure the implementation of its computerized work order system in all districts.

Departmental response

3.103 *The Department of Education's computerized work order system is installed in all school districts. However, the level of implementation varies from district to district. The Department will continue working with the districts to complete the implementation of this system province-wide.*

Recommendation

3.104 We recommended the Department of Education ensure districts are producing adequate reporting detailing the timeliness of completion of repairs. Reports should be reviewed by district staff and problems addressed in a timely fashion.

Departmental response

3.105 *A work order status reporting system is a function of the ... computerized system. This function will be discussed with the school districts.*

Instances of repairs not identified in work order system

3.106 As part of our audit process, we reviewed seventy six inspection reports to determine if identified deficiencies were recorded in the work order system. If not, there would be little chance of the repair being completed. We noted several instances where necessary repairs with regards to roofing, school grounds, and playgrounds were not recorded in the work order system. While district staff had no formal explanation for this, they did admit feeling there is often no use

adding more work to a system that isn't able to address the current repairs.

Recommendation

3.107 We recommended the Department of Education remind district staff they are required to record all identified repairs in the work order system.

Departmental response

3.108 *The school districts have been reminded of this requirement.*

Conclusion

3.109 The third criterion was not met. While legislation sets standards, the Minister is not ensuring these standards are met. We noted inconsistent inspection practices and a lack of follow-up procedures.

Addressing problems with school facilities

3.110 Our fourth criterion was:

The Minister should ensure that significant problems noted with the condition of school facilities are addressed in a timely fashion.

3.111 Inspections or audits are a starting point for determining the condition of a building. The next step is to ensure the problems noted are addressed in a timely fashion. We noted several instances where significant problems had not been addressed within a reasonable timeframe. District staff informed us they feel that lack of funding is the number one contributing factor to these findings.

Inadequate capital funding

3.112 The average age of provincial school facilities is approximately 36 years, with some schools over seventy years of age. As buildings age, the repairs necessary to maintain them, as well as to provide necessary upgrades, become more costly.

3.113 Based on the gap between funding and needs, the Department does not have sufficient funding available to meet its mandate to effectively maintain school facilities. Due to insufficient budget allocations, the condition of school facilities is placed at risk. The extent of this risk needs to be documented and reported to the decision makers and the public.

3.114 Government has provided capital funding of \$46 million, \$35 million, and \$34 million respectively for the past three years. The Department allocates this budget to both capital improvements and major capital construction. Capital improvements refer to the projects identified as capital repairs, while major capital construction refers to the building of new schools or major additions to current buildings.

3.115 Capital improvements are identified by school and district staff and also inspection findings, and are categorized by priority for each district. The Department has developed standard definitions for each priority category. The definitions are as follows:

Priority 1

Very urgent and important. Essential work that requires immediate attention because of major risks to the health and safety of the occupants of the building.

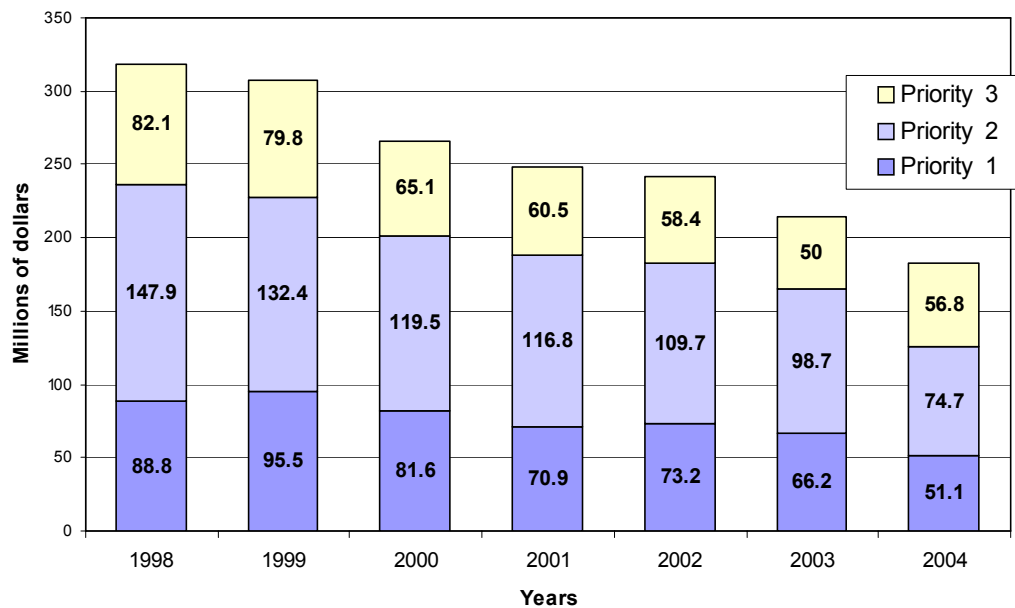
Priority 2

Very important but not urgent. Essential work that may have major repercussions and/or is detrimental to the functioning of the school and/or the comfort of the occupants. Harmful consequences on their health and/or safety are unlikely, however.

Priority 3

Important work that may have certain repercussions on and/or is detrimental to the functioning of the school and/or the comfort of the occupants.

*Exhibit 3.1
Capital improvements needed*



3.116 Exhibit 3.1 details the identified necessary capital improvements by prioritized category.

3.117 Government has not provided sufficient funding to address the above identified issues. Exhibit 3.2 details the shortfall in funding provided.

Exhibit 3.2

Shortfall in capital improvements funding

	In millions				
	2000	2001	2002	2003	2004
Identified capital repairs	\$266.2	\$ 248.2	\$241.3	\$214.9	\$ 182.6
Budget for capital repairs	(21.0)	(18.4)	(15.8)	(16.8)	(16.3)
Repairs eliminated by new construction	(6.6)	(7.0)	(7.8)	(8.4)	(6.6)
Shortfall	<u>\$238.6</u>	<u>\$ 222.8</u>	<u>\$217.7</u>	<u>\$ 189.7</u>	<u>\$ 159.7</u>

3.118 We analyzed capital improvements categorized as priority 1 and noted a significant lack of funding made available to address these problems. Priority 1 items in 2004 total \$51.1 million; the budget allocation was \$16.3 million. Because priority 1 items have been defined as very urgent and important with major risks to the health and safety of the building occupants, we would, as a minimum, expect these repairs to be completed. The lack of completion of urgent repairs in our opinion exposes the building occupants to significant risk.

Recommendation

3.119 We recommended the Department of Education report funding shortfalls and associated risks to the decision makers and the public.

Departmental response

3.120 *In September 1998, capital improvement priorities totalled \$319 million, including \$89 million in health and safety projects. As of September 2005, total capital improvement requirements have been reduced by \$148 million to \$171 million and health and safety requirements to have been reduced by almost 50% to \$48 million. This shows the Department's commitment to capital improvement.*

3.121 *In fact, this government is committed to addressing Priority 1 health and safety requirements in public schools and has publicly announced in the State of the Province address in January 2004 an investment of \$100 million over four years. This funding will be used to address priority capital projects in schools including the elimination of health and safety requirements that had been identified at that time.*

3.122 *The status of capital improvement is published in the annual "Believing in Achieving" report. The first report was published in May 2005.*

Funding is not allocated based on identified risk

3.123 Despite the lack of overall funding, we would expect the Department to allocate the funding it does receive in a way that minimizes the identified risks both in individual school buildings and province-wide. We examined the funding structure the Department uses for providing capital repair funding to each district. Capital improvement allocations are divided initially by size of each District (numbers of students). Consideration is then given to the amount of new construction budgeted for in each District.

3.124 Departmental officials informed us of the informal practice to attempt to provide districts with an equitable allotment of dollars. This may not provide for the most economic and efficient completion of projects. Exhibit 3.3 summarizes the allotment of funding for capital repairs to each district for 2004.

*Exhibit 3.3
Funding for capital repairs*

2004 Year					
District	Number of schools	Budgeted capital repairs	Necessary capital repairs	% necessary repairs budgeted for	Budget major construction
2	38	\$ 1,280,000	\$ 35,314,883	4%	\$ 3,100,000
6	24	1,226,000	8,992,600	14%	
8	37	1,265,000	20,923,211	6%	
10	16	870,000	9,177,312	9%	
14	30	943,400	23,950,397	4%	5,200,000
16	18	835,000	10,961,705	8%	2,100,000
16	21	950,000	9,589,620	10%	
17	18	1,005,000	14,617,000	7%	700,000
18	34	1,217,000	26,747,740	5%	
1	13	560,000	11,378,539	5%	12,000,000
3	23	672,000	17,302,649	4%	5,500,000
5	22	695,000	9,595,246	7%	100,000
9	23	667,000	5,827,000	11%	
11	21	715,000	10,574,039	7%	
Total		<u>\$ 12,900,400</u>	<u>\$ 214,951,941</u>		<u>\$ 28,700,000</u>

Recommendation

3.125 We recommended the Department of Education allocate capital repair dollars to districts on a priority basis which considers the risk to safety and health of building occupants.

Departmental response

3.126 *The allocation among districts in each linguistic sector takes into consideration the size of the district and the number of Priority 1 health and safety requirements.*

Deficiencies not being addressed in a timely fashion

3.127 Once repairs have been identified and categorized, the next obvious step is to ensure major deficiencies are addressed within a reasonable time frame. We noted several instances where this was not the case.

3.128 We reviewed several inspection files and, in many cases, could find no evidence of timely repair. Notable were building repairs to meet the current fire code. For 2004, the Department has identified \$ 9,098,236 worth of necessary repairs to bring schools up to current fire code standards.

3.129 In addition, the Department has identified a need of \$31,942,089 to add sprinkler systems to schools. The Fire Code requires that sprinkler systems in schools meet 1995 Building Code standards. These standards require the replacement of older sprinkler systems whenever a building undergoes major renovations, replacements or retrofits.

3.130 While the Department is attempting to address some of these problems on a yearly basis, the funding is obviously not adequate to address them in a timely fashion. Because fire code repairs are deemed as priority 1 items, we would expect them to be promptly addressed.

Roofing repairs being addressed

3.131 Roof repairs and replacement can be one of the more expensive repairs a school can incur. It is also the type of repair that if neglected can lead to problems such as mould and poor air quality. Additionally, putting the costs off today can lead to increased costs in the future.

3.132 As a result of inspection findings, the Department of Supply and Services compiles a yearly roofing study for the Department. Necessary repairs are categorized as the following priorities:

- badly deteriorated, leaks, replace ASAP;
- poor condition, failing to perform, replace soon; and
- past life and/or poor condition, replace in near future.

3.133 The 2005 study recommended the Department complete \$7,242,200 worth of repairs, of which \$4,570,000 were categorized as priority 1. We were pleased to note the Department has completed the great majority of the priority 1 roof repairs.

Condition of play spaces not meeting CSA standards

3.134 In our review of playground inspection reports, we noted that various aspects of play spaces and equipment do not meet current CSA standards. One area of specific note is that of protective surfacing. Protective surfacing is the most critical safety factor on playgrounds because the majority of playground injuries are due to falls. Hard,

paved surfaces such as concrete and asphalt as well as earth surfaces such as grass, soil and hard packed dirt are not acceptable for use under and around play equipment. None of these surfaces provides adequate protection against injuries.

3.135 The Department has been aware of the lack of protective surfacing for quite some time. Departmental Policy 406 states “Upon request of the school district, and to the extent possible, the Department of Education will fund the initial upgrading of existing protective surfacing to meet the CSA standards. Funding will be a one-time allocation, to a maximum of \$10,000 per school. Should more requests be received than can be accommodated in any year, accommodation will be based on the order in which requests are received, while insuring an equitable proportion of requests is met in each district.”

3.136 This aspect of policy contradicts the responsibility of the DECs to ensure play spaces conform to CSA standards. The Department is only agreeing to provide \$10,000 per school, regardless of need. Further, they are only agreeing to provide this amount “to the extent possible”. This lack of commitment to ensure protective surfacing meets CSA standards, regardless of the cost, inevitably means DECs are unable to fulfill this aspect of their responsibility.

3.137 We noted several playground inspections reporting the deficiency in protective surfacing, yet no repair was made.

Recommendation

3.138 We recommended the Department of Education adhere to departmental policy by ensuring the condition of play spaces complies with CSA standards.

Departmental response

3.139 *The Department of Education will review the policy on play spaces with the school districts as stated previously.*

Repair standards for play spaces not being met

3.140 In our review of inspection reports for playgrounds, we noted several instances where there was no documentation of remedial action. Examples of necessary repairs with no identified remedial action were:

- lack of protective surfacing;
- cracks in slides;
- worn swing seats; and
- loose or missing bolts on equipment.

3.141 Despite the noted problems, access was not barred for these playgrounds.

3.142 We further noted that in some cases identified deficiencies had not made it from the inspection report to a work order. Hence, there was no assurance of the work ever getting completed. District staff could not explain this to us other than to surmise that they sometimes feel there is no point completing any more work orders that are not going to get done.

Recommendation

3.143 We recommended the Department of Education adhere to departmental policy by ensuring repairs of play spaces and equipment be carried out in compliance with CSA standards.

Departmental response

3.144 *The Department of Education will implement a compliance monitoring process.*

Numerous minor repairs not being addressed in a timely fashion

3.145 While the Department uses the term minor repairs for all repairs estimated at less than \$10,000, such repairs are often far from being minor in significance. These types of repairs can be related to fire safety, air quality, roofing, ground maintenance, and window replacement.

3.146 The number one complaint of district staff was the under funding of minor repairs. They see this as not only an area of risk, but also a problem that will lead to increased costs in the future. Funding is not based on identified need, but on building square footage and numbers of students.

3.147 Exhibit 3.4 details the departmental minor repairs funding and actual expenditures for the 2004-2005 fiscal year.

3.148 The Department informed us the funding formula was developed to ensure some level of equitable distribution of minor repair dollars. However, because funding provided is not based on identified needs, minor repairs are not getting addressed in a timely fashion. One district showed us a list of outstanding minor repair work for one year. The repairs were extensive and estimated at a cost of \$1,000,000 to complete. Some districts admitted to us the need to take monies from other budgets to pay for minor repairs that just could not wait. Other district staff told us they often just stop doing repairs when the money runs out.

Exhibit 3.4

Minor repairs funding by district

District	Funding	Actual expenditure
1	\$ 200,330	\$ 282,459
2	627,737	1,216,131
3	377,370	477,494
5	330,450	493,625
6	396,561	578,123
8	574,473	680,679
9	348,760	592,077
10	206,492	378,936
11	273,360	490,257
14	373,672	594,502
15	240,546	320,048
16	331,577	501,172
17	235,810	576,218
18	448,918	750,973
Totals	\$ 4,966,056	\$ 7,932,695

Recommendation

3.149 We recommended the Department of Education ensure necessary minor repairs are addressed in a timely fashion.

Departmental response

3.150 *The funding allocation for minor repairs is part of an overall funding model for all cost components. The objective of the funding model is to equitably divide the total budget for each linguistic sector among school districts. It is not appropriate to evaluate the funding model line by line because districts have the discretion to reallocate funding norm allocations within their budget to meet local priorities.*

Conclusion

3.151 The fourth criterion was not met. The Minister is not ensuring significant problems noted with the condition of schools are addressed in a timely fashion. This is due in part to the lack of funding provided by government. However, policy and procedures do not ensure significant repairs are appropriately prioritized with the funding the Department does receive. Further, the Department is not analyzing the risks and associated costs of not performing necessary repairs and providing government with such information.

Reporting on effectiveness

3.152 Our fifth criterion was:

The Minister should ensure that satisfactory procedures are established to measure and report on the effectiveness of programs for the maintenance of school facilities.

Government's annual report policy and accountability

3.153 Government must be held accountable for results. New Brunswickers should be informed about how well government is doing in relation to goals and objectives. The management of school facilities is no exception. In order to fulfill this obligation for accountability, information on intended and actual results must be produced and presented to the Legislative Assembly and ultimately the public.

3.154 This is reflected in the Province's annual report policy, which states:

To the degree possible, departments and agencies should give a clear account of goals, objectives and performance indicators. The report should show the extent to which a program continues to be relevant, how well the organization performed in achieving its plans and how well a program was accepted by its client groups.

3.155 If departments are supposed to be giving a clear account of their goals and objectives when the year is finished, they should have them in place when the year begins. Further, these goals and objectives should be driving the departments' programs throughout the year.

Lack of goals

3.156 The Canadian Council of Legislative Auditors defines a goal as "a general statement of desired results to be achieved." We determined that the Department has developed no formalized goals relating to the maintenance of facilities.

Recommendation

3.157 **We recommended the Department of Education develop, document and communicate goals for facilities maintenance.**

Departmental response

3.158 *The overall goal and objective of the Department of Education is to have safe and healthy schools for all school children as stated in Section 45(4)(b) of the Education Act. We aim at this objective with a number of stakeholders including school districts and a number of provincial departments including Supply and Services, Public Safety and Health and Wellness. Record investment has been secured over the last few years for major and capital improvement projects. The Department realizes that there is always room for improvement. The recommendation will be reviewed with our stakeholders.*

Lack of objectives

3.159 The Canadian Council of Legislative Auditors defines an objective as "a specific statement of results to be achieved over a specified period of time. This statement may be described in terms of a target." Targets not only provide departments with a focus for the year, but also with a measuring tool for year end (i.e. did we accomplish what we set out to do?). Generally, achieving objectives would ensure that the overall goals were also met.

3.160 Examples of such targets might be:

- we intend to complete 80% of priority 1 roofing projects; and
- we intend to achieve 100% compliance with required inspections.

3.161 We determined that there are no such objectives for facilities maintenance.

Recommendation

3.162 We recommended the Department of Education develop objectives relating to the maintenance of facilities that are linked to goals. These objectives should be documented and communicated to all affected parties.

Departmental response

3.163 *The recommendation will be reviewed with our stakeholders.*

Lack of reporting

3.164 In response to growing expectations for accountability in government, management has a responsibility to report on effectiveness. This is often accomplished through departmental annual reports. During our audit, we noted a lack of departmental reporting on the effectiveness of building maintenance.

Recommendation

3.165 We recommended the Department of Education ensure its annual report include:

- a clear account of goals and objectives relating to facilities maintenance; and
- disclosure on how well the Department has done in achieving its plans relating to facilities maintenance.

Departmental response

3.166 *The Department will review the content of its annual report in regard to school facilities.*

3.167 Despite the significant costs of maintenance and potential safety concerns, we found no reporting of the management of these costs, or mitigation of risk in any departmental annual reports. There is no annual reporting on performance and compliance with legislation and policies regarding maintenance of schools. Further, the failure to have publicly available information on the condition and cost of

deferred maintenance hides the problems from the public and decision makers. Decision makers are not provided with comprehensive data on needs.

Recommendation

3.168 We recommended the Department of Education annually advise government of:

- **the estimated level of expenditures necessary to appropriately maintain school facilities; and**
- **the major repairs that have been deferred because of limited funding and the projected risks associated with deferring the major repairs.**

Departmental response

3.169 *Every year, the Department of Education develops a Capital Budget for government approval. The submission is based on priorities identified by school districts and DEC's together with an evaluation of specific needs provided by the Department of Supply and Services (ie: roof inspections, fire codes, accessibility projects).*

Conclusion

3.170 The fifth criterion was not met. There is a lack of procedures to measure and report on the effectiveness of facilities maintenance. The Department has not developed and thus not reported on goals and objectives relating to the maintenance of facilities.

Chapter 4

Department of Family and Community Services

Special Care Homes and Community Residences

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Department of Family and Community Services Special Care Homes and Community Residences

Background

4.1 When an individual lives in a special care home or a community residence, the resident, their family, their friends and society trust the facility to provide safe and proper care. New Brunswick has legislation requiring special care homes and community residences to have a license and follow the operating standards. The purpose of our work was to see if government is complying with and enforcing this legislation.

4.2 Adults who have functional limitations may receive a range of services under the Long Term Care Services program. An assessment is used to determine the care needs of the individual. Clients who require more services than can be provided in their homes could be eligible to reside in a special care home or a community residence where room and board is provided, as well as the required supervision and assistance with daily living activities.

4.3 Special care homes and community residences are privately owned and operated by individuals, corporations or not-for-profit organizations. They range in size; the smaller facilities have only one or two beds and the larger ones have more than fifty beds. They may be either someone's personal residence or a facility with an institutional setting. Special care homes provide care to individuals with relatively moderate care needs, while residents of community residences require more care, but not regular nursing care.

4.4 There are approximately 465 special care homes in the Province providing approximately 3,700 beds. There are approximately 60 community residences in the Province providing

approximately 375 beds. About 51% of residents are adults under age 65, while 49% are seniors. Approximately 80% of residents require government subsidy, which amounted to approximately \$66 million in 2004.

4.5 The government recognizes the significance of special care homes and community residences and retains control over them in the following ways.

- Government licenses special care homes and community residences and inspects them to measure compliance with standards established to secure a safe environment and proper care.
- Government controls the number of beds through licensing.
- Government controls admissions to special care homes and community residences. An individual is assessed and approved before admittance. The eligibility assessment for admission looks at the individual's long-term health care and social needs.
- Government provides financial assistance to eligible residents. An individual receives a financial assessment to determine their ability to pay for care requirements.

4.6 The authority for the government's involvement in special care homes and community residences is the *Family Services Act (Act)* and the *Community Placement Residential Facilities Regulation - Family Services Act (Regulation)*

4.7 The purpose of the Adult Residential Services Program (program) is to license and monitor facilities to ensure that residents are safe and receive quality care. The staff members directly involved with the program include Adult Residential Facility Coordinators (coordinators) who work in the Department's regional offices and two program consultants who work in the central office.

Scope

4.8 The objective for this audit was:

To determine if the Department of Family and Community Services has appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences.

4.9 To focus our efforts, we developed five criteria to use as the basis for our audit. We discussed them with the Department and it was agreed that they were reasonable. The criteria addressed the following:

- licensing special care homes and community residences;
- conducting inspections to measure compliance with the operators' standards;
- enforcement actions when operators of the facilities do not comply with the legislation and standards;
- policies and procedures for the program; and
- being accountable by reporting on the effectiveness of the program.

4.10 The audit was not directed towards evaluating the quality of the operators' standards.

4.11 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Conclusion and results in brief

4.12 The Department of Family and Community Services recognizes the importance of special care homes and community residences providing quality care. We observed many good elements within this program, such as: documented standards that the operators of facilities must follow; documented procedures for the Department's staff to follow in delivering the program; the practices of inspecting and licensing facilities and closing facilities when appropriate services were not provided. While we recognize these strengths, we concluded that the Department of Family and Community Services does not have appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences.

4.13 The program has an established licensing process that is clearly documented and communicated to both departmental staff and the operators of the facilities. The licensing process requires that facilities be inspected by Public Health, the Office of the Fire Marshal and the Department. Licenses expire each year and are not renewed until the inspections are done. While the Department licenses special care homes and community residences, the established process is not always followed and the Department does not always ensure that all licensing requirements have been met before issuing the license. Licensing practices are not consistent throughout all of the regions and licenses are not always renewed on time.

4.14 The Department inspects facilities prior to licensing; however, it does not have mandatory processes in place for prioritizing, performing and documenting inspections. Therefore comprehensive inspections are not always conducted. This means that some licensed facilities may not be meeting the standards and their residents may not be receiving the required quality of care.

4.15 The Department has documented procedures that provide good guidance for enforcing the legislation and standards, and the Department has closed facilities for non-compliance. However, cases where enforcement is appropriate are not always recognized. For example, our testing revealed that in some facilities the standard regarding criminal record checks was not met because the record check had not been renewed after five years or had not been done prior to hiring a new staff member. Issuing a license without ensuring that all staff in facilities have had the required record checks is not properly enforcing the standard.

4.16 Quality control practices are lacking to ensure the documented procedures are followed. We observed inconsistencies among regions and inconsistencies between the Department's practices and the legislation. The Department is not monitoring incidents or complaints, which allows for the identification of trends in the number and nature of incidents and complaints so proper corrective action can be taken.

4.17 We observed inconsistencies between legislation for this program and the legislation for similar programs administered by the Department (nursing homes and day care facilities). We recommended the Department review the legislation for special care homes and community residences and initiate amendments as appropriate, in particular, the inclusion of requirements for an emergency plan and public posting of the license to operate.

4.18 The Department does not report on the effectiveness of the program for special care homes and community residences.

Licensing special care homes and community residences

4.19 The legislation requires that all special care homes and community residences (facilities) obtain the Minister's approval to operate (license). The process involves the facility applying for a license, paying the fee and meeting the legislative requirements. It also involves the Department ensuring that the requirements are satisfied and then issuing the license. The coordinators working in the regional offices are to ensure the requirements are met and forward the license

to the central office, where it is signed and issued to the operator of the facility.

4.20 Licenses are valid for only one year. Each year the facility must apply for a renewal license. The renewal process is the same as the process for obtaining a first-time license and the requirements are the same. Our first audit criterion addresses the licensing of special care homes and community residences:

The license to operate a special care home or a community residence should be issued in compliance with legislation and standards.

4.21 Our findings included the following strengths in the licensing process.

- ***The licensing requirements are clearly stated in the legislation and have been communicated to the individuals involved.*** The requirements are documented in the coordinators' manual for the staff members working in the regional offices. The requirements are documented in the standards manual for the operators of special care homes and community residences.
- ***Licenses are not automatically renewed.*** The expiry date is clearly indicated on the license. A renewal license is not issued until the coordinator inspects the facility and requests that the central office issue a new license.
- ***The licensing process requires that the facility be inspected by Public Health, the Office of the Fire Marshal and the Department.*** While three government departments have responsibility for inspecting special care homes and community residences, the Department has sole responsibility for licensing the facilities.

4.22 We identified the following weaknesses in the licensing process. A brief description of each finding follows.

- The requirements are not always met prior to the Department issuing a license to a special care home or a community residence. This means that the Department is not fulfilling its licensing responsibilities. When the Department does not ensure that the licensing requirements are met before issuing the license, it is not complying with the Regulation.

- Licenses are not always renewed on a timely basis. This means that special care homes and community residences are sometimes operating without a license and this is illegal according to the legislation.
- The Department's licensing process is not always followed. Non-compliance with the documented procedures results in inconsistencies with licensing practices between regions.
- Complaints and incidents reported are not considered when licensing a special care home or a community residence.
- We observed inconsistencies between the legislative requirements for special care homes and community residences and the legislation for similar programs: nursing homes and day care facilities. Inconsistencies indicate the need for reviewing and possibly changing the legislation regarding special care homes and community residences.

The requirements are not always met prior to the Department issuing a license to a special care home or a community residence

4.23 The Regulation states the licensing requirements for special care homes and community residences. The process and the requirements are the same for both special care homes and community residences, with the exception that facilities having fewer than three beds do not require annual inspections by Public Health and the Office of the Fire Marshal.

4.24 The Department is to ensure the following seven requirements are met prior to issuing a license:

- the application form has been received from the operator;
- the operator has paid the appropriate fee;
- the operator has provided a medical form showing he/she is in good health;
- Public Health has given a written statement of compliance stating that the sanitation, lighting, ventilation and other general health standards in the facility meet their standards;
- the Office of the Fire Marshal has given a written statement of compliance stating that the facility meets fire prevention standards and building standards;
- the facility complies with the requirements in the Regulation and the standards prescribed by the Department; and
- the operator of the facility meets six qualitative conditions such as awareness of local community services, willingness to provide a homelike atmosphere and willingness to participate in training programs.

4.25 We selected a sample of forty licenses for testing. The sample included facilities from each of the eight regions so we could comment on consistency throughout the Province. While most of the licenses were for special care homes, some community residences were included. The sample included eight first-time licenses (issued in 2003 and 2004) and thirty-two renewals. We tested for each of the seven legislative requirements. However, the last requirement listed above regarding the operator's qualitative conditions related to only the eight first-time licenses.

4.26 Our testing involved reviewing the Department's file, on each of the facilities selected in the sample, looking for the presence of documentation indicating that each of the licensing requirements was met. We observed that a facility does not always meet all of the requirements prior to the Department issuing their license. Only eleven of the forty files had documentation indicating that all six legislative requirements for licensing were met (72% did not).

4.27 Our specific findings include the following.

- The application form was not always present. Two of the eight regions do not require the operator to submit an application.
- The appropriate fee was not always paid. License fees range from twenty-five to sixty-five dollars, depending on the number of beds in the facility. It appears that in most regions, facilities operated by a not-for-profit organization are not paying the required license fee. (The legislation provides no exceptions for the licensing fee.)
- Although evidence that the operator was in good health was present in most files, there was no evidence in five of the files from two regions. Either a medical form signed by a doctor or a notation that a medical form had been examined by the coordinator was considered appropriate evidence.
- An inspection from Public Health recommending the facility for licensing was present in all but one of the renewal licenses. However, only three of the eight first-time licenses were supported with a Public Health inspection. In the remaining five files, the Public Health inspection was either missing or was present indicating that the operator was not complying. There was no further documentation that the infractions had been corrected. This does not satisfy the licensing requirement.
- A written statement of compliance from the Office of the Fire Marshal was present in most of the files. In other files, however,

the fire prevention inspection form was present indicating areas of non-compliance and written orders for correction. There was no further documentation that the infractions had been corrected. This does not satisfy the licensing requirement.

- Finding evidence that the facility complies with the criteria prescribed by the Regulation and standards prescribed by the Minister was a problem in all files. While all but two files had documentation of a site visit at the facility, there is a lot of inconsistency in the documentation of inspections, and the documentation required by the Department was rarely present.
- The last requirement listed above, regarding the operator's qualitative conditions, was tested in only the eight files for first-time licenses. All eight files had evidence that the operator was qualified.

4.28 Licenses are signed by the Minister, or the delegate, and issued to the facility by the central office. While the coordinator in the regional office is responsible for ensuring all the requirements are met prior to submitting the license for signature, there is no documentation signed by the coordinator indicating everything has been done. Only the license and a cover letter are remitted to the central office.

Recommendation

4.29 The Department should comply with the Regulation and ensure all regulatory requirements are met prior to issuing a license to a special care home or a community residence.

Departmental response

4.30 *The Department is currently working on the development of a new Inspection Form and Process, which will include a checklist to ensure all requirements are met prior to issuing Certificates of Approval to special care homes and community residences. Monitoring activities will be conducted periodically.*

Licenses are not always renewed on time

4.31 Licenses are issued for a one-year period. Facilities can have differing expiry dates, but the expiry date remains the same each year for a facility. We examined the issuance date and the expiry date on the 32 renewal licenses for the facilities that we tested. We also noted the expiry date on the previously issued license.

4.32 We found that renewal licenses are often issued after the previous license has expired. The license was issued on time in only two of 32 files examined. Of the thirty licenses that were issued late, the facilities were operating from six days to 29 months without a license. Ten of the thirty late licenses were more than three months

late. Reviewing information provided by the Department, we determined that at 31 December 2004, there were more than 75 of the approximately 525 facilities operating without a valid license. (As of 30 April 2005, the Department reported that most of these expired licenses had been renewed.)

4.33 The legislation states that it is an offense to operate without a license. When facilities operate without a valid license, the operator is not complying with the legislation and the Department is not enforcing the legislation.

Recommendation

4.34 The Department should determine why licenses are not being renewed prior to their expiry dates and implement corrective actions to ensure their timely renewal.

Departmental response

4.35 *The Department has requested regional staff to initiate the renewal process and conduct inspections at least 60 days prior to the expiry of the Certificate of Approval in order to allow time for the operator to complete any requirements necessary for the renewal of the certificate. Monitoring activities will be conducted to ensure certificates are renewed on time.*

The Department's licensing process is not always followed

4.36 The Department's licensing process is documented in the coordinators' manual. There are documented procedures and departmental forms. During our testing on the sample of forty licenses, we found that the forms are not always used and the required procedures are not always followed. We observed the following departmental requirements not being consistently met.

- A renewal letter is not always issued. The documented procedures state that a renewal letter and an application form are to be forwarded to the operator sixty days prior to the expiry date of the license. The practice of issuing renewal letters may help the operator ensure that they obtain their renewal license prior to the expiry of their current license.
- The operator's insurance coverage is not always verified as required by the documented procedures. Having adequate liability insurance protects the facility should an incident occur where the operator was liable.
- In the files from some regions, a computer listing of residents was present with manual notes indicating that residents had been verified. In the files from other regions, there was no evidence that this had been done. Verifying the residents of a facility is required

to ensure that residents subsidized by the Province are receiving the intended services and to ensure the Department has correct information on the number and location of vacant spaces that are available to other eligible individuals.

- The manual provides instructions for documenting site visits and inspections. Most regions are not using the required form.

4.37 Non-compliance with the documented procedures results in inconsistencies with licensing practices between regions.

Recommendation

4.38 The Department should ensure licensing procedures are followed. If procedures are no longer appropriate, they should be changed.

Departmental response

4.39 *The Department has initiated work to modify the Inspection process and to update procedures related to the licensing of Adult Residential Facilities*

Complaints and incidents reported are not considered when licensing a special care home or a community residence

4.40 Neither the documented licensing procedures nor the actual practice of issuing licenses considers complaints from the public and incidents reported by the facility.

4.41 We believe the Department's licensing process could be improved by incorporating this type of information obtained during the year. Complaints and incidents could indicate non-compliance with the standards. Integrating information from different sources reduces the risk of inappropriately licensing a facility. Incidents reported by the facility and complaints from the public should be reviewed before issuing the license for the next year.

Recommendation

4.42 The Department should consider both the number and nature of the incidents reported by the facility and complaints from the public before issuing the renewal license.

Departmental response

4.43 *The Department will add to the standards and licensing procedures a requirement indicating that the number and nature of incidents reported by the facility, and complaints from the public, have to be considered before issuing the renewal license.*

We observed inconsistencies between this legislation and the legislation for similar programs

4.44 In addition to the responsibility for licensing and monitoring special care homes and community residences, the Department is also responsible for licensing and monitoring nursing homes and day care facilities. While it is expected that the legislation for different programs would be different, it should also be expected that similar programs have similar laws. We believe the legislation for special care homes and community residences is deficient in the following two areas: an emergency plan requirement and public posting of the license.

4.45 An emergency plan typically is a written plan that shows the evacuation routes and outlines staff responsibilities. It is usually posted in a common area where even a visitor to a facility could easily see the plan and follow the instructions. Nursing homes and day care facilities are required by legislation to have an emergency plan; special care homes and community residences are not. In Nova Scotia, Regulations require that special care homes have an emergency plan and that it be updated every three years and resubmitted to the Minister.

4.46 While we acknowledge that the operator standards do require an emergency plan for facilities with ten or more beds, we believe this is inadequate. Most community residences have less than ten beds and their residents have greater care needs and are likely less ambulatory. We believe that all licensed care facilities should be required to have an emergency plan.

4.47 When the public sees a license issued by the government, there is an assumption the government's standards have been met. Seeing a posted license provides assurance that a facility is legal and provides comfort that the facility is a safe place. The *Nursing Homes Act* states, "A licensee shall at all times display his license in a conspicuous place within the nursing home." Day care standards require the public posting of their license. There is no requirement for special care homes and community residences to post their license.

Recommendation

4.48 **The Department should review the legislation for special care homes and community residences and initiate amendments as appropriate. In particular, the inclusion of requirements for an emergency plan and public posting of the license should be considered.**

Departmental response

4.49 *As indicated above, the Department will review the legislation for special care homes and community residences and will undertake discussion with the Department of Justice for this task. The*

Department agrees with the inclusion of requirements for emergency plans and the public posting of certificates.

Conclusion

4.50 This criterion is partially met. The program has an established licensing process with standard forms that is clearly documented and communicated to the individuals involved. The licensing process requires that the facility be inspected by Public Health, the Office of the Fire Marshal and the Department. Licenses expire each year and are not renewed until the inspections are done. However, the established process is not always followed and the Department does not always ensure that all licensing requirements have been met before issuing the license. Licensing practices are not consistent throughout all of the regions and licenses are not always renewed on time.

Inspections by the Department

4.51 Inspecting facilities to ensure that they are operating in accordance with the requirements is an important function that is critical to the licensing process. Legislation integrates the inspection function with licensing by requiring a facility's compliance with the Regulation and standards prior to the Minister licensing the facility. The legislation gives the Minister authority to appoint inspectors. And, the legislation gives the inspectors authority to enter and inspect the facilities to confirm compliance.

4.52 There are operating requirements in the Regulation and in the Department's Standards and Procedures for Adult Residential Facilities (operators' standards manual). We refer to them collectively as "standards". The standards relate to:

- administration (ownership, goals and objectives, policies and procedures, licensing, financial management, insurance, reporting requirements);
- personnel (employment requirements: medical, training, criminal record check; orientation; employee records);
- environment and security (requirements for each of the specific rooms: bedrooms, bathroom, kitchen, stairways, exits; fire prevention, general health standards, first aid);
- resident care (admission, a care plan, programming, staff ratios, food, personal hygiene, medication, money management, clothing, resident records); and
- social environment (residents' rights, visiting, mail, telephone).

4.53 The standards are primarily the same for both special care homes and community residences. There are differences in only a few standards. For example, the staff-to-resident ratio is higher for community residences because their residents require more care.

4.54 Our second audit criterion involved the inspection process:

Inspections of special care homes and community residences should be performed to measure compliance with legislation and standards.

4.55 To determine whether this criterion was met, we examined the Department's standards manual for operators and the operators' requirements within legislation; we accompanied a coordinator during an inspection at both a special care home and a community residence; we tested a sample of facility files; we analyzed information provided by the Department, talked with many of the coordinators and reviewed the Department's documented procedures.

4.56 Our findings include the following strengths in the inspection process.

- ***Resources are assigned to inspect special care homes and community residences.*** There are twelve adult residential facility coordinator positions (coordinators) with one or more assigned to each region. At the time of our review, all positions were occupied. Their role is documented and responsibilities are assigned to the coordinators. Inspecting facilities is the first listed responsibility.
- ***All facilities are assigned to coordinators.*** Each facility is specifically assigned to a coordinator in the region, who is responsible for inspecting the facility.
- ***The coordinator visits the facility and inspects before issuing a license.*** In our sample of forty files for licensed facilities, we looked for the presence of documentation indicating that the coordinator had visited the facility and had inspected for compliance with the operators' requirements. Documentation was present in all but two of the forty files. (95% had been inspected prior to licensing.)

4.57 We identified the following weaknesses in the inspection process. A brief description of each finding follows.

- Inspections are not comprehensive and do not measure compliance with all of the standards.
- Inspection documentation is inadequate.
- Inspection work is not prioritized using risk management.

- Advance notice to operators may impair the effectiveness of the inspection.
- The inspection workload does not appear evenly distributed among the coordinators.
- Documented policies and procedures for inspecting are limited. There are inconsistencies in the inspections performed in different areas of the Province.

Inspections are not comprehensive and do not measure compliance with all of the standards

4.58 In addition to the licensing requirements, the Regulation sets out other requirements for special care homes and community residences. The Department is to ensure the facility complies with the requirements in the Regulation and the standards prescribed by the Department prior to issuing a license. The operators' standards manual for special care homes and community residences contains well over one hundred requirements. Some standards are very detailed; for example, a standard relating to beds states, "have pillow with pillow case, two sheets and two coverings at minimum".

4.59 We selected some of the standards that are stated in the Regulation for testing. We tested a sample of forty licensed facilities. We reviewed the Department's file on each of the selected facilities looking for the presence of documentation indicating that each of following standards was met:

- criminal record checks for operator and staff;
- employment requirements for staff at facilities: medical and training;
- the ratio of residents to staff; and
- first aid supplies.

4.60 Criminal record checks are required for all operators and staff of special care homes and community residences and the checks must be redone every five years. Evidence that this standard had been verified was not present in five of the forty files. In nine of the files where there was evidence that record checks were being monitored, the standard was not met because the record check had not been obtained for new staff or had not been renewed after five years.

4.61 There are other specific requirements for staff working at special care homes and community residences. They must provide a medical form indicating that they are in good health and certificates demonstrating that they have received training in first aid, CPR and other personal care programs. Evidence that the medical requirement

had been verified was not present in six of the forty files. Evidence that first aid and CPR requirements had been verified was not present in eight of the forty files. Evidence that other qualifications regarding personal care programs had been verified was not present in fourteen of the forty files.

4.62 The standard regarding the ratio of residents to staff differs depending on specific circumstances, such as the level of care required by the residents and the presence of a fire sprinkler system. While the ratio differs from facility to facility, all are required to meet the ratio standard. Evidence that the residents-to-staff ratio requirement had been verified was not present in four files.

4.63 Evidence that the first aid supplies requirement had been verified was not present in twenty-nine of the forty files.

4.64 It is possible that a coordinator may inspect for some standards, but not document their verification. While we believe that there should be documented verification of all operator standards, we believe that it is particularly important that the verification of the legislative requirements be appropriately documented. Each of the four standards that we tested, and commented on above, were requirements stated in the legislation.

Recommendation

4.65 The Department should verify operators' compliance with all of the standards by performing complete inspections at special care homes and community residences.

Departmental response

4.66 *The new inspection form and process will require that the operator's compliance with all of the standards be verified. A complete inspection for each facility has to be conducted each year prior to renewing the certificates of approvals.*

Inspection documentation is inadequate

4.67 Although the Department has a standard inspection form, it is outdated and inadequate. The inspection form is not effective because it does not measure compliance with all of the standards. As a result, it is not being consistently used for inspections in most areas. Most coordinators have developed their own means of doing and documenting inspections. A consistent method of recording inspections is necessary in order for the Department to monitor compliance with the standards and identify trends.

4.68 The inspection reports that we reviewed in our sample of forty files were effectively a record of observations and comments, rather

than a report indicating areas of compliance and non-compliance. They did not provide assurance that a comprehensive inspection was done.

4.69 While the purpose of inspecting is to measure compliance with the standards, value is also obtained for the licensing process and enforcement actions. If an inspection reveals compliance with the standards, then the results are useful because they support licensing. If the inspection reveals areas of non-compliance, then the results are useful because they contribute to the enforcement process and either corrections are made or the facility is closed. In order for inspection results to be useful, inspections must be documented consistently and properly. The current way of documenting inspections is not effective because it does not provide useful information for either the licensing or the enforcement process.

4.70 The Department has recognized weaknesses in inspection documentation and is developing a new inspection form.

Recommendation

4.71 The Department should use an effective inspection form to measure compliance with all of the standards. The form should be easy to use and understand, and should allow results to be easily incorporated into the licensing and enforcement processes.

Departmental response

4.72 *As mentioned above, the Department is currently working on the development of a new Inspection Form and Process. This new approach will be more comprehensive and will ensure that all licensing requirements are met.*

Inspection work is not prioritized using risk management

4.73 A risk-management approach would result in more frequent and/or in-depth inspections in facilities assessed as having a higher risk. The Department does not use a risk-management approach or have a standard method of prioritizing inspection work for the program. The inspection requirements are the same for all facilities, including the inspection frequency requirement. The Department recognizes the benefits of risk management for inspections and has started project work in this area. We understand that the project will address risk management, inspection frequency and inspection scheduling.

Recommendation

4.74 The Department should implement a formalized risk management approach for prioritizing inspections of special care homes and community residences.

Departmental response

4.75 *The Department is currently developing a Quality Improvement Assessment Tool and process for the inspection and monitoring of*

Adult Residential Facilities. This new Tool will ensure that Adult Residential Facility Coordinators have an inspection schedule to guide their activities.

Advance notice to operators may impair the effectiveness of the inspection

4.76 In some regions, operators are informed in advance of their inspection. Normally inspections are more effective when there is no notification. The element of surprise is important in obtaining a true representation of operations. Providing advance notice by either issuing a letter, phoning the operator to arrange a convenient time, or consistently inspecting each year during the month that the license expires may impair the effectiveness of the inspection. While we understand that advance notice results in the inspection being more convenient for both the operator and the coordinator, it provides the opportunity for the operator to “prepare” for the inspection thus inhibiting an inspection of the true operations.

Recommendation

4.77 The Department should conduct unannounced inspections to obtain true representations of operations at special care homes and community residences.

Departmental response

4.78 *The Department periodically conducts unannounced visits or spot checks, particularly in facilities where the operator has been directed to implement corrective measures. A directive will be sent to the Adult Residential Facility Coordinators to conduct unannounced annual inspections.*

The inspection workload does not appear evenly distributed among the coordinators

4.79 We did a caseload analysis comparing the number of facilities assigned to the coordinators in each of the eight regions. While all coordinators are assigned the same responsibilities, there are substantial differences in the number of facilities assigned to the coordinators.

4.80 The number of facilities per coordinator position ranged from 28 to 59. We also observed that while two regions have approximately the same number of licensed facilities, 50 and 49 respectively, one has 1.5 coordinator positions, while the other region has only one.

Recommendation

4.81 The Department should re-examine the basis for the allocation of adult residential facility coordinator positions to the eight regional offices.

Departmental response

4.82 *The Department is always reviewing staffing complements and needs, and will continue to do so for this group of staff as well.*

Documented policies and procedures for inspecting are limited and there are inconsistencies in the inspections performed in different areas of the Province

4.83 The documented policies and procedures for inspecting are very limited and do not provide adequate guidance for planning, conducting and documenting inspections. This lack of guidance and the non-compliance with the documented procedures has resulted in inconsistencies with inspection practices. We observed the following inconsistencies between different areas of the Province.

- The Department's policy is to inspect annually, at a minimum. We found this to be done in most of the forty files tested. However, other information revealed facilities that had not been inspected annually, with at least one facility not being inspected or visited for over four years. We also observed inconsistencies with the practice of doing spot checks. Several coordinators reported that they do spot checks; documentation indicated that one region does regular spot checks at facilities; one coordinator reported that spot checks are only done as a follow-up to a complaint.
- Inspection documentation varied. One coordinator makes only a few comments on the Report of Visit form, while another completes part of the Department's standard inspection form. Another coordinator has developed an extensive checklist encompassing most of the standards. One region has developed a series of charts for monitoring the contents of the residents' files and the qualifications of the facility's staff.
- There are inconsistencies with maintaining copies of the operator's documents in the facility's file in the regional office. While some regions keep a copy of the facility's insurance policy, most do not. Some regions keep copies of the facilities' staff medicals and training certificates; others do not. (There are no documented policies to provide the coordinators with guidance on this.)
- Some coordinators advise the operator of their upcoming inspection; others do not inform the operator in advance. (There is no documented policy regarding inspection notification.)

4.84 These inconsistencies indicate the need for better documented guidance and the need for quality control procedures for the inspection function.

Recommendations

4.85 The Department should develop documented policies and procedures for planning, conducting and reporting inspections at special care homes and community residences.

4.86 The Department should develop quality control practices to ensure the policies and procedures are followed.

Departmental response

4.87 *As mentioned above, the Department is currently developing a Quality Improvement Assessment Tool and process. This will assist Adult Residential Facility Coordinators in assessing the quality of care provided in Adult Residential Facilities and provide them with an inspection schedule to guide their activities.*

Conclusion

4.88 This criterion is partially met. While there are coordinators responsible for inspecting all special care homes and community residences within the Province prior to issuing and renewing licenses, the site visit is not a complete inspection of all the operating standards. The Department does not have established processes for prioritizing, performing and documenting inspections. As a result, there are many inconsistencies in inspection practices.

Enforcement

4.89 While inspections measure compliance, it is the enforcement actions that ensure compliance with the legislation and standards. Legislation gives the Department authority to enforce the legislation and standards by refusing a license, by issuing a temporary license, by issuing orders for change and by revoking a license. We wanted to know if the legislated enforcement authority is exercised. What happens when a facility operates without a license? What are the ramifications for not meeting the standards? Our third criterion looks at the enforcement process:

Enforcement actions should be taken when special care homes and community residences do not comply with legislation and standards.

4.90 Our findings include the following strengths in the enforcement process.

- ***The Department has documented enforcement procedures.*** The coordinators' manual provides good guidance for enforcing the standards and performing investigations. In addition to providing specific procedures and assigning responsibilities to staff at both the regional office and the central office, it provides templates for various enforcement letters. Some of the specific enforcement topics addressed include: facilities operating without a license; refusing to issue or renew a license; investigating complaints; abuse or neglect; misuse of resident's funds; conducting formal investigations; and, closing a facility.

- ***The Department uses its legislated authority to enforce the legislation and standards.*** In reviewing our sample of facility files, we observed cases where enforcement letters had been issued to a facility because a standard was not being met; we observed cases where a complaint against a facility had been made and it had been properly addressed by the Department; and we observed cases where a formal investigation had been conducted. In addition to our own observations, information provided by the Department indicated the Department has closed one to three facilities in each of the past three years.

4.91 We identified the following weaknesses in the enforcement practices. A brief description of each finding follows.

- Enforcement actions are inadequate at times.
- The Department does not have adequate procedures for identifying enforcement cases.
- Temporary licenses are not being used as an enforcement tool.

Enforcement actions are inadequate at times

4.92 We observed the following situations where enforcement actions should have been used and they were not.

- Our testing revealed that the standard regarding criminal record checks was not met because the record check had not been renewed after five years or had not been done prior to hiring a new staff member. Meeting this standard is critical to reducing the risk of abuse to vulnerable individuals.
- According to the standards, operators are to immediately report major incidents and must complete and forward an Incident Report within forty-eight hours. "Incidents to be reported immediately include serious injury to or serious illness of the resident, attempted suicide, suspected abuse of the residents, an offence against persons, resident behaviour necessitating the use of physical force, fire or other disasters in the facility and any other incidents that will affect the client's emotional or physical well being."

Several incident reports were present in many of the files we reviewed. In some files, we saw enforcement letters relating to non-compliance with this standard because the operator had not remitted any reports for several months. However, we also reviewed some files where there were neither incident reports nor enforcement letters over a period of several years. These observations suggest that there is inconsistency in the reporting of

incidents and inconsistency in the enforcement of the standard. Recently, one region has recognized that a number of their special care homes were not reporting incidents. This region has issued a letter to all their facilities reminding operators of the standard and the implications of breaching the standards.

- We observed cases where multiple license renewal letters were issued, when enforcement letters would have been more appropriate. In each case, the letters requested the operator remit required documentation, such as criminal record checks and employment qualifications for staff. While we understand that license renewal letters serve as a reminder for operators, we believe that one is adequate. Correspondence with the operator after their license has expired should be of an enforcement nature with ramifications for the operator's illegal action of operating without a license. Enforcement actions could include withholding subsidy payments or not approving any new residents until compliance is achieved.

Recommendation

4.93 The Department should take appropriate enforcement actions whenever the legislative requirements and standards are not met by operators of special care homes and community residences.

Departmental response

4.94 During the past year, the Department has developed new guidelines to assist regional staff to take appropriate enforcement actions where necessary. Relevant sections of the Adult Residential Facility Coordinators Standards will also be reviewed and updated in relation to the enforcement process.

The Department does not have adequate procedures for identifying enforcement cases

4.95 It is illegal to operate a special care home or a community residence without a license. While the Department does have enforcement procedures for service providers who are known to operate without a license, the Department does not have procedures for identifying service providers who operate without a license. The Department relies on the public to report illegal operators. Recently, the Department became aware of facilities with unlicensed beds and facilities where private-paying residents had been admitted without the Department's approval. (The operators' standards require that all residents apply to the Department and be determined eligible prior to admission.) The Department has investigated these situations and is taking appropriate action.

4.96 The Department should be more proactive and have procedures for identifying illegal operators. Procedures could include asking

licensed operators if they are aware of any illegal business competitors, reading the “classifieds” in the newspaper and scanning public bulletin boards in stores where service providers may advertise in search of residents.

Recommendation

4.97 The Department should establish documented procedures for identifying illegal operators of special care homes and community residences.

Departmental response

4.98 *The Department will add a section to existing guidelines and directives suggesting activities to identify illegal operations in the province.*

Temporary licenses are not being used as an enforcement tool

4.99 The Regulation provides for the issuance of a temporary license to a facility when the Department is satisfied that the licensing requirements will be met within a designated period of time, not to exceed six months. Given this provision, we believe that temporary licenses are available as an enforcement tool. It serves as a “conditional license” allowing the operator time to correct performance and comply with the standards.

4.100 The Department is aware of this provision and has provided documented guidance on the use of temporary licenses in the coordinators’ manual. However, we found that the coordinators are not issuing temporary licenses.

Recommendation

4.101 The Department should use temporary licenses as a means of enforcing compliance with the legislation and standards.

Departmental response

4.102 *The Department has recently prepared new guidelines and directives for the issuance of temporary Certificates of Approval. The current standards in relation to the issuance of temporary Certificates of Approval will also be reviewed.*

Conclusion

4.103 This criterion is partially met. The Department has documented procedures that provide good guidance for enforcing the legislation and standards. The Department uses its legislated enforcement authority and closes facilities for non-compliance. While we found many cases where the Department had taken appropriate enforcement actions, we also identified several cases where the Department did not. In addition, the Department does not have adequate procedures for identifying enforcement cases.

Policies and procedures

4.104 Policies and procedures document the rules of a program and describe the proper steps in performing tasks. Not only do policies and procedures inform staff members how to fulfill their day-to-day responsibilities successfully, but they also provide a basis for monitoring activities to ensure consistency in operations. Our fourth criterion involves policies and procedures:

Policies and procedures for licensing and inspecting special care homes and community residences and enforcing the legislation should be documented and followed.

4.105 We found that the Department has a coordinators' manual that is well organized and appears very useful. In addition to providing specific procedures, it also contains standard forms and templates for correspondence. A staff member at central office is assigned the responsibility for keeping the manual relevant by updating it when necessary. The manual was recently reviewed and amended in October 2004. We found the manual to provide good guidance for licensing facilities and enforcing the legislation.

4.106 We identified the following weaknesses with the documented policies and procedures. A brief description of each finding follows.

- The manual does not provide adequate guidance for inspecting facilities.
- There are inconsistencies between the Department's practices and the legislation.
- Quality control practices are lacking. There is no monitoring to ensure the documented procedures are followed consistently in all regions.

The manual does not provide adequate guidance for inspecting facilities

4.107 Earlier in this chapter we reported that documented policies and procedures for inspecting are limited. We reported several examples of inconsistencies in the inspections performed in different areas of the Province. And, we recommended that the Department develop better guidance for planning, conducting and documenting inspections.

There are inconsistencies between the Department's practices and the legislation

4.108 The Regulation clearly states that a statement of compliance from the Office of the Fire Marshal is required for facilities with three or more residents. The coordinators' manual states a fire prevention inspection is required for facilities with four or more residents. In practice, most coordinators are requiring the fire prevention inspection for facilities with four or more residents.

4.109 The legislation states facilities having one or two residents require a license if either resident is receiving a subsidy. The coordinators' manual states that a license "is not required for a home of two beds or less". In practice, some coordinators follow the legislation while others follow the requirement in the manual.

4.110 The legislation sets out resident admission requirements of the operator, which the Department is not following. Since the implementation of the Long Term Care Program in 1997, it is the Department's responsibility, not the operator's, to approve residents for admission to a special care home.

Recommendation

4.111 The Department should take immediate corrective action to comply with the legislation. The corrective action may require changes to the practices, to the legislation or to both.

Departmental response

4.112 *The Department will review the legislation and Regulation in relation to Adult Residential Facilities and will undertake discussions with the Department of Justice for this task.*

Quality control practices are lacking

4.113 There are no quality control practices to ensure that the policies and procedures are followed. It is important to monitor procedures to ensure they are followed and that the program is being delivered consistently throughout the Province. We made several observations where they were not followed.

4.114 The coordinators' manual states, "All incidents, complaints, investigations, closures and reasons for closure are to be recorded in the Information System within two weeks of occurrence." We saw evidence that not all incidents and complaints are being entered into the information system.

4.115 Information must be captured and summarized in a consistent way in order for it to be useful in making decisions. Without consistent enforcement of the operator standard to remit incident reports and consistent compliance with the Department's policy to enter information into the information system, incidents and complaints cannot be monitored. Monitoring is important so that trends in the number and nature of incidents and complaints can be identified and proper corrective action can be taken.

4.116 The coordinators' manual also states that all complaints and incidents are to be investigated. Our file reviews indicated that while complaints were addressed promptly and properly by the Department,

there was no follow-up to incidents reported by the facilities in most cases.

Recommendations

4.117 The Department should develop and implement quality control practices to ensure that policies and procedures are followed consistently in the regional offices.

4.118 The Department should ensure incidents at special care homes and community residences are properly and promptly reported, recorded and investigated.

4.119 The Department should monitor complaints and incidents to identify trends in number and nature and take appropriate corrective actions as needed.

Departmental response

4.120 The Department will develop a monitoring plan to ensure that policies and procedures are followed consistently in the regional offices, and that incidents in special care homes and community residences are dealt with appropriately. The Department will also take appropriate steps to identify trends in the number and nature of complaints and incidents in Adult Residential Facilities.

Conclusion

4.121 This criterion is partially met. While the Department has documented procedures that provide good guidance for licensing facilities and enforcing the legislation and standards, adequate guidance is not provided for inspecting special care homes and community residences. Quality control practices are lacking to ensure the documented procedures are followed, and we observed inconsistencies between regions and between the Department's practices and the legislation.

Accountability

4.122 Reporting on the effectiveness of the program for licensing special care homes and community residences is a component of being accountable. Section 13(2) of the *Auditor General Act* mandates our Office to report cases in which we have observed that satisfactory procedures have not been established to measure and report on the effectiveness of programs. This serves as the basis for our final criterion:

The Department should measure and report on the effectiveness of the program for licensing and inspecting special care homes and community residences and enforcing the legislation.

4.123 Appropriate reporting procedures provide information for determining whether a program is meeting its objectives. Objectives, goals and performance indicators with monitoring procedures are important elements for a program. To determine whether this criterion is met, we gathered information to address the following questions:

- Are there performance indicators that are monitored to provide evidence that the program's goals and objectives are achieved?
- Does the Department have relevant and accurate reporting on the effectiveness of the program?

4.124 The Department informed us that they do not have indicators of performance for the program for licensing and inspecting special care homes and community residences. And as a result, the Department is unable to have relevant and accurate reporting on the effectiveness of the program.

4.125 The only external reporting on special care homes and community residences is in the Department's annual report. It provides a brief description of the facilities in the Province. The government and Legislative Assembly are not being provided with information that is useful in determining whether the standards are being met or whether the program is meeting expectations.

4.126 While the Department does not have appropriate procedures to measure and report on the effectiveness of the program, we can report that the Department recognizes the importance of the process and has begun the exercise. The responsibility was assigned to staff and a Discussion Paper was issued in March 2004. We reviewed the document and found it to be well structured. We commend the Department for their initial efforts and encourage them to continue with their work in performance measurement and reporting.

Recommendations

4.127 To measure the effectiveness of the program for licensing and inspecting special care homes and community residences, the Department should establish program goals, performance indicators and monitoring procedures for evaluating performance.

4.128 To provide better accountability to the public, the Department should report publicly, in its annual report, on the performance of the program for licensing and inspecting special care homes and community residences.

Departmental response

4.129 *The Department will take appropriate steps to develop specific indicators to measure and report on the effectiveness of the program*

for licensing and inspecting special care homes and community residences and enforcing the legislation.

4.130 *The Department agrees to report internally and publicly on the performance of the Adult Residential Services Program.*

Conclusion

4.131 This criterion is not met. The Department does not have appropriate procedures to measure and report on the effectiveness of the program for licensing and inspecting special care homes and community residences and enforcing the legislation.

Chapter 5

Department of Health and Wellness

Prescription Drug Program

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Department of Health and Wellness

Prescription Drug Program

Background

5.1 The *Prescription Drug Payment Act* was proclaimed on October 1, 1975. It established the Prescription Drug Program to provide payment of entitled services required for preventive, diagnostic or therapeutic purposes, to eligible beneficiaries in the Province.

5.2 The Prescription Drug Program (PDP) is a program of the Department of Health and Wellness. During our audit fieldwork, PDP was a part of the Public Health and Medical Services Division. After we finished our fieldwork, the Department informed us that PDP is now part of the Institutional Services Division.

5.3 The PDP's purpose is to improve and maintain the well-being of the residents of New Brunswick by making available specified drugs to selected target groups. The PDP has a number of plans that identify the target groups eligible for prescription drug benefits. The beneficiary groups are:

1. New Brunswick residents aged 65 or older who receive Old Age Security/Guaranteed Income Supplement, or who qualify for benefits based on annual income.
2. Nursing home residents.
3. Clients of the Department of Family and Community Services who hold a valid health card for prescription drug coverage. These include recipients of financial assistance, adults living in a residential facility and children in care of the Minister of Family and Community Services.
4. Persons who have cystic fibrosis, are organ transplant recipients, have human growth hormone deficiency, are

HIV-positive, or have multiple sclerosis, and are registered with the PDP and deemed eligible for benefits.

5.4 Since 1975, the Department has contracted with Atlantic Blue Cross Care (which in March 2005 began operating as Medavie Blue Cross) to administer the Prescription Drug Program on a not-for-profit basis. Throughout this chapter, they will be referred to as the service provider or Blue Cross, as they are commonly known. In addition to administering the program, Blue Cross' role has been to process prescription drug claims from PDP beneficiaries. In 2003-04, Blue Cross billed the Department just over \$ 2.3 million for its services.

5.5 During 2003-04, one in seven New Brunswickers were eligible beneficiaries of the PDP. Total expenditures for the program for that year were close to \$114 million, a 42% increase since 2000-01. The 2004-08 Provincial Health Plan states that drug expenditures are the fastest growing component of health care costs in New Brunswick. The increasing amount of expenditures is the result of increases in both volume and cost. For instance, from 2000 to 2004, the average number of prescriptions per beneficiary increased 16% while the average cost per prescription increased by 29%. Offsetting this somewhat is the fact that the number of active beneficiaries decreased by 4% during this period.

5.6 In 2003, legislative auditors from a number of jurisdictions across Canada decided to conduct audits of drug programs in their jurisdictions, using a similar audit plan. This audit is a result of our participation in this joint effort. The reports from audits in other jurisdictions were issued in 2004 or 2005.

Scope

5.7 The objectives of this audit were:

To assess whether the Department of Health and Wellness has adequate procedures in place to manage the performance of the Prescription Drug Program;

To assess whether the Department has adequate procedures in place to ensure that the drug assessment process for formulary listing and the amount paid for drugs and pharmacy services are managed with due regard for cost effectiveness; and

To assess whether there is adequate reporting on the Prescription Drug Program's performance.

5.8 To further focus our audit efforts, we identified a number of audit criteria. Audit objectives and criteria were developed jointly by all participating legislative auditors to assist in the planning and performance of the prescription drug program audit. Some of these were modified for our own audit purposes. The audit objectives and criteria for this audit were discussed with the Department, which agreed that they were reasonable.

5.9 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Conclusions and results in brief

5.10 The Department does not have adequate procedures in place to manage the performance of the Prescription Drug Program. The program lacks a clear mission and measurable objectives. Although we found the Department is adequately monitoring the performance of the service provider, a number of other areas are in need of improvement. Information should be analyzed and acted upon. The Department has a significant amount of information available to it, yet no consistent, regular and systematic analysis is performed on the data. Finally, there are no standards for non-financial aspects of the program's performance.

5.11 The Department has adequate procedures to ensure the drug assessment process and the amount paid for drugs and dispensing fees are managed with due regard for cost effectiveness.

5.12 Reporting on goals, objectives, program relevance, achievement of plans and acceptance by client groups is not adequate. Reporting in these areas is necessary to provide sufficient effectiveness information to the members of the Legislative Assembly and the general public. However, the Department is reporting adequately on the financial performance of the Prescription Drug Program.

Program management

Program mission

5.13 Our first criterion was:

There should be a clear program mission for the Prescription Drug Program.

5.14 We reviewed the Medicare/Prescription Drug Program strategic plan dated 1999 (revised in 2002). This document outlines the

vision, mission, principles, values and goals of the Medicare/Prescription Drug Programs.

5.15 The mission states:

To fulfill our Vision, it is critical the Medicare/Prescription Drug Program team achieve acceptable results in the following areas:

- 1. Programs and services based on the needs of the population*
- 2. Public satisfaction with programs and services*
- 3. Cost effective and appropriate service delivery*
- 4. Quality health information*
- 5. Staff attitudes and morale*

5.16 A model mission statement is clear and concise. One common approach is to show the 3 W's - stating what you do, why you do it and for whom. It should illustrate what is the service unique to the program; who is the intended primary beneficiary or target group; and why the service is a benefit.

5.17 The PDP's mission statement does not state what they do, who the intended beneficiaries are and why the service is a benefit. It would be difficult to establish meaningful goals and objectives based on the current mission because these critical components are not there. Instead, the statement focuses on the team and not the program, and it does not mention the primary service the program provides. Our discussions with departmental staff indicate there are no plans to revisit the current mission in the near future.

5.18 Another deficiency of the current mission is that it addresses two distinct programs: Medicare and Prescription Drug. These programs do not serve the same beneficiaries. In addition, the structure of the PDP has changed since the mission was originally drafted, when the responsibility for both programs was in the hands of the same director. The current organizational chart available on the Department's website clearly shows that the responsibility for the two programs has been split between the Public Health and Medical Services Division (PDP) and the Planning and Medicare Services Division (Medicare). This change of structure is not reflected in the current mission. (Since the conclusion of our audit, departmental staff have informed us that PDP is now part of the Institutional Services and Prescription Drug Program Division, Medicare-Operations is part of the Administration and Finance Division and Medicare Services is part of the Planning and Medicare Services Division).

5.19 A clear program mission is the cornerstone required to develop well-defined and measurable objectives for a program. If at the onset a mission is not clear, many difficulties will arise with relation to the establishment of meaningful objectives, reporting, and performance management.

Conclusion

5.20 This criterion is not met. The joint mission does not reflect the primary activities of the program.

Recommendation

5.21 We recommended the Department establish a clear program mission for the Prescription Drug Program.

Objectives

5.22 Our second criterion was:

The objectives of the program should encompass the entire program mission. They should be well-defined, measurable, and periodically reviewed.

5.23 The Medicare/Prescription Drug Program strategic plan identifies the following goals:

- Increase cost effective and appropriate case management.
- Increase public satisfaction with programs and services.
- Increase program sustainability.
- Maintain an environment that fosters positive staff attitudes and morale.
- Improve public and stakeholder attitudes and behaviours regarding health related services.
- Increase the use of quality information.

5.24 No objectives have been established for the Prescription Drug Program. Goals define the general results to be achieved, while objectives identify a specific result to be achieved over a specified period of time. Goals and objectives are important tools for setting program direction and achieving intended results. They also establish a basis for year-to-year comparison.

5.25 Having measurable objectives does not necessarily mean that an objective needs to be expressed as a single number. It can be expressed as meeting a specified range such as a scale of accomplishment (good, fair, poor), with the attributes of the scale being clearly defined.

5.26 Without specific objectives, the Department does not know its current standing with the goals, making it difficult to assess whether they are improving in an area or getting worse.

Conclusion

5.27 This criterion is not met. The Department has not established measurable objectives for the Prescription Drug Program.

Recommendation

5.28 **We recommended the Department establish well-defined, measurable objectives for the program. They should be reviewed periodically to ensure they continue to be relevant.**

Performance information

5.29 Our third criterion was:

Adequate performance information should be available to measure whether the program's mission and objectives are being achieved.

Information is available

5.30 During our audit, we found a significant amount of performance information available for analysis or review, and this information is collected on a regular basis. We found monthly financial reports concerning claims expense, amount of claims, and budget information on the administration of the program. We also found monthly performance reports on service levels by the service provider. And finally, we reviewed some of the statistical reports prepared by a program officer of PDP.

5.31 The statistical reports, prepared from data provided by the service provider, translate the data into a user friendly format of charts and graphs. These reports provide information on such areas as special authorization requests, overrides, beneficiary counts, utilization indicators by region and by drug groups, comparisons by plans, and top drug costs by year. The data can also be used to conduct more specific, ad hoc analysis.

5.32 Although this data is very informative, measurement of the program's performance is a difficult task due to the lack of objectives. That said, the financial information could be used to measure the general goals of cost-effective management and perhaps program sustainability. (In fact, we did find that cost-effective management of the program is being monitored regularly, and this is discussed later in this chapter.) It does not appear that the data can be used to measure other goals of the program, such as public satisfaction, staff attitudes and morale, or stakeholder attitudes toward health services.

Limited analysis performed

5.33 While reviewing the data produced by departmental staff, we became aware that the statistical reports are not being used to actively manage the program. No consistent, regular, systematic analysis is performed on the data. Some of the reports produced could be used to identify problem areas, or areas requiring further investigation. For example, the utilization indicator reports show utilization by physician

type (general practitioner or specialist) and by health region, including average number of prescriptions per beneficiary per year, average number of prescriptions filled per physician, cost per beneficiary, and cost per physician. Our review of these reports for 2003-04 indicated some interesting facts about prescription use in New Brunswick. For instance:

- The average cost per prescription was as high as \$42.38 in one area and as low at \$29.73 in another.
- Although rural physicians had a greater number of prescriptions per patient (23.3) than urban physicians (19.0), they had a lower average cost per prescription at \$33.07 versus \$38.36 for physicians in urban areas.

5.34 Although these facts pose intriguing questions for program managers, they currently remain unanswered. The program has some good information available to it, but it is not used to its full potential.

5.35 Analysis is performed when a specific issue arises or as required during a review of a drug for inclusion in the formulary. But there is limited regular review or analysis of this data. The Department may be missing opportunities for identifying problem areas or evaluating the effectiveness of the program. Departmental staff have indicated that there are no resources available to perform the type of analysis required. A staffing proposal prepared by departmental staff indicated that PDP has significantly fewer staff assigned than neighbouring jurisdictions. It shows that Nova Scotia has 11.5 positions for pharmacare while Newfoundland and Labrador has 10 positions. In comparison, PDP has 4.3 positions assigned, and one position, that of Health Informatics Officer, has been vacant for several months.

Conclusion

5.36 This criterion is partially met. Although a significant amount of information is available, it is not used to its full potential. In other words, the information is not being analyzed and acted upon. Part of the problem lies with the lack of objectives, making it difficult to measure the achievement of the mission's goals. Another problem is a lack of resources to analyze the data collected, as comparisons to other jurisdictions and the current limited monitoring would indicate.

Recommendations

5.37 **Once objectives have been established, we recommended the Department ensure the information collected is adequate to measure the performance with regard to the objectives.**

5.38 We also recommended the Department monitor data and conduct analysis on a regular basis to ensure that problems and issues are identified.

Responsibility framework

5.39 Our fourth criterion was:

An adequate responsibility framework should be in place with the third party service provider to evaluate the effectiveness of its services.

5.40 The Department entered into a contract with the service provider in 1975. The contract identifies the duties of Blue Cross. This contract has limited reporting requirements and they all relate to financial reporting, such as the submission of a budget of estimated expenditures, monthly reports of payments made for entitled services and the submission of audited financial statements.

5.41 In recent years, the contract has been supplemented with Service Level Agreements. Service levels were established by the Department that require the service provider to perform at a certain level, or standard. Blue Cross must regularly report to the Department on its performance with regard to these service level standards. The service level standards cover the main aspects of administering the program, and are adhered to by Blue Cross. These additions have added accountability to the relationship between the Department and the service provider.

5.42 We sampled the reports for the calendar year 2004 to determine whether Blue Cross was reporting to the Department as required. We reviewed the standards and requirements, and assessed whether the Department was monitoring and evaluating the performance of the service provider. Our discussion is organized by the two main areas of financial reporting and service level reporting, and our results are summarized in Exhibit 5.1.

Exhibit 5.1

Reporting requirements and service level standards

Type of reporting	Requirement/Standard	Findings
Financial	Audited financial statements	Financial statements were submitted, although 11 months after year end in 2004.
	Monthly reports on all payments for services See note (1)	<ul style="list-style-type: none"> • A number of reports were submitted: <ul style="list-style-type: none"> – Administration expense analysis, including budget variance – Invoice from the service provider – Claims analysis – Reconciliation reports • All reports were submitted consistently each month.
	Budget of administration expenditures	Budget was submitted. See note (2).
Service level standard – Special Authorization Requests	<ul style="list-style-type: none"> • Standards: 5 standards for requests turnaround time and number of requests to be processed daily by staff • Reporting: weekly report required for 3 of the standards; 2 are by request only 	<ul style="list-style-type: none"> • All reports that are required to be submitted were submitted. • Reports were complete. • Reports that are “by request only” were not requested during the period tested. • Monitoring of the standard is occurring. • For the majority of weeks of 2004, the standards were not met; however a reasonable explanation was provided, indicating evaluation of services was occurring.
Service level standard – Inquiry	<ul style="list-style-type: none"> • Standards: 5 standards for time to respond to an incoming call; responding to messages; calls to be handled daily. • Reporting: 2 reports produced on a weekly basis, 2 by request only 	<ul style="list-style-type: none"> • All reports that are required to be submitted were submitted. • Reports were complete. • Reports that are “by request only” were not requested during the period tested. • Monitoring of the standard is occurring. • The standards were not fully met for the majority of weeks in 2004; however a reasonable explanation was provided.
Service level standard – Provider Audit	<ul style="list-style-type: none"> • Standards: 6 standards pertaining to number of on-site pharmacy audits to be performed each year; in-house claims verification. • Reporting: 7 reporting requirements consisting of monthly status reports. 	<ul style="list-style-type: none"> • All reports that are required to be submitted were submitted. • Reports were complete. • Monitoring of the standard is occurring. • All standards for Provider Audit were met.

Notes:

- (1) The contract does not specifically identify the reports to be submitted. In our analysis, we considered whether the reports addressed the payments for services made during the month.
- (2) The budget document was signed by a program officer, indicating approval. Although the budget request was submitted prior to the commencement of the fiscal year, we could not determine when the budget was approved or approval was communicated to the service provider.

Conclusion

5.43 This criterion was met. Our discussions with departmental staff, as well as the review of the Service Level Agreements and reports provided to the Department, indicate that there is an adequate responsibility framework established with the service provider. Adequate standards have been established to monitor and evaluate the service provider, and monitoring by PDP is occurring.

Monitoring and evaluation of program performance

5.44 Our final two criteria for this objective addressed evaluating the performance of the Prescription Drug Program. They were:

The Department should have adequate standards to monitor and evaluate the Prescription Drug Program's performance; and

There should be regular evaluation of key aspects of the program's performance and corrective action taken when necessary.

5.45 In our 2004 Report, we had an extensive section discussing our government-wide survey of program evaluation in provincial departments. Our survey defined program evaluation as the systematic process of asking critical questions, collecting appropriate information, analyzing, interpreting and using the information in order to improve programs and be accountable for positive, equitable results and resources invested.

5.46 We noted that program evaluation can address:

- the needs of the target clients of a program (i.e. program relevance);
- the logic of the program's design;
- the efficiency and effectiveness with which program activities are being carried out and services delivered; and
- the extent to which the program has achieved its objectives (i.e. by focusing both on measurement of results and the degree to which those results can be attributed to the program).

5.47 Program evaluations can identify deficiencies in a program that may reduce the program's relevance, cost-effectiveness, and/or success in achieving its objectives. Such information is very important for decision-makers, and often not readily available. Information provided by program evaluations can also be used by senior management, legislators, and the public in holding decision-makers to account for the achievement of positive, equitable results with resources provided to them.

Limited evaluation of key aspects of performance

*Exhibit 5.2
Budget-to-Actual comparisons*

5.48 Despite the benefits of program evaluations, our Report observed a lack of formal program evaluation guidelines that specify standard departmental approaches to program evaluation. In the absence of guidelines, the two key factors in decision-making appear to be financial information and the degree of linkage between the program and departmental/government-wide strategic plans. This is not dissimilar for the Prescription Drug Program.

5.49 Departmental staff identified spending within budget as the key indicator of performance for the Prescription Drug Program. The Department does a good job of monitoring budget to actual. A review of budget-to-actual comparisons for the past four years shows that PDP has been making progressive improvements in remaining within budget, as displayed in Exhibit 5.2.

Year	Budget (000's)	Actual (000's)	Variance
2003-04	\$ 115,549.0	\$ 113,752.8	Under budget by 1.6%
2002-03	\$ 102,549.0	\$ 102,878.9	Over budget by 0.3%
2001-02	\$ 90,135.0	\$ 92,032.4	Over budget by 2%
2000-01	\$ 72,426.0	\$ 79,887.7	Over budget by 10.3%

5.50 Remaining within budget is the only area being measured. We agree that this is important. But it tells us simply that the program has spent the budget it was given, not whether the desired outcome was achieved.

5.51 There are other aspects of the Prescription Drug Program's performance that cannot be evaluated by financial performance information alone. Some examples come to mind when we consider the statements made in the mission, such as "programs ... based on the needs of the population" or "public satisfaction with programs". In a broader sense, the program is supporting the Department of Health and Wellness' commitment to the well-being of New Brunswickers and the program plays a part in the health status of New Brunswick residents.

5.52 The beneficiaries of the Prescription Drug Program are some of the most vulnerable citizens in the Province; they are individuals with low incomes, residents in nursing homes, children in care, adults with disabilities living in residential facilities, and other individuals with serious health problems. Seniors alone represent 50% of beneficiaries of the program. There is a need for the Department to evaluate the non-financial aspects of the performance of the Prescription Drug Program,

such as meeting the needs of the population, appropriate use of drugs, satisfaction with the program and services provided, access to drugs, and appropriate prescribing.

5.53 In order to do this, there is a need for additional standards to evaluate aspects of the program such as the program deliverables. For example, there is an eleven-month delay between the time a drug is recommended for benefit status and the time it is included in the formulary. This might provide an example of where a standard could be established for the program – the Department could determine what a reasonable delay should be, set a standard, and monitor the performance to determine whether the standard was met. Management would take corrective action where results required.

Monitoring the key components of costs

5.54 Although the Department closely monitors actual-to-budget for the PDP, this is not sufficient for ensuring cost-effectiveness. According to the Conference Board of Canada, drug prices and rates of utilization are the two major factors behind increased spending on prescription drugs.

5.55 When new drugs are substituted for older drugs, they are typically introduced at a higher cost than the products they displace, resulting in increased drug prices. Increased utilization is the result of a number of factors, including;

- an aging society (more likely to take medication);
- growing scope of pharmacotherapy (treatment, maintenance and prevention);
- more “consumer-driven” demand (internet access to information, direct-to-consumer advertising in the media); and
- more direct marketing to physicians by drug companies trying to establish the latest drug.¹

5.56 According to departmental staff, there are two main ways to affect the growth in the program; one is to pay for the most cost-effective drugs and the other is to influence physician prescribing practices. We wanted to determine if the Department was monitoring drug utilization and prescribing practices.

Drug utilization

5.57 Monitoring of drug utilization is an important part of influencing costs. There is a drug usage report prepared by departmental staff, but as mentioned previously, limited analysis is performed on this data.

1. Source: *Understanding Health Care Cost Drivers and Escalators*, Conference Board of Canada, March 2004

5.58 The task of monitoring drug utilization by beneficiary has been assigned to the service provider, who conducts drug utilization reviews to identify cases where abnormal utilization may be the result of abuse or inappropriate use of the program. The objective of the review is to control, reduce or identify prescription drug usage which may be potentially harmful, by relying upon the cooperation of prescribers and providers to exercise their professional control responsibilities.

5.59 A monthly report produced by the service provider identifies beneficiaries who have met one of the criteria established by the Department to be an indication of a potential problem. Further investigation is conducted and can result in a letter being sent to the beneficiary's physician. The review process focuses on a number of drug classes, such as sedatives, narcotics, and antidepressants, when determining if a letter should be sent out. During 2004, the system identified 24,364 potential instances of abnormal usage. After further investigation, 1,906 letters were written to physicians. The response rate to these letters was just beginning to be recorded as of January 2005. The process will be improved by tracking this type of information, since it could be used to determine whether the intended result of the review was being achieved.

5.60 There could also be monitoring of utilization other than by beneficiary – for example, by region. Data currently collected by the Department shows that in 2003-04, the average number of prescriptions per beneficiary ranged from as low as 18 in some regions to as high as 29 in other regions during the same period. We found that the Department has made an attempt at this type of analysis for a particular drug group. In a joint initiative with the New Brunswick Medical Society, the Department provided physicians with a regional antibiotic prescribing profile. It compared consumption on antibacterials in each health region to the New Brunswick average as well as some leading countries in appropriate antimicrobial usage. The report was provided to physicians in 2002. We were pleased to see this initiative and encourage the PDP to continue in this vein.

Prescribing practices

5.61 Although the Department is monitoring some aspects of drug utilization, we did not find evidence of regular and consistent monitoring of prescribing practices, the other component required for influencing the growing costs of the program.

5.62 At one time, information bulletins were prepared when new drugs were added to the formulary – these bulletins described some of the differences between the new drug being added to the formulary and current benefits, and like information. This is no longer done. As

discussed earlier, the Department has distributed antibiotic prescribing profiles to physicians. The Department has also begun a pilot project where a tool was developed to provide physicians with provincial drug formulary information on handheld technology. The tool will enable physicians to access information on alternative drug options and their associated costs at the point of prescribing in order to make the most appropriate and cost-effective medication choices for their patients. These latest initiatives could be used for monitoring in the future.

5.63 The main tool currently used to influence prescribing is a special authorization process. This process restricts the coverage of certain drugs. For example, if a physician prescribes a drug for which there is a less expensive but equally effective alternative available, special authorization would be required in order for the beneficiary to be covered for the drug cost. The physician must send a written request describing why a particular drug is required. Of the 3,600 drugs listed in the formulary at 31 March 2004, 287 drugs (8% of the formulary) were restricted.

5.64 As mentioned previously, the Department is producing statistical reports on prescribing by health region and by physician type. An analysis of this type of data could assist in identifying unfavourable trends in prescribing practices. A report prepared by departmental staff, "Utilization Indicators by Physician Type by Health Region, Urban and Rural Areas" for 2003-04, highlighted a number of interesting points that may warrant further study:

- The area with the highest average number of prescriptions per beneficiary in New Brunswick (at 28.8 prescriptions) exceeded the lowest area (17.7 prescriptions) by 62%. Yet, there was only a 25% difference in average cost per beneficiary in these two regions.
- The report also indicated that beneficiaries in rural areas have on average 18% more prescriptions than those in urban areas. The average annual cost per beneficiary is also 6% higher in rural areas at \$770.01 per beneficiary, compared to \$727.77 per beneficiary in urban areas.

5.65 Another report, "Utilization by Health Region", provides additional and equally interesting information that could be examined:

- The highest regional increase (as a percentage) in the number of prescriptions from 1997-98 to 2002-03 was 50.45%. The lowest regional increase was 11.38% for the same period.

- The highest regional increase (as a percentage) in average annual number of prescriptions per beneficiary for the five-year period from 1997-98 to 2002-03 was 48.22%, and the lowest was 31.64%.

5.66 The PDP could analyze this and other information, but is not doing so due to a lack of resources. As a result the Department could be missing out on opportunities to identify areas where improvement is needed or where savings could be achieved.

Conclusion

5.67 The two criteria were partially met. There is monitoring and evaluation of the administrative aspects of the program, and whether or not the program remains within budget. Although remaining within budget is important to a program's performance, there are other important aspects which should be monitored and evaluated. The Department has not established standards for non-financial aspects of the program's performance. There is also a lack of evaluative information to monitor the goals of the program, which also impacts on the program's performance; there is no way of knowing whether the goals of the program are being achieved.

Recommendations

5.68 We recommended the Department identify the non-financial aspects of the Prescription Drug Program that affect performance, and accordingly establish standards to regularly monitor and evaluate the program's performance, and take corrective action as required.

5.69 We recommended the Department ensure the information required to evaluate the goals/objectives of the program is available.

5.70 We recommended the Department utilize the data it currently has to its fullest potential.

Departmental comments on program management

5.71 *As noted in the report, the Prescription Drug Program had been combined with Medicare, but these are now separate programs. This change in the organizational structure evolved over the past few years and became official in April 2004. The change in structure provides an opportunity to establish a separate mission, goals and objectives for the Prescription Drug Program.*

5.72 *With respect to data collection and analysis, this is performed in the course of regular operations. We agree that regular and systematic analysis of drug utilization data is necessary to identify potential utilization issues requiring action or further investigation. We will review the work requirements and identify the additional*

resources that would be necessary to ensure the data is used to its fullest potential.

Drug selection and cost

Drug assessment

5.73 Our first criterion was:

Drugs to be listed should be properly assessed to ensure they are cost-effective.

5.74 Drugs eligible for benefits under the Prescription Drug Program are listed in the New Brunswick Prescription Drug Formulary. During 2003-04, there were approximately 3,600 drugs listed in the formulary.

5.75 In 2002, the Atlantic Common Drug Review (ACDR) process was established to review new prescription drugs and provide listing recommendations to the Departments of Health in the four Atlantic provinces, improving the efficiency and quality of the process. A national Common Drug Review (CDR) was established in 2003, replacing some of the processes of the ACDR.

5.76 The national process covers all new drugs entering the market, while the Atlantic process looks only at drugs that have already been approved, but that have, for example, new strengths or uses. In both cases, expert committees conduct reviews and make listing recommendations. It is then up to the Minister of Health and Wellness to decide whether to include the drug on the New Brunswick PDP formulary.

Drugs are assessed for cost effectiveness

5.77 The evaluation of drugs includes a review of the drug's cost-effectiveness. No specific criteria have been established to evaluate cost-effectiveness, not unlike other jurisdictions in Canada.

5.78 Cost does, however, play an important role in drug reviews. We found evidence of the reviewer's consideration of whether the cost of therapy justifies the clinical and quality of life outcomes (in relation to a similar therapy already listed as a benefit). In New Brunswick, after a recommendation for inclusion is delivered from the Atlantic Common Drug Review process, the Ministerial approval document prepared by PDP for the Minister of Health and Wellness includes cost considerations such as cost per day of therapy, cost per year and budget impact (estimated annual cost or savings) for the Minister to consider when deciding whether to approve a drug as a benefit.

5.79 We reviewed the supporting documents for a sample of drugs recommended for inclusion in the formulary in 2002-03, and found that the process was functioning as described. The assessments were

thorough and complete. Our review also identified an elapsed time period of over eleven months between the time a drug was recommended for benefit status by the Atlantic Common Drug Review process and the time the drug was included in the New Brunswick formulary. In his December 2004 report, the Auditor General of Nova Scotia found a similar elapsed time in his jurisdiction. Our concern is that this could possibly lead to lost cost savings for the program or restrict beneficiary access to therapies covered by PDP since the beneficiary may not be able to afford the cost of the drug without PDP coverage.

Conclusion

5.80 This criterion was met. We found that drugs are assessed against many factors, including cost-effectiveness.

Regular review of formulary

5.81 Our second criterion was:

Drugs listed should be regularly evaluated to determine whether they should be retained, deleted or restricted in their use, and corrective action taken when necessary.

5.82 There is no formal regular review process for drugs currently listed as benefits in the formulary. However, reviews do occur as a consequence of the review process involved when a new drug is examined – reviews require that the new drug be compared to drugs currently listed as benefits on the formulary. For example, this could indicate that the new drug is lower in cost, or has fewer side effects than the current benefit. Issues such as these could create a need to remove or restrict the use of a particular drug. A review would also occur if there was an issue related to a specific drug. For example, the drug Ciprofloxacin's status was changed from a regular benefit to requiring special authorization due to an increase in antibiotic resistance resulting from increased consumption. In this case, the drug is still available, but a beneficiary must meet specified criteria in order to be covered for this drug.

5.83 For other drugs currently listed as benefits in the formulary not otherwise identified for review, there is no regular review process. Departmental staff have indicated that the focus of the drug review process has been on new drugs submitted for review by manufacturers.

Conclusion

5.84 This criterion is met to the extent we consider it practical to do so. Drugs are reviewed as a result of the review process in place.

Acquisition of drugs and dispensing fees

5.85 Our final criterion for this objective was:

There should be policies and practices in place to ensure that listed drugs and dispensing fees are acquired at the lowest possible cost.

5.86 When a PDP beneficiary has their prescription filled, the pharmacy is reimbursed for the cost of the drug and receives a dispensing fee for each prescription filled. The dispensing fee paid is based on a ten-tier schedule of fees, based on the ingredient cost of the drug dispensed. These fees are generally negotiated and agreed to by the New Brunswick Pharmacists' Association and the Department; however, there has been no current signed agreement between these two parties since the last agreement expired in 1995. The fees currently paid have been in place since 2001.

Controlling drug costs

5.87 The Department does not purchase drugs directly from manufacturers or wholesalers; therefore, it seeks to control costs in other ways. The Department has implemented several means of influencing drug expenditures for the Prescription Drug Program:

1) Maximum Allowable Price (MAP)

The Maximum Allowable Price (MAP) process establishes a price control between the original product and interchangeable generic brands. The MAP is based on the lowest manufacturer's price of the drug in a drug category.

2) Actual Acquisition Cost (AAC)

Pharmacies buy the drugs that are dispensed to PDP beneficiaries, and the Department reimburses them via Blue Cross. The amount reimbursed is the amount the pharmacy actually paid for the drugs, unless MAP applies. When Blue Cross conducts an on-site pharmacy audit, they verify these amounts. In other words, pharmacies are not reimbursed for any mark-up on their acquisition cost.

3) Restricted drugs

In order to receive certain drugs as benefits, special authorization must be obtained by the beneficiary. The beneficiary must meet the conditions or criteria established for the drug in order to receive coverage for the drug cost. Of the 3,600 drugs listed as benefits in the formulary, 287 require special authorization (8%). An example of a restricted drug is Travoprost, an eye drop used for the treatment of glaucoma. In this case, it is restricted to patients who have not been responsive to, or are intolerant of, other drugs.

Comparison to other jurisdictions

Drug costs

5.88 During our audit, we compared the price being paid in New Brunswick for a sample of drugs to what is paid in other jurisdictions. The sample consisted of the twenty most frequently prescribed drugs in Canada in 2002-03 as determined by IMS Health Canada. We compared New Brunswick to six other jurisdictions: federally funded programs (for example, National Defence, Veterans Affairs, RCMP), Nova Scotia, Manitoba, Saskatchewan, British Columbia and Newfoundland and Labrador.

5.89 We found that New Brunswick compared favourably to these jurisdictions. In fact, New Brunswick had the third lowest costs for this sample. Some of these jurisdictions use alternative methods for paying for drugs, such as standard price lists and contract pricing.

5.90 As another test of reasonableness, we compared the drug costs for the PDP with the costs incurred by hospitals in our Province for the same sample of drugs. Regional Health Authorities in New Brunswick belong to one of two national buying groups that negotiate prices with drug manufacturers. We contacted two health authorities, one belonging to each buying group, to determine if there were significant variances in the price paid for drugs. We found that, in total, PDP paid less than the health authorities for the drugs sampled.

Dispensing fees

5.91 We compared the dispensing fees paid in 2002-03 by PDP for the sample of drugs described in the previous section to the fees paid in other jurisdictions. Dispensing fees represent approximately 20% of total program expenditures. The jurisdictions we compared to New Brunswick PDP were Nova Scotia, Manitoba, Saskatchewan and British Columbia. Newfoundland and Labrador was excluded from our comparison because fees by drug sampled were not provided.

5.92 For the majority of the drugs sampled, PDP was slightly above the average dispensing fee of the jurisdictions examined. It should be noted, however, that some jurisdictions may pay an upcharge (a mark-up based on ingredient costs) in addition to the dispensing fee, which is not reflected in this analysis. Other jurisdictions, however, are paying less.

Conclusion

5.93 This criterion was met. PDP has established policies and practices that have allowed the program to obtain drugs and dispensing fees at the lowest possible cost considering the current program delivery model.

Reporting to the Legislative Assembly

Annual report policy

5.94 Our criterion was:

The reported information should meet the requirements of the Province's annual report policy.

5.95 The Province's annual report policy states that the objective of an annual report is to be the major accountability document by departments for the Legislative Assembly and the general public, serving as the key link between the objectives and plans of a department and the results obtained.

5.96 The annual report policy identifies the requirements concerning the content, format and timing of the report. Although the policy applies to the Department's entire annual report, some the requirements relate specifically to programs. For the years 2000-01 to 2003-04, we examined the section of the annual reports that addressed the Prescription Drug Program. Our findings are summarized in Exhibit 5.3.

5.97 During our review, we noted that although the Department identified achievement of budget as a key aspect of the program's performance, it is not highlighted in the narrative discussion of the program in the annual report, even though in 2003-04 PDP remained within its budget for the first time in several years.

5.98 As can be seen, the Department did not meet the annual report policy requirements in some key areas. The lack of information in these areas is cause for concern as they address issues of accountability.

5.99 The issue of not meeting the annual reports requirements is not unique to the Department of Health and Wellness. We continue to find shortcomings in this area in the annual reports of many government departments.

Exhibit 5.3
Summary of findings from review of annual reports

Annual report policy requirements that pertain to the PDP	Annual report (year) met requirement			
	2003-04	2002-03	2001-02	2000-01
1. Clear account of goals, objectives and performance indicators.	No	No	No	No
2. Extent to which a program continues to be relevant.	No	No	No	No
3. Department's performance in achieving its plans.	No	No	No	No
4. Acceptance by client groups.	No	No	No	No
5. Actual and budget information in summary form with narrative on variance analysis.	Yes	Yes	Yes	Yes
6. Clear and simple language.	Yes	Yes	Yes	Yes
7. Use of tables, charts and graphs.	Yes	Yes	Yes	Yes

Conclusion

5.100 This criterion is partially met. The Department's annual report met some of the requirements of the annual report policy, while others were not met.

Recommendation

5.101 We recommended the Department comply with the requirements of the annual report policy with respect to the content concerning the Prescription Drug Program.

Departmental comments on reporting to the Legislative Assembly

5.102 We note that the Prescription Drug Program section of the annual report met some of the requirements of the annual report policy. We will review these requirements to ensure the other areas are addressed.

Chapter 6

NB Power - Governance

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NB Power - Governance

Background

6.1 The New Brunswick Power group of companies (NB Power) is the largest entity owned by the citizens of New Brunswick. At 31 March 2005, NB Power had total combined assets of \$3.87 billion and had generated revenues and corresponding expenses of approximately \$1.4 billion for the year ended on that date. NB Power provides a vital service to citizens of the Province and is the engine that drives much of the economic activity in the Province. Further, it directly employs approximately 2,500 New Brunswickers.

6.2 The last few years have been a very challenging period for NB Power.

- A decision was made to refurbish the Coleson Cove generating station in 2001 and that refurbishment was completed by late 2004.
- The *Electric Power Act* was repealed and the new *Electricity Act* was approved and came into force (with the exception of certain unproclaimed sections) effective 1 October 2004.
- As a result of this change in legislation, the old NB Power Corporation was restructured and now consists of a parent company along with four subsidiary companies. One of those subsidiary companies also has two subsidiaries of its own.
- A new board of twelve directors was appointed effective 1 October 2004 that included a new chair, six other new members, along with four incumbent members and the CEO.
- The companies went through a staff reduction exercise in early 2005 that eliminated 279 positions, or a total of ten percent of the workforce.
- A decision was made to apply to the Public Utilities Board in early 2005 for a rate increase in excess of 3% effective 31 March 2005, the first such application since 1993. The effective date on the application was subsequently deferred to 1 April 2006.

- A decision was announced on 29 July 2005 that the Point Lepreau nuclear facility would be refurbished.
- A decision has been made to add a second transmission link to the United States electricity market. Work related to that initiative continues.

6.3 NB Power's board of directors and management have had to deal with these major initiatives and changes while at the same time ensuring that regular operations continued.

6.4 As we have discussed in previous Reports, effective governance is critical to good performance for Crown agencies. NB Power is no exception. About six years ago, shortly after the election of 1999, the new administration appointed Grant Thornton to carry out "a financial review of the Province of New Brunswick." Among other things, Grant Thornton identified problems with the governance structure at NB Power. Their 1999 report to government said:

We recommend high priority be given to reassessment of the governance structure between the Government, the Board and management of NB Power. Recommended changes arising from the reassessment should be implemented promptly.

Corporate governance

6.5 Governance can be defined as the process and structure used to direct the business and affairs of a corporation with the objective of achieving the corporate mission. The process and structure define the division of power between the shareholder, board and management. They also establish mechanisms for achieving accountability between management, the board of directors, and shareholders. A board of directors is appointed to represent the shareholder in the governance of a Crown agency. The sole shareholder of NB Power is the Province of New Brunswick. Hence the real owners of NB Power are the citizens of New Brunswick.

6.6 Ultimately Crown agency governance is about performance and accountability. Boards of directors are responsible for ensuring that Crown agencies they govern meet the performance expectations of the shareholder. They are also responsible for ensuring that management is accountable for its performance, and for discharging their own accountability obligations to the shareholder. Boards need to fulfill these critical responsibilities in order to justify their existence.

Scope

6.7 Our objective for this audit was:

To ensure that current governance structures and processes established for NB Power set a framework for effective governance.

6.8 In completing this work, we interviewed representatives of the NB Power board and management, the Department of Energy, the Department of Finance, the New Brunswick Electric Finance Corporation, the Public Utilities Board, and other involved organizations and individuals. We reviewed documentation including legislation, shareholders agreements, bylaws, board minutes, business plans, the New Brunswick Energy Policy, the NB Power corporate governance manual, and various other documents. We also reviewed recently-published governance literature, and findings and documentation from our previous governance audits, in order to identify best practices.

6.9 Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

Conclusion and results in brief

6.10 We were pleased to note that recently there have been some important enhancements in NB Power governance structures and processes. However, there are still improvements that must be made before those governance structures and processes can truly be said to set a framework for effective governance.

6.11 Crown agency governance is ultimately about performance and accountability for that performance. Most of our key findings and recommendations in this chapter relate to those two critical areas.

Performance expectations

6.12 During our audit, we noted uncertainty on the part of the NB Power board and management in connection with provincial performance expectations for NB Power. This appears to be primarily because the Province, as shareholder, has not provided clearly documented expectations to NB Power. A contributing factor to this uncertainty is that, in various situations, direction comes from various provincial sources, all of which represent the shareholder in some capacity.

6.13 We have recommended that to improve clarity the Province should develop, and update annually, a shareholder's letter of expectations, in consultation with the NB Power board of directors. That document should be signed by a shareholder representative and the chair of the NB Power board, and should, as a minimum:

- Provide clearly defined shareholder performance expectations including targets that the Province will use in evaluating corporate performance.
- Identify one official shareholder representative to provide direction to NB Power on behalf of the shareholder (i.e. Department of Energy, New Brunswick Electric Finance Corporation, or another organization).
- Provide a clear indication to the NB Power board of directors as to when it needs to consult with the shareholder representative for direction prior to making a decision on a significant initiative. This should be consistent with the process to the extent it is already documented in existing shareholder agreements.
- Document the mandates, missions and objectives for all corporations in the NB Power group.
- Establish performance reporting the shareholder needs from NB Power to evaluate corporate performance.
- Clarify other aspects of the relationship between the shareholder and NB Power as considered necessary (e.g. relative roles and responsibilities of major players in the governance of NB Power).

Accountability for performance

6.14 The board is the key accountability link for NB Power. As such it needs to ensure that it gets sufficient information from management to ensure that its policies are being complied with. However, at the time of our audit, monitoring reports had not been developed. We have recommended that the NB Power board obtain such reports from management as soon as possible that allow it to:

- evaluate actual corporate performance in comparison with performance targets established under board Ends policies; and

- ensure that management is complying with board Executive Limitations policies.

6.15 The board is also responsible for discharging a large portion of its accountability obligation to the shareholder by reporting on performance through the NB Power annual report. We have noted that external performance reporting through the corporate annual report needs improvement. Consequently, we have recommended that the board develop and implement an external reporting policy, based upon key requirements in the provincial annual report policy.

Good practices

6.16 The Department of Energy process for appointing the new board of directors of NB Power was a significant improvement over what we have observed in our past governance work in a number of other Crown agencies. It focused primarily on qualifications in identifying candidates.

6.17 We commend NB Power management for the initiative they have taken in the following governance-related areas:

- performance reporting through their balanced scorecard initiative; and
- supporting the governance function by assisting in the preparation of the corporate governance manual, and through other initiatives.

Areas selected for audit

6.18 There are many areas that can be looked at in examining corporate governance at a Crown agency. We chose eight areas we felt could have the most impact on the effectiveness of governance at NB Power. Those areas are detailed in Exhibit 6.1. The exhibit also shows the audit criteria, or statements of principle, for each of these areas. These criteria were agreed to by senior representatives of NB Power, the Department of Energy, the New Brunswick Electric Finance Corporation, and our Office.

6.19 The criteria established the framework for our audit. And it is against these criteria that we evaluated the state of governance of NB Power. Our findings in each area are discussed in the eight sections that follow.

Exhibit 6.1
Areas selected for audit

Audit area	Audit criterion
The board appointment process	The appointment process should provide sufficient information to those responsible for selecting candidates for appointment to the NB Power board to allow them to choose candidates with the characteristics, skills and abilities that will best contribute to board effectiveness. The process should be clearly documented and followed consistently.
NB Power mandates, missions and objectives	The Province, as shareholder, should ensure that the mandates, missions and objectives of NB Power Holding Co. and its subsidiaries have been clearly documented and agreed upon by the shareholder and the NB Power board.
Relative roles and responsibilities of key players in the governance of NB Power	The relative roles and responsibilities of the NB Power board of directors and its committees, the management of NB Power, the New Brunswick Electric Finance Corporation, the Department of Energy, the Department of Finance, Executive Council, the Public Utilities Board and the New Brunswick System Operator should be clearly documented and agreed upon by appropriate parties.
Direction provided to NB Power by the shareholder	The conditions under which the NB Power Holding Co. or its subsidiaries should consult the shareholder for direction and the mechanisms to be used in providing that direction should be clearly documented and consistently followed.
Policies of the board of directors	The NB Power board should maintain a comprehensive group of high-level, risk-based policies.
Compliance with policies of the board of directors	The NB Power board should regularly obtain assurance that board policies are being complied with.
Internal and external corporate reporting on performance	The NB Power board should ensure that appropriate principles and standards covering internal and external reporting on performance have been clearly documented and are being followed consistently.
Management by the board of its information needs	Periodically, the NB Power board should look critically at the information they receive from management and other sources to ensure that it allows for the effective discharge of all of the board's roles and responsibilities.

Board appointment process

6.20 The Treasury Board of Canada recently stated, “Governance experts agree that a critical element of achieving sound governance is choosing qualified directors to sit on Boards...”

6.21 The process for appointing members to the board of NB Power was changed prior to the appointment of the current board. Previously the board of NB Power would make a recommendation to the responsible Minister. The Minister would consider the recommendation and other candidates, and make a revised recommendation to Executive Council. There were no formal criteria that would allow those selecting candidates to choose those that would best contribute to the effectiveness of the board.

6.22 The new process for appointing the board of directors at NB Power worked as follows:

- The Department of Energy had NB Power contract a governance consultant to prepare a matrix document outlining the skills required of individual directors and the board as a whole. This document was designed for use in ensuring the composition of the new board collectively represented the personality traits, core competencies and experience necessary for effective governance at NB Power. The matrix is also intended to be used to fill future vacancies on the board of directors.
- The Department of Energy provided this and other information to a recruiting agency that subsequently identified a list of potential candidates for the board. A departmental representative indicated that the Province is considering this new approach for the identification, recruitment and selection of directors for all boards and agencies, and the appointment of the NB Power board was chosen as a pilot project.
- A recruitment committee, made up of representatives of government departments, reviewed the list of potential candidates identified by the recruiting agency and recommended a slate of candidates to the Minister of Energy. The Minister presented this list to the Lieutenant-Governor in Council (i.e. the Cabinet) for approval.
- Cabinet made a few changes to the list, primarily using additional candidates suggested by officials from the Department of Energy, to ensure certain demographic and stakeholder representation in line with their interpretation of the skills matrix.

- Cabinet then appointed a slate of eleven candidates to the new board of NB Power. The CEO of NB Power is also an ex-officio member of the new board.

6.23 We made the following observations on this process.

- Neither the Province nor the Department of Energy has a written policy covering the process for appointing directors to Crown agency boards, and as a result the Department of Energy had no documented appointment process that it was obliged to follow.
- The process followed in appointing the new board of directors of NB Power was a significant improvement over what we have observed in our past governance work in a number of other Crown agencies. Using private sector consultants and a skills matrix resulted in a strong and clear focus on the qualifications of candidates and the result has been that the qualifications of board members appointed is correspondingly high.
- We were encouraged by the development of the matrix document, but were disappointed that there was no completed document showing how the appointed directors fulfilled the core competency and experience requirements considered a prerequisite for appointment to the board. However, from our review those appointed did appear to meet documented requirements for the most part.
- Minutes were not kept of the meetings and discussions of the recruitment committee. Therefore, there is no documented record of their input into the appointment process.
- The NB Power board governance manual requires, among other things, that a nominating committee of the board recommend a slate of candidates to the Cabinet for approval. The nominating committee appears to have been replaced by the recruitment committee discussed above for purposes of the 1 October 2004 appointments. However, we were informed by NB Power representatives that future appointment processes will be initiated by the Board's own Human Resources, Governance and Nominating Committee.

Recommendations

6.24 We recommended the Executive Council Office develop and document a policy that clearly defines the process to be followed in appointing directors to the boards of all provincial Crown

agencies. This policy should be based on the process utilized to appoint the new NB Power board.

6.25 We recommended the policy include the requirement for thorough documentation of information and analyses supporting the evaluation, recommendation and appointment of candidates.

***Department of Energy
response***

6.26 *Having piloted the process used for the appointment of the new NB Power board, along with representatives of the Executive Council Office, the board of NB Power and private sector recruitment consultants, the Department of Energy understands this recommendation. The collective experience and high qualifications of the newly appointed board result from the new appointment process, as acknowledged by your audit report. The Department of Energy will promote the expanded use of this appointment process for other Crown agencies with the Executive Council Office.*

**NB Power mandates,
missions, and
objectives**

6.27 Documenting the mandates, missions and objectives of the NB Power group of companies and having them agreed to by the shareholder and board would yield three major benefits.

- It would provide the Province, the board, and management and staff with a common understanding of the purpose of NB Power.
- It would provide management and staff with a clear indication as to what initiatives and activities they should be undertaking.
- It would provide a basis for business planning and evaluation of corporate performance.

6.28 The NB Power Group is made up of the following entities:

1. NB Power Holding Corporation;
2. NB Power Distribution and Customer Service Corporation (which is a subsidiary of NB Power Holding Corporation);
3. NB Power Transmission Corporation (which is a subsidiary of NB Power Holding Corporation);
4. NB Power Generation Corporation (which is a subsidiary of NB Power Holding Corporation);
5. NB Power Nuclear Corporation (which is a subsidiary of NB Power Holding Corporation);

6. NB Power Coleson Cove Corporation (which is a subsidiary of NB Power Generation Corporation); and
7. NB Coal Limited (which is a subsidiary of NB Power Generation Corporation).

6.29 In our audit, we noted that the mandate, mission and objectives (called strategic themes) have been documented within NB Power for the first five corporations on this list. The board of directors approves them through its annual approval of corporate business plans.

6.30 The Province, as shareholder, should agree with the strategic direction being taken by NB Power. The Province would be aware of the mandate, mission and objectives of NB Power to the extent that they mirror terms of the *Electricity Act* and Regulation. Further, the New Brunswick Electric Finance Corporation does see corporate objectives as part of their review of corporate business plans. However, the Province has not been provided with one clearly worded document stating the mandates, missions, and strategic objectives of all corporations in the NB Power Group that would allow it to ensure that the strategic direction being taken is consistent with provincial expectations.

Recommendation

6.31 We recommended clearly documented mandates, missions, and objectives for all corporations in the NB Power Group be reviewed and agreed to by the Province, as shareholder, and the board of NB Power. This could be done as part of the sign-off of a shareholder's letter of expectations, as discussed later in this chapter.

NB Power response

6.32 *The respective boards of the NB Power Group of Companies have received and approved the mandates, missions, and objectives of the companies. These mandates are incorporated in the corporate Business Plans and are filed with the Electric Finance Corporation in accordance with the respective shareholder agreements.*

Department of Energy response

6.33 *The Department of Energy supports this recommendation. Although many improvements have been made through the introduction of the new Electricity Act and the resulting restructuring documents, we note that such direction should be stated more explicitly on a regular basis. Again, as the voting shareholder of NB Power Holding Corporation on behalf of the Province of New Brunswick, our department will undertake to work with the board of NB Power to have clearly documented mandates, missions, and objectives for all*

corporations in the NB Power Group reviewed and agreed to by the Province.

Recommendation

6.34 We further recommended that mandates, missions, and objectives be documented for NB Power Coleson Cove Corporation and NB Coal Limited.

NB Power response

6.35 *New Brunswick Power Coleson Cove Corporation and NB Coal Limited are subsidiaries of New Brunswick Power Generation Corporation. As such the mandate of the Generation Corporation and its subsidiaries is one and the same.*

Relative roles and responsibilities of key players in governance of NB Power

Lieutenant-Governor in Council

6.36 To have effective governance, it is very important that the roles and responsibilities of key players be clearly documented and agreed upon by appropriate parties. Our findings in this area relative to NB Power follow.

6.37 The role of the Lieutenant-Governor in Council (i.e. Cabinet) is defined in the *Electricity Act* and includes approving the appointment of NB Power board members and the NB Power CEO.

Department of Energy

6.38 The role of the Department of Energy is to represent the Province as the voting shareholder of NB Power Holding Corporation (i.e. the parent corporation) as well as to develop energy policy for the Province. The Department works with NB Power to implement elements of energy policy that involve electric power. It is also represented on the board of the New Brunswick Electric Finance Corporation.

New Brunswick Electric Finance Corporation

6.39 The role of the New Brunswick Electric Finance Corporation (NBEFC) is established by the *Electricity Act* and is reflected in individual Shareholder's Agreements with New Brunswick Power Holding Corporation and its subsidiaries. It provides debt management services to NB Power. It also monitors the financial performance of NB Power for the Province. That role includes reviewing the annual business plans and financial statements of NB Power. However, NBEFC does not approve the business plan and does not provide policy direction to NB Power. NBEFC is staffed entirely by Department of Finance employees and that Department is represented on the board of directors of NBEFC.

Board of directors and its committees

6.40 The role of the NB Power board of directors is laid out in the board governance manual. The Global Governance Process policy, as developed by the former board, states, "The purpose of the board, on

behalf of the shareholders and the people of New Brunswick, is to see that NB Power companies (1) achieve appropriate results for appropriate stakeholders at an appropriate cost and (2) avoid unacceptable actions and situations.”

6.41 The shareholder’s agreements establish certain restrictions on the powers of directors, some of which are discussed in the next section of this chapter.

6.42 The board has established the following committees to aid it in fulfilling its roles and responsibilities:

- Environment Committee;
- Nuclear Oversight Committee;
- Human Resources, Governance, and Nominating Committee; and
- Audit Committee.

6.43 Board committees are intended to be tools that allow a board to fulfill its roles. However, they do not have the power to make resolutions on behalf of the board. They can simply do work as requested by the board and make recommendations to the board as they deem necessary. Consequently, it is important, if committees are to be effective in doing the work that the board has assigned them, that their area of involvement be clearly defined.

6.44 We noted during our audit that terms of reference had not been approved by the board for any of these committees. However, subsequent to the completion of our fieldwork, we were provided with an updated governance manual that did include approved terms of reference for all except the Nuclear Oversight Committee. Terms of reference for that committee remain to be approved by the board.

6.45 We also noted that, while the board of NB Power is heavily involved in hiring the CEO, final approval must be granted by the Cabinet. Final approval to fire the CEO would also rest with the Cabinet.

Chief Executive Officer (CEO)

6.46 Under the Carver Policy Governance model that has been adopted by the NB Power board, and is discussed in more detail later in this chapter, all direction to management by the board is done through the CEO. Under that model, the summarized role of the CEO is to:

- achieve performance targets established by board Ends policies;
- do so while respecting board Executive Limitations policies; and

- provide information to the board to help it (1) evaluate the performance of the CEO and (2) make decisions for which the board accepts responsibility.

6.47 This role has been documented in the Board-CEO linkage and Executive Limitation policy sections of the governance manual, which has been approved by the board. In general, we feel that documented board policy makes a clear distinction between the roles and responsibilities of the board, and those of management.

New Brunswick System Operator

6.48 The role of the New Brunswick System Operator is to manage the power grid with the goal of ensuring a constant supply of power. This role is defined in Section 42 of the *Electricity Act*.

Department of Finance

6.49 The Department of Finance handles certain aspects of debt management for NB Power pursuant to a fiscal agency agreement between NBEFC, the NB Power Holding Corporation and the Department of Finance.

Public Utilities Board

6.50 All authority the Public Utilities Board (PUB) has in connection with NB Power is specified in the *Electricity Act*. The PUB's primary role is to hear applications for rate increases in excess of three percent from the NB Power Distribution and Customer Service Corporation and approve, modify or reject those requested rate increases. Rate decisions of the PUB may be overturned by the Cabinet within thirty days of being filed with the Clerk of the Executive Council. Other roles assigned to the PUB under the *Electricity Act* include licensing power generation and investigating public complaints about certain corporations within the NB Power Group.

Recommendation

6.51 **We recommended the board of directors of NB Power ensure they receive and approve terms of reference for the Nuclear Oversight Committee.**

NB Power response

6.52 *Revised terms of reference for the Nuclear Oversight Committee reflecting the Committee's role in the refurbishment of Lepreau will be presented to the board for approval at the February 21st, 2006 board meeting.*

Recommendation

6.53 **We recommended the Province give the board of directors of NB Power full responsibility for approving the hiring and firing of the NB Power CEO.**

Direction provided to NB Power by the shareholder

Documented direction to NB Power

6.54 From our documentation review, it appears that the Province, as shareholder, directs NB Power through

- Legislation and Regulation, most particularly the *Electricity Act* that was enacted effective 1 October 2004;
- Orders in Council (OICs) approving the appointment of NB Power board members and the CEO;
- Policy and Priorities Committee minutes approving government policy initiatives applicable to NB Power (e.g. the provincial Energy Policy as prepared by the Department of Energy); and
- Shareholder's Agreements signed by NB Power Holding Corporation or its subsidiaries with the Minister of Energy and President/CEO of the New Brunswick Electric Finance Corporation (NBEFC).

6.55 Section 3(7) of the old *Electric Power Act* provided the following direction to NB Power. "The board of directors shall administer the affairs of the Corporation on a commercial basis and all decisions and actions of the board of directors are to be based, subject to public policy as determined from time to time by the Lieutenant-Governor in Council, on sound business practice." While a similar comment does not appear in the new *Electricity Act*, various NB Power and government representatives have indicated that this approach is to be continued. Also, the Premier in comments made 30 May 2002 stated, "Each of the new restructured companies will be instructed to operate on a commercial, business-like basis..."

6.56 Under the shareholder's agreements the Minister of Energy and/or NBEFC must be provided by NB Power on demand with:

- the President's report to the board of directors;
- minutes of the meetings of the board of directors;
- quarterly financial statements;
- corporate management reports;
- monthly financial statements and reports;
- monthly operating results report;
- reports on cash flow-liquidity;
- report on load and resources adequacy;
- annual report;
- any other financial information as required; and
- access to operating and financial records at corporate offices for each company in the NB Power corporate group.

6.57 The shareholder's agreements also indicate:

- Each corporation must deliver annually a strategic business plan and a budget to the President of NBEFC. NBEFC has thirty days to review it before NB Power may move forward with the plan, although NBEFC does not formally approve the plan. NBEFC may, however, ask questions of NB Power in order to obtain further information.

- The board's power to manage and supervise the business and affairs of the corporate group is restricted in that:

It cannot sell, exchange, dispose of, or purchase, lease or otherwise acquire "material assets" other than in the ordinary course of business without the written consent of the board of directors of NBEFC. [There is no definition of the term "material assets".]

It cannot appoint/terminate the chair without written consent of Executive Council.

It cannot appoint/terminate the President and CEO without written consent of Executive Council.

It cannot appoint the auditor for the corporation without written consent of the board of directors of NBEFC.

The board of directors of NBEFC will establish the percentage of profit to be paid as a regular dividend by the companies in the NB Power group.

6.58 We see two issues of concern in connection with shareholder direction. They are:

- the existence of multiple shareholder representatives; and
- a lack of clearly communicated shareholder performance expectations.

Multiple shareholder representatives

6.59 There appear to be at least three shareholder representatives that may, from time to time, direct the NB Power group (i.e. speak on behalf of the shareholder). These include the Premier's Office, NBEFC, and the Department of Energy. It is our understanding, from reviewing the *Electricity Act*, that the official shareholder representative is the Minister of Energy, but he and his department do not currently speak for the shareholder on all matters.

6.60 In fact, a representative of the Department of Energy indicated the "... Minister of Energy is responsible for policy issues, Finance

[i.e. NBEFC] is responsible for the dollar issues.” We also note that there is regular communication between NB Power and the Premier’s Office, some of which appears to be for decision-making purposes. For instance, the Premier made the following statement in connection with the Point Lepreau refurbishment decision: “...the final decision on Lepreau belongs to the Tory cabinet.”

6.61 Representatives of NB Power management have indicated that not having one official shareholder representative from which necessary shareholder direction originates sometimes causes uncertainty for them.

6.62 To improve clarity of direction to NB Power, we feel that the Province should clearly identify one official shareholder representative to speak on behalf of the shareholder. That representative would be responsible for providing official direction to NB Power.

**Lack of clearly
communicated
shareholder performance
expectations**

6.63 The report from the Grant Thornton Financial Review of the Province of New Brunswick, dated 30 September 1999, included the following statement:

It ... appears from our discussions, there is not a clearly articulated and communicated strategy for [NB Power] nor is there consensus among the Government, [NB Power] Board and [NB Power] management on what constitutes the appropriate strategy and direction.

6.64 From our audit, it appears that the situation has not changed in relation to the communication of provincial performance expectations for NB Power. The board itself in its Board Job Description policy describes its job in part, “... to represent the shareholders in determining and demanding appropriate organizational performance ...” However, it cannot fulfill this role without determining what the shareholder expects of NB Power.

6.65 In fact, the Province has no formal process for communicating provincial performance expectations (i.e. desired direction) to NB Power. What is communicated is either purely financial in nature and a by product of the provincial budget and/or debt repayment requirements, or specifically related to implementation of the provincial energy policy.

6.66 Board members we talked to seemed uncertain as to the shareholder’s specific performance expectations for NB Power. Having documented expectations from the shareholder is important if governance is to be effective. It ensures that corporate plans can be

accurately aligned with those of the Province. And it allows both the board and the shareholder to better evaluate corporate performance by providing consistent targets against which to measure results.

6.67 As part of our work in this area, we reviewed comments made by the former Minister of Natural Resources and Energy in his Minister's Statement on the Future of NB Power dated 30 May 2002. That document includes the comment, "... five criteria the government would use in evaluating the future of N. B. Power. These are customer rates, impact on provincial finances, economic development, reliability and safety, and environmental protection."

6.68 Further, New Brunswick's Prosperity Plan 2002-2012 states:

New Brunswick's Energy Policy will help ensure a secure, reliable, and cost-effective energy supply for commercial and non-commercial customers making us competitive in attracting new investment and supporting our economic development objectives. This cornerstone has the following action priorities: Energy Policy – Continuing to implement the initiatives contained in the Province's comprehensive energy policy released in January 2001, based on the following five policy objectives: Ensure a secure, reliable and cost effective energy supply for residential, commercial and industrial users; Promote economic efficiency in energy systems and services; Promote economic development opportunities; Protect and enhance the environment; and Ensure an effective and transparent regulatory regime.

6.69 We believe the priorities discussed in these documents could serve as the basis for documented shareholder performance expectations. Further, board Ends policies, which are discussed in the next section of this chapter, should be clearly aligned with these documented shareholder performance expectations.

Letter of expectations

6.70 While a number of shareholder performance expectations for NB Power have been presented in one form or another, what is missing is a single reference document specifically prepared for NB Power that clearly summarizes those expectations. Such a document would reduce the opportunity for misinterpretation of the performance expectations established by legislation and shareholder's agreements, and allow for further clarification and enhancement as considered necessary. It would also allow expectations to be adjusted regularly in keeping with changes in provincial policy and priorities.

6.71 Other jurisdictions have made use of a shareholder's letter of expectations as a way of documenting government expectations for a Crown agency. For example, the Province of British Columbia requires that a shareholder's letter of expectations be signed by the Minister of Energy and Mines (as representative of the shareholder, the Government of British Columbia) and the chair of the British Columbia Hydro and Power Authority (as representative of the corporation). It goes beyond performance expectations to also clearly define other key aspects of the relationship between the shareholder and the corporation. The purpose section of the document states:

This Shareholder's Letter of Expectations between the Shareholder and the Corporation is an agreement of the respective roles and responsibilities of each, and serves as the basis of agreement between the Shareholder and the Corporation on corporate mandate including high-level performance expectations, public policy issues and strategic priorities. It will be reviewed annually and updated as required. ...

6.72 The British Columbia document clearly identifies:

- specific direction government has given to the corporation;
- corporation accountabilities in responding to government's performance expectations;
- shareholder responsibilities establishing that the shareholder is responsible for the legislative, regulatory and public policy framework in which the Crown operates; further, it mandates specific shareholder actions required to meet these responsibilities and support achievement of government's performance expectations; and
- areas of shared accountability, specifically communications and reporting.

6.73 One of the documented shareholder responsibilities is to "advise Crown corporations of government's priorities, strategic decisions and public policy and performance objectives and expectations that may impact the Crown corporation ..."

6.74 The Executive Summary of the Treasury Board of Canada Secretariat in its 2005 Report to Parliament, Meeting the Expectations of Canadians – Review of the Governance Framework for Canada's Crown Corporations includes the comment:

The government will reinforce the notion of active ownership. The responsible Minister, as the representative

of the owner, will be required to provide Crown corporations' Boards of Directors with a clear statement of the government's policy priorities and performance expectations for the corporation, which would form the basis of a periodic review of the corporation's performance.

6.75 The British Columbia document, supported by the Treasury Board of Canada best practices cited above, would provide an excellent model for a letter of expectations between the Province of New Brunswick and NB Power.

Recommendations

6.76 We recommended the Province, in consultation with the NB Power board of directors, develop, and update annually, a shareholder's letter of expectations that, as a minimum:

- **Identifies one official shareholder representative to provide direction to NB Power on behalf of the shareholder (i.e. Department of Energy, NBEFC, or another organization).**
- **Provides clearly defined shareholder performance expectations including targets that the Province will use in evaluating corporate performance.**
- **Provides a clear indication to the NB Power board of directors as to when it needs to consult with the shareholder representative for direction prior to making a decision on a significant initiative. This should be consistent with the process to the extent it is already documented in existing shareholder agreements.**
- **Documents clearly-stated mandates, missions and objectives for all corporations in the NB Power group.**
- **Establishes performance reporting the shareholder needs from NB Power to evaluate corporate performance.**
- **Clarifies other aspects of the relationship between the shareholder and NB Power as considered necessary (e.g. relative roles and responsibilities of major players in the governance of NB Power).**

6.77 The document should be signed by both the shareholder representative and the chair of the NB Power board of directors to signify their understanding and agreement. The British Columbia document discussed above could be used as a model.

NB Power response

6.78 *Currently the Shareholders Agreements clearly define the roles of the NB Power boards by setting out the parameters within which they may function with and without authorization from the province and outline the information that the boards are to provide to the Province.*

6.79 *Further the boards were incorporated under the Business Corporations Act and as such the legislation defines how the boards should exercise their fiduciary duties.*

6.80 *There is no uncertainty on the part of the boards as to what the province's expectations are.*

Department of Energy response

6.81 *The Department of Energy supports the above-noted recommendation and recognizes the need for an annual statement of expectations to go along with the longer-term direction outlined in the various agreements executed between the parties. As the voting shareholder of NB Power Holding Corporation on behalf of the Province of New Brunswick, and with our mandate of developing and implementing government policy with respect to energy, including electricity, our department will undertake to work with appropriate stakeholders to implement this recommendation.*

Policies of the board of directors

6.82 During 2004 the former board of directors of NB Power began to develop a corporate governance manual. At the same time, the board adopted the Carver Policy Governance model which is reflected in the documentation in the governance manual.

6.83 Both the manual and the Carver model were adopted as a work in progress by the new board when they arrived in October 2004. We did not, as part of our work, make any assessment of the suitability of the Carver model to the governance of NB Power.

Carver Policy Governance model

6.84 The Carver model requires that policies be developed in four distinct areas:

- Governance Process - how the board conducts its business;
- Board-CEO Linkage - how the relationship between the board and CEO works;
- Executive Limitations - what management is prohibited from doing because the board judges it as imprudent (i.e. it would negatively impact the corporation's ability to achieve its mission) and/or unethical; and

- Ends - performance targets that the board expects management to meet, usually based primarily upon the board's understanding of the shareholders' expectations.

6.85 The board's roles and responsibilities under the Carver model include:

- preparing and maintaining board-level policies in the areas described above;
- monitoring corporate success in achieving Ends policies and management compliance with Executive Limitations policies;
- ensuring the board complies with its own policies (for example the requirement to monitor CEO performance);
- ensuring that appropriate and timely action is taken to correct deficiencies identified; and
- maintaining open communication with the shareholder and other stakeholders, most particularly in order to clearly understand shareholder corporate performance expectations.

Implementation of Carver Policy Governance model at NB Power

6.86 We reviewed the current practices of the NB Power board to see the extent to which the model had been implemented and made the following observations.

- As part of its governance development work, the former board developed a group of board policies in three of the four areas specified by the Carver model. Those areas included governance process, board-CEO linkage, and executive limitations. The policies are all documented in the corporate governance manual. It is apparent based upon a general review of the content of these policies that the board did intend to adopt the Carver model.
- Development of corporate Ends policies was not started until mid-2005. A draft set of Ends policies had been created prior to the completion of our fieldwork. We were subsequently informed that Ends policies had been finalized at a September 2005 meeting of the board. In a 2005 review of the Corporate Governance manual, the internal auditor, Ernst & Young, pointed out the importance of having board Ends policies in place.

... If no Ends policies have been created, there is a risk that the long-term goals of the Board have not been communicated to the organization. The CEO cannot be held

responsible for not achieving Ends that have not been stated in writing.

- Draft Ends policies were developed by a consultant and management. The board had no involvement, nor were the Ends policies based on clearly documented shareholder expectations. We were informed that the board reviewed and modified the Ends policies as necessary in finalizing them during the September 2005 board meeting. We feel that the board, as the shareholder representative at NB Power, should take the lead in developing this important set of policies in future. Representatives of management indicated that in the longer term they would expect to see the board take ownership of this process.
- A balanced scorecard initiative was introduced by management during 2004 independent of and prior to the development of draft Ends policies. The balanced scorecard developed from a need to translate a company's vision and strategy into a related set of performance measures. In other words, development of Ends policies should typically precede a balanced scorecard initiative. Also, given that these two initiatives were undertaken independently, we have a concern that they may not result in a unified set of performance objectives for NB Power. It is very important that they be aligned. Management representatives recognized that it was preferable to have Ends policies developed first, but could not wait as they needed the information the balanced scorecard could provide.
- We also noted other cases where the board or its committees directed management to prepare board-level policies. For example the Human Resources, Governance, and Nominating Committee in January 2005 asked management "to prepare policies that fall within the Human Resources mandate and to present them to the committee for consideration at its next meeting". As noted above, the Carver model specifically indicates that board policies should be prepared by the board, not management.
- Most of the NB Power board members we talked to were unfamiliar with the Carver Policy Governance model. Subsequent to our fieldwork, we were informed that the board was provided with a training session on the Carver model during September 2005. Based upon our research, the model can be the basis for effective governance, but requires the appropriate application of model-specific knowledge by the board.

Consequently, we believe that the board should continue to enhance its knowledge about the model to allow it to

- facilitate the successful implementation and ongoing application of the model; and
- make periodic assessments as to whether it continues to be an appropriate choice for NB Power.

Risk-based policies

6.87 The Conference Board of Canada, in its Corporate Governance Handbook, states:

Managements should construct an inventory of risks including: strategic, operational, reputation, regulatory, financial, and information risk. Information should be provided to the board that arrays the risks against the probabilities of occurrence and associated losses.

6.88 The Conference Board has also stated that “...Directors should understand the company’s business, the factors that drive it and the major risks and vulnerabilities that the company faces...”

6.89 And the Toronto Stock Exchange Committee on Corporate Governance in its report, Where Were the Directors – Guidelines for Improved Corporate Governance in Canada recommended “The board of directors of every corporation should explicitly assume responsibility for ... the identification of the principal risks of the corporation’s business and ensuring the implementation of appropriate systems to manage these risks...”

6.90 During our audit, we were informed that NB Power staff has been formally identifying and managing risks at NB Power since 2004. The work of the internal auditor concentrates heavily on the area of risk management as well. Our audit did not include reviewing risk management activities at NB Power prior to 2004.

6.91 Board policies also speak to certain specific risks. For example the Emergency CEO Replacement policy requires that the CEO have no less than two other executives familiar with board and CEO issues and processes. There is also an Emergency Planning policy and other risk management related policies.

6.92 However, we noted during our audit that the board does not generate or maintain a comprehensive listing of the principal risks to NB Power. Further, risk information the board receives from management is incidental to its review of the annual business plan or

internal auditor reports to the audit committee, and does not constitute a comprehensive listing.

6.93 Without comprehensive risk information, it is more difficult for the board to ensure that its policies address all significant areas of risk. For example, one board member identified fuel price as the biggest risk that NB Power faces. However, when we reviewed current board policies, we saw nothing that calls attention to this risk or requires that it be mitigated, although we are aware of a management policy that addresses the area. We feel that the board can add significant value in this area, but needs to take a more active role.

Recommendation

6.94 We recommended NB Power management ensure that the objectives and targets set in their balanced scorecard initiative align with and support those in the board's Ends policies, when finalized, and make adjustments as necessary.

NB Power response

6.95 *The board's Ends Policies are finalized. The objectives and targets set out in the NB Power balanced scorecard initiatives are aligned with and support the Ends policies.*

Recommendation

6.96 We recommended board Ends policies be reviewed with the shareholder to ensure that they accurately reflect shareholder expectations for NB Power including the priorities documented in the New Brunswick Prosperity Plan 2002-2012.

NB Power response

6.97 *The boards Ends Policies were drawn from and are aligned with the New Brunswick Energy Policy which is incorporated in the New Brunswick Prosperity Plan 2002-2012. The Corporate Business Plans articulate the Ends Policies and will be provided to the Electric Finance Corporation, pursuant to the respective shareholders agreements.*

Recommendation

6.98 We recommended future board policy development and maintenance of current policies be initiated and carried out by the board or its committees, not by management.

NB Power response

6.99 *The initial draft Ends Policies were developed by management. Thereafter the board held a workshop exclusively dedicated to a review of all board policies. All policies were thoroughly reviewed and discussed by the board. The workshop concluded with approval by the board of all Policies as amended. On a go forward basis the board through its committees will develop board policies.*

Recommendation

6.100 We recommended the board generate and maintain a comprehensive listing of the principal risks to NB Power. Further, the board should set policy that requires management to address specific risks as it considers appropriate.

NB Power response

6.101 *Current board policies (Executive Limitations) address principal risks to the NB Power Group of Companies. The ongoing review by the board of the Ends Policies will be supported by a comprehensive review of principal risks to the respective corporations. Currently the internal auditors are developing a formal comprehensive risk reporting to the board. The board will continue to set risk management policies as required.*

Recommendation

6.102 We recommended the board continue to enhance its knowledge about the Carver Policy Governance model to allow the board to

- **facilitate the successful implementation and ongoing application of the model; and**
- **make periodic assessments as to whether it continues to be an appropriate choice for NB Power.**

NB Power response

6.103 *The boards will make periodic assessments as to whether the Carver model continues to be the appropriate choice for the NB Power Group of Companies.*

Compliance with policies of board of directors

6.104 The NB Power board policy, Monitoring CEO Performance includes the requirement for the board to perform “Systematic and rigorous monitoring of CEO job performance...”, and states

Monitoring is simply to determine the degree to which board policies are being met. ... All policies that instruct the CEO will be monitored at a frequency and by a method chosen by the board. The board can monitor any policy at any time by any method, but will ordinarily depend on a routine schedule.

6.105 Reports that will allow the board to monitor management compliance with board policies were still under development by management at the time of our audit. Consequently, no formal monitoring activity had commenced.

6.106 We were pleased to note, however, that management now requires all significant transactions to be reviewed and signed off by knowledgeable staff to ensure that they comply with board policies.

6.107 During the period under review, board deliberations continued to revolve around decisions on specific issues. Once monitoring information is available from management, we would expect to see more policy-based board discussions, in keeping with the Carver Policy Governance model. The board should also consider using internal and external audit reports and direct inspection by board members as sources of monitoring data as suggested by the board policy, Monitoring CEO Performance.

6.108 We would also expect that the board would review those reports regularly, and ensure appropriate action is taken if cases of non-compliance are reported.

6.109 We understand that the board of NB Power intends to conduct a self-assessment of its performance in the near future. We would encourage the board, as part of that process, to review its own compliance with board policies in the areas of governance process and board-CEO linkage.

Recommendation

6.110 We recommended the NB Power board obtain internal monitoring reports from management as soon as possible to allow it to ensure that:

- performance targets established under board Ends policies have been met; and
- management is complying with board Executive Limitations policies.

NB Power response

6.111 *Management is developing reporting mechanisms for compliance with Executive Limitation policies as well as establishing measures for the Ends Policies.*

Recommendation

6.112 We further recommended the board review those reports regularly once completed, and ensure appropriate action is taken if cases of non-compliance are reported.

NB Power response

6.113 *The board agrees. Regular reviews of these reports will be undertaken by the board.*

Recommendation

6.114 We recommended the board of NB Power, as part of its upcoming, and future, performance self-assessments, review its own compliance with board policies in the areas of governance process and board-CEO linkage.

NB Power response

6.115 *The boards of the NB Power Group of Companies have adopted a Governance process policy ...*

The pre-determined criteria is set out in the policy.

The first self assessment is scheduled for early 2006.

Internal and external corporate reporting on performance

6.116 In general, there appears to be no reporting policy or direction from the board in connection with either internal or external performance reporting. In other words, the board has not ensured that appropriate principles and standards covering internal and external reporting on performance have been clearly documented and are being followed consistently.

Performance reporting framework

6.117 There appear to be three distinct players in the governance process that need regular performance reporting information relating to the NB Power group of companies.

- management, whose primary performance reporting source should be the CEO Forum reports that are generated as a result of the balanced scorecard initiative;
- the board, whose primary performance reporting source should be management reports on corporate performance vis-à-vis board Ends policies and compliance with board Executive Limitations policies; and
- the shareholder, and by extension the public, whose primary performance reporting source should be the corporate annual report, along with specific financial reporting received pursuant to shareholder's agreements.

6.118 We have already discussed the need for the board's Ends policies to be aligned with the shareholder expectations for NB Power. And we discussed the importance of aligning the priorities covered by the balanced scorecard with the board's Ends policies.

6.119 Performance reporting should mirror this alignment. Management has developed the balanced scorecard initiative primarily for internal reporting purposes. But a subset of the performance information presented in balanced scorecard reporting should provide information needed to report against the board's Ends policies. And all or part of that reporting should be used to report externally about corporate success in achieving the shareholder's expectations.

Internal performance reporting

6.120 For purposes of this section, internal performance reporting can be defined as reporting from management to the board of directors or its committees. In *Boards That Make A Difference*, John Carver

identifies three categories of information that management provides to boards.

1. Decision information - "... that information the board receives to make decisions, for example, to create a budget policy from among alternative positions ..."
2. Monitoring information - "Monitoring information is used to gauge whether previous board directions have been satisfied. It is judgmental in that it intentionally measures performance. It is retrospective in that it always looks to the past. ..."
3. Incidental information - "Information that is used neither to make decisions nor to monitor falls into the incidental information category. It often masquerades as monitoring information. ..."

6.121 From our review of board minutes, we determined that the board gets lots of decision and incidental information. However, as noted in the previous section, monitoring reports (i.e. performance reports) are still under development by management. Consequently, there is no reporting to the board that would help them establish if:

- performance targets established under board Ends policies have been met; and
- management is complying with board Executive Limitations policies.

6.122 We feel that the board needs this reporting in order to govern effectively. However, during our audit we found no board policy on internal reporting, nor did we see any indication of the board proactively soliciting this information from management. This is perhaps in part due to the new board's preoccupation since it was appointed with a number of significant initiatives requiring board decisions.

6.123 As we implied above, all external performance reporting must necessarily start as internal performance reporting. Therefore, the lack of monitoring reports (i.e. performance reports) means that external reporting on performance may be compromised as well because information needed to report externally is not being generated.

External reporting

6.124 For purposes of this section, external reporting can be defined as performance reporting from NB Power to the shareholder, New Brunswick taxpayers, and other stakeholder groups. In general, this is accomplished through the corporate annual report and through regular

financial reporting to NBEFC as required under shareholder's agreements.

6.125 Effective June 1991, the Province of New Brunswick adopted an annual report policy for government departments and Crown agencies. It established certain requirements regarding the form and content of annual reports. The policy defines the prime function of an annual report to be "the major accountability document by departments and agencies for the Legislative Assembly and the general public. It serves as the key public link between the objectives and plans of a government entity and the results obtained."

6.126 It goes on to state:

To the degree possible, departments and agencies should give a clear account of goals, objectives and performance indicators. The report should show the extent to which a program continues to be relevant, how well the organization performed in achieving its plans and how well a program was accepted by its client groups.

6.127 NB Power is covered by this policy. And in fact, when we reviewed the 31 March 2004 NB Power annual report, we noted that a number of requirements of the provincial annual report policy have already been met. Additional information that would be required for the report to fully comply with the policy includes providing a clear account of goals, objectives and performance indicators, and actual versus budget comparative information.

6.128 We also note that section 10(1) of the new *Electricity Act*, referring to the New Brunswick Power Holding Corporation (HoldCo), states the following:

The Corporation shall, within 6 months after the termination of its fiscal year, submit to the Minister an audited report, in such form as the Minister may direct, on the operations of the Corporation and the subsidiaries of the Corporation for that fiscal year and the Minister shall table the report in the Legislative Assembly if it is then sitting or, if it is not then sitting, when it next sits.

6.129 Representatives of NB Power and the Department of Energy indicated that the Minister of Energy has not prescribed any form under section 10(1) of the Act beyond indicating that the new reporting regime will not increase NB Power's costs. This requirement may, in

fact, restrict HoldCo's ability to report effectively on performance for all corporations within the NB Power group.

6.130 We make the following observations in relation to external reporting by NB Power. Note that these comments are based in part upon our review of NB Power's 2003-2004 annual report, the last such report under the old corporate structure. The new NB Power group of companies had not yet published an annual report by the time of completion of our audit fieldwork.

- The board of the NB Power group has not adopted an external reporting policy beyond being a signatory to the shareholder's agreements. We believe that the provincial annual report policy provides good guidance on external reporting and is applicable to NB Power, even though corporate compliance with the policy has never been enforced by the Province.
- The 2003-2004 NB Power annual report includes an entire section detailing the board's approach to corporate governance. We consider this a best practice and encourage the board to continue to disclose this information in its annual report.
- Timeliness of external reporting has become a problem under the new *Electricity Act*. As referenced above, the financial statements for NB Power do not have to be tabled at the Legislative Assembly by the Minister of Energy until six months after year end and the tabling date is even later if the Legislative Assembly is not sitting. Establishing timely accountability for results in such a case becomes more difficult. Under the old *Electric Power Act*, the deadline was three months after year end. The current deadline for tabling annual reports for all British Columbia Crown agencies with a March 31st year end is also the end of June.
- NB Power publishes annual environmental reports pursuant to its involvement in the Environmental Commitment and Responsibility Program of the Canadian Electricity Association. These environmental reports are produced separately from the corporate annual report and include four key principles regarding the efficient use of resources, reducing adverse environmental impacts, being accountable, and ensuring employees understand the environmental impact of their actions. Given that the provincial Prosperity Plan includes an objective, "Protect and enhance the environment", it would be appropriate to include a summarized version of this reporting in the corporate annual report.

6.131 Subsequent to the completion of our fieldwork, we received a copy of the 2004-2005 NB Power annual report. We briefly reviewed the report and noted that the section on corporate governance had been further enhanced to include a comparison of NB Power governance processes with those recommended in the Toronto Stock Exchange (TSX) Governance Guidelines.

Recommendation

6.132 We recommended the NB Power board develop a policy covering internal reporting from management to the board.

NB Power response

6.133 *Management is developing reporting mechanisms for compliance with Executive Limitation policies as well as establishing measures for the Ends Policies.*

Recommendation

6.134 We recommended the NB Power board develop a policy covering external reporting by NB Power. That policy should be based on the provincial annual report policy.

NB Power response

6.135 *Section 10 of the Electricity Act requires that the companies submit to the Minister an annual audited report in such form as the Minister may direct.*

6.136 *The board will seek guidance from the Minister on additional, external reporting.*

Recommendation

6.137 We recommended a summary of the annual environmental reporting by NB Power pursuant to its involvement in the Environmental Commitment and Responsibility Program of the Canadian Electricity Association be included as part of the corporate annual report.

NB Power response

6.138 *A summary of the annual environmental reporting by NB Power pursuant to its involvement in the Environmental Commitment and Responsibility Program of the Canadian Electricity Association will be included as part of the Corporate Annual Report.*

Recommendation

6.139 We recommended the official shareholder representative consider requesting that the *Electricity Act* be amended to require tabling of the corporate financial statements at the Legislative Assembly within three months of the end of the fiscal year.

Management by the board of its information needs

6.140 There are several questions that a board needs to ask itself in connection with the information it receives from management.

- Is there information we need that we are not getting now?

- Is the information we are getting now of reasonable quality (reliable, accurate, timely, etc.)?
- Is the information we are getting now in a useful form (i.e. presented so as to facilitate board deliberations in its areas of responsibility)?
- Is there information we are getting now that we do not need?

6.141 As we discussed in the previous section, it appears that the board is not proactively asking itself the first question, at least in terms of board policy monitoring information.

6.142 However, based upon our review of board minutes, it does appear that the other three questions are being asked, if on a somewhat ad hoc basis. We found fairly regular comments in the board minutes about the quality of information being provided by management, both positive and negative, and in some cases questioning the relevance of certain reports provided to the board by management.

6.143 In general, though, the board has not been as proactive as it might have been up to now in addressing the quality and completeness of reporting provided by management. This may be as a result of the board's preoccupation with a number of large initiatives requiring board decisions as previously discussed. However, in the longer term, we feel it will improve the effectiveness of board governance if the board looks critically at the information it receives from management to ensure that it allows for the effective discharge of all of the board's roles and responsibilities.

6.144 We agree with the suggestion made during our discussions with individual board members that the upcoming board self evaluation may provide an opportunity for the board to review the quality and completeness of reporting it receives from management. The review process leading up to the evaluation of the CEO may provide another opportunity. Ultimately, though, we feel that adoption of a board internal reporting policy and subsequent monitoring of that policy for compliance would be the key steps in improving the quality and completeness of management reporting to the board.

6.145 The British Columbia Guidelines for Crown Agencies 2004/05 Annual Reports include one requirement that could be adopted for NB Power to enhance the reliability of both internal and external reporting. Specifically, those guidelines include the comment that "Information on performance management and reporting systems" should include "a discussion of what management has done to ensure that performance data are accurate and reliable (reviewed by internal

audit, strong internal controls, testing and documentation of systems, outsider verification, use of third party information)...” The requirement for some form of assurance from management or others relating to non-financial performance reporting could be included as part of board internal and external reporting policies.

Recommendation

6.146 We recommended the board review the quality and completeness of management reporting to the board on an annual basis. This could be done in conjunction with the board self-assessment process and/or the CEO evaluation process.

NB Power response

6.147 The board will review the quality and completeness of management reporting to the board on an annual basis.

Recommendation

6.148 We recommended that, as part of the board’s internal and external reporting policies, there be a requirement for some form of assurance from management or others relating to non-financial performance information presented.

General comments on our findings

6.149 The New Brunswick Electric Finance Corporation provided the following comments on our report:

As a general comment, in my view the report correctly reflects governance structures and reporting relationships. In particular, the description of NBEFC is an accurate assessment of the corporation’s role and responsibilities as established by the Electricity Act.

6.150 The Department of Energy, in addition to commenting on specific recommendations, provided the following general comments:

... I wish to convey that your report is well received by our Department. Overall, your findings provide a good appreciation of the governance model for NB Power, including the acknowledgement that important enhancements had been made recently. Although Government and the board of NB Power will be reviewing your recommendations, the Department of Energy recognizes that many of these would further enhance the governance model for the provincially owned electric utility.

6.151 The board of NB Power, in addition to commenting on specific recommendations, provided the following general comments:

We understand the significant challenges which your office has had in completing your audit. At the same time, we would point out that we are a newly constituted group of companies out of the original New Brunswick Power Corporation. Since the restructuring we have been working diligently with management to create a completely new governance structure for the companies. We recognize that many of these changes were being implemented as your office conducted its audit.

While we are grateful for your comments, we are concerned that on balance they may not fully reflect the significant positive developments which have occurred over the past 18 months. During that time, governance has been enhanced by:

- the appointment of a new CEO;*
- the creation of a board selected through a professional third party process;*
- a shareholders agreement which clearly defines the role of the Board and the role of the Province;*
- open, regular and constructive communication among management, the Board and our Shareholders;*
- the creation of a full governance process that we have ensured is being strictly adhered to by management; and*
- the creation of a comprehensive monthly report used by management to monitor the business and identify emerging risks; which report is provided to the Board of Electric Finance Corporation and thereby to the Province.*

In conclusion, we are pleased to receive your comments on how to enhance our governance structure and will certainly take the recommendations in that spirit. However, we would respectfully submit that the report should provide significantly more comfort to the people of New Brunswick by clearly outlining how far governance has come in the past 15 months and then provide an analysis of the current governance position.

Chapter 7

Other Audit Work in Departments and Crown Agencies

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Other Audit Work in Departments and Crown Agencies

Background

7.1 The Legislative Assembly approves the budget that sets out the government's financial plans. The duties imposed on our Office require us to audit the actual financial results and report our findings to the Legislative Assembly.

7.2 Our audit work encompasses financial transactions in all government departments. As well, we audit pension plans and other trust funds, including the Fiscal Stabilization Fund.

7.3 We also audit the Crown Corporations, Boards, Commissions and other Agencies which are listed below.

7.4 Agencies included in the Public Accounts:

- Advisory Council on the Status of Women
- Algonquin Golf Limited
- Algonquin Properties Limited
- Kings Landing Corporation
- Lotteries Commission of New Brunswick
- New Brunswick Advisory Council on Seniors
- New Brunswick Advisory Council on Youth
- New Brunswick Credit Union Deposit Insurance Corporation
- New Brunswick Crop Insurance Commission
- New Brunswick Electric Finance Corporation
- New Brunswick Highway Corporation
- New Brunswick Municipal Finance Corporation
- New Brunswick Public Libraries Foundation
- New Brunswick Research and Productivity Council
- New Brunswick Securities Commission
- Premier's Council on the Status of Disabled Persons
- Provincial Holdings Ltd.
- Regional Development Corporation
- Regional Development Corporation - Special Operating Agency

Scope

7.5 Other Agencies:

- Le Centre communautaire Sainte-Anne
- Legal Aid New Brunswick

7.6 To reach an opinion on the financial statements of the Province, we carry out audit work on the major programs and activities in departments. In addition, we audit major revenue items and a sample of expenditures chosen from departments. We also test controls surrounding centralized systems.

7.7 We take a similar approach to our testing of the Province's pension plans. Our objective in doing this work is to reach an opinion on the financial statements of each plan.

7.8 Because of the limited objectives of this type of audit work, it may not identify matters which might come to light during a more extensive or special examination. However, it often reveals deficiencies or lines of enquiry which we might choose to pursue in our broader scope audit work.

7.9 It is our practice to report our findings to senior officials of the departments concerned, and to ask for a response. Some of these findings may not be included in this Report, because we do not consider them to be of sufficient importance to bring to the attention of the Legislative Assembly, or because public attention to weaknesses in accounting controls before they are corrected could possibly result in loss of government assets.

7.10 Our work in Crown agencies is usually aimed at enabling us to give an opinion on their financial statements. During the course of this work, we may note errors in accounting records or weaknesses in accounting controls. We bring these matters to the attention of the agency, together with any recommendations for improvement.

7.11 This chapter of our Report summarizes issues related to departments and Crown agencies which we consider to be significant to the Members of the Legislative Assembly.

7.12 Our examination of the matters included in this chapter of our Report was performed in accordance with Canadian generally accepted auditing standards, including such tests and other procedures as we considered necessary in the circumstances. The matters reported should not be used as a basis for drawing conclusions as to compliance or non-compliance with respect to matters not reported.

Department of Finance

Tax revenues from Canada

Background

Sources of revenue

7.13 In the 2005-2006 Budget of the Province of New Brunswick, total estimated gross revenue in the ordinary account is \$5.7 billion.

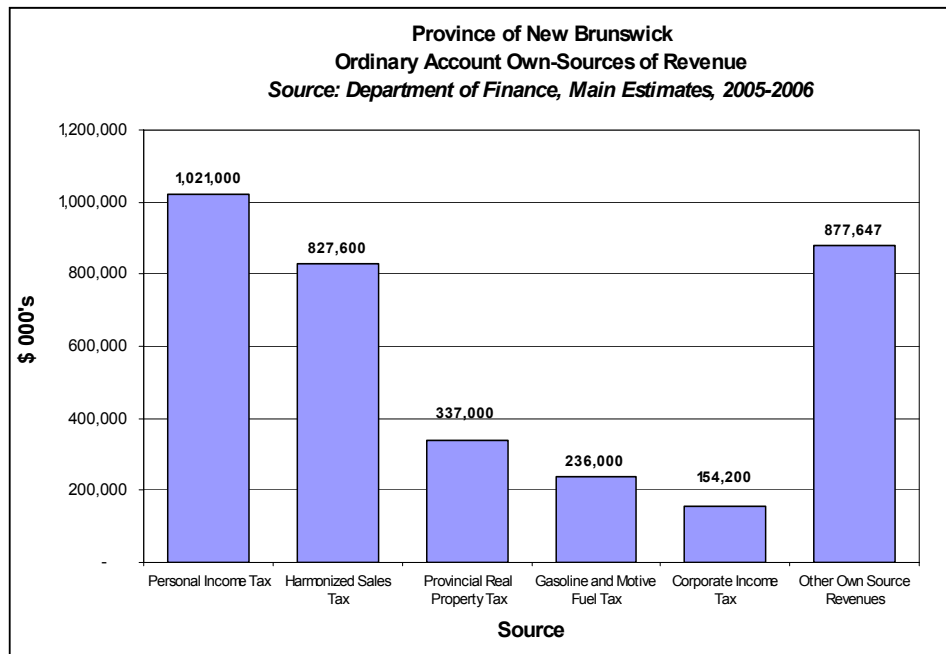
7.14 Forty per cent of this revenue (\$2.3 billion) comes in the form of grants from the Government of Canada. These grants include equalization payments and transfers for health, education, and other social programs. Sixty per cent of revenue (\$3.4 billion) comes from provincial sources. The provincial Department of Finance (Finance NB) describes provincially-raised revenues as "own-source".

7.15 The largest own-source revenue is personal income tax (PIT). This is followed in decreasing order by the harmonized sales tax (HST), provincial real property tax, gasoline and motive fuel tax, and corporate income tax (CIT). Other own-source revenues include tobacco tax, licenses and permits, sales of goods and services, natural resource royalties, lottery revenues, and other returns on investments.

7.16 Exhibit 7.1 shows the relative sizes of estimated own-source revenues for 2005-2006.

Exhibit 7.1

Provincial own-source estimated revenue, 2005-2006



Significance

7.17 The personal income tax, corporate income tax and harmonized sales tax systems are not administered by the Province; rather, they are administered by Canada on behalf of the Province.

7.18 We chose to review these three taxation systems for the following reasons:

- their significance to the provincial treasury;
- the lack of direct management control by the Province; and
- the volume of tax assessments.

7.19 These revenue sources are significant to the Legislature because they represent \$2.0 billion, or 58%, of own-source revenue.

7.20 Since the federal government administers these tax systems, the Province has given up a certain level of control in exchange for the efficiency to be gained from participating in national tax collection systems. This loss of control creates the risk that the Province may not receive all the revenues to which it is entitled. As a result, the Province should have procedures in place to ensure it is receiving an appropriate level of tax revenues from these systems.

7.21 For 2003, there were 570,223 personal income tax returns filed in New Brunswick. For 2002, there were 24,139 corporate income tax returns filed in the Province. While these are significant volumes for this Province, the numbers are, of course, very small compared to the total number of returns assessed by the federal government for the entire country. There should be concern that sufficient attention is paid by the federal government to the interests of small provinces such as New Brunswick.

7.22 We have not reported the number of HST returns filed in New Brunswick because the HST revenues received by the Province are not directly linked to the number of returns filed. We will explain how HST revenues are determined later in this chapter.

Financial audit of the Province

7.23 Our Office audits the annual financial statements of the Province of New Brunswick. To reach an opinion on the fair presentation of the financial statements of the Province, we annually carry out audit work on the major programs and activities of departments. We audit major revenue items and a sample of expenditures chosen from departments. We also test controls surrounding centralized systems. Our audit of revenue sources received from Canada consists mainly of confirming with the federal Department of Finance (Finance Canada) the amounts received and recorded in the accounts of the Province.

Scope

Objective

7.24 With this review, we wanted to gain a deeper understanding of the tax systems administered by Canada on behalf of the Province. We

also wanted to determine how Finance NB manages the risks of provincial tax revenues being misstated.

7.25 Accordingly, the objective of our review was:

To determine if the provincial Department of Finance has implemented appropriate risk management measures to mitigate the risks of misstatement of those tax revenues administered by the Government of Canada on behalf of the Province of New Brunswick.

Parameters

7.26 We limited our review to the three largest tax sources administered by Canada (PIT, CIT, and HST). There are other taxes collected on behalf of the Province which are less significant and which were excluded from our review; e.g. large corporations capital tax.

7.27 There are important jurisdictional relationships that must be understood. Since Canada administers these tax systems, the assessment relationship exists directly between the taxpayer and Canada. Canada provides the Province with taxpayer information relating to taxable income, provincial taxes payable, and other information related to assessments, collections, and payments. Any information provided to the Province is to be kept confidential and used only for the purposes intended under legislation.

7.28 A number of federal organizations are directly involved in the administration of these taxation systems. These include Finance Canada, the Canada Revenue Agency (CRA), and the Canada Border Services Agency (CBSA). Other organizations, such as Statistics Canada, provide input to the HST system.

7.29 These federal organizations are audited by the Auditor General of Canada. The provincial government relies upon the work of these organizations and the audits by the federal Auditor General to provide assurance that revenues are appropriately recorded and reported to the Province.

Nature of our work

7.30 Our work involved a preliminary review of the PIT, CIT, and HST systems. We reviewed processes at both the federal and provincial levels.

7.31 At the federal level, we made inquiries of staff of the Office of the Auditor General of Canada. We received some technical clarification from staff of Statistics Canada. At the provincial level, we

interviewed staff from Finance NB. We reviewed systems, processes, and documentation related to the PIT, CIT, and HST systems.

Conclusion

7.32 Based on the findings of our review, we have concluded that the provincial Department of Finance has implemented appropriate risk management measures to mitigate the risks of misstatement of personal and corporate income tax and harmonized sales tax revenues administered by the Government of Canada on behalf of the Province of New Brunswick.

Personal and corporate income tax

7.33 The personal and corporate income tax systems (PIT/CIT) have many similarities; therefore, we will address these systems together.

Process overview

7.34 The authority to raise income taxes is established in legislation. There is both a federal and a provincial *Income Tax Act*. A tax collection agreement has been in place since 1962 which allows the federal government to administer the personal and corporate tax systems and to remit the provincial portion of taxes to the Province.

7.35 At the federal level, CRA administers the tax assessment and collection functions. It forwards tax revenues to Finance Canada. Finance Canada remits payment to the Province. Finance NB is responsible for establishing provincial tax policy and managing provincial tax revenues.

7.36 There are four key components of the income tax system.

Estimates

7.37 Finance Canada prepares an official "estimate of payments" of personal and corporate income taxes for each taxation year. A taxation year is the same as the calendar year. Finance Canada supplies federal tax rates and estimates of personal and corporate taxable income figures. Finance NB supplies personal and corporate tax rates for New Brunswick. From these inputs, the estimate document is prepared.

7.38 Estimates are updated twice during the taxation year.

Instalment payments

7.39 The estimate establishes a schedule of payments to the Province. Finance Canada remits payments to the Province. When the estimates are revised, the instalment payments are adjusted accordingly.

Income tax assessments

7.40 Income tax returns are filed with CRA. Individuals file personal income tax returns by April 30th following the end of each taxation year. Corporate income tax returns must be filed within six

months of the corporate fiscal year end. CRA assesses the returns in accordance with federal and provincial tax laws.

Reconciliation

7.41 A “final determination of payments” is prepared following the assessment process. Based upon the final determination of payments, instalments that have already been advanced from Canada to the Province are reconciled to the final tax revenue figures. Any difference is forwarded or withheld by Finance Canada in subsequent remittances to the Province.

7.42 As a final accounting of income tax revenues, Finance Canada provides an audited statement of income taxes payable to the provinces.

Risk management

7.43 The Province faces three areas of risk relating to income tax revenues.

Completeness of tax revenues

7.44 The first area of risk involves the completeness of income tax revenues.

7.45 There is a risk that income will not be reported by taxpayers. Unreported income generated in "the underground economy", for example, reduces the amount of tax revenues otherwise collectible by governments.

7.46 CRA acknowledges the risk that tax revenues may be understated. In the notes to its 2004-05 audited financial statements, CRA states that the completeness of tax revenues is predicated on self-assessment by Canadian taxpayers. Taxpayers are expected to understand and comply with tax laws. Failure to report all income and taxes owing has an impact on the completeness of tax revenues.

7.47 To identify and correct situations of non-compliance, CRA has implemented systems, controls and audit procedures. However, CRA says such procedures cannot be expected to identify all sources of unreported income.

7.48 The Auditor General of Canada audits the tax revenues administered by CRA. Thus, revenues that *are* reported to CRA are audited to ensure they are captured and reported in CRA's financial statements.

7.49 The Auditor General also audits the annual statement of income taxes payable to the provinces. This statement is the responsibility of the management of both Finance Canada and CRA.

- 7.50** If Finance NB is aware of incidents of non-reporting of income, staff will advise CRA accordingly.
- CRA tax assessments
- 7.51** A second area of risk involves the accuracy of CRA's tax assessment process.
- 7.52** The risk with the greatest potential impact would be the misallocation of provincial tax revenues. In the tax collection agreement, Canada covenants to provide the Province with a reasonable degree of diligence and service level for issues related to province of residence and inter-provincial income allocation.
- 7.53** For individuals, assessment of provincial taxes is based upon the province of residence on December 31. Thus, an error in CRA's recording of the province of residence would overstate the taxes received by one province while understating it for another.
- 7.54** For corporations, taxable income is allocated to provinces where the corporation maintains a permanent establishment. Based on this allocation, provincial taxes are assessed to the corporation. Determining the allocation to each province is a technical exercise subject to varying interpretations of the facts by CRA and the corporation. Also, there is the potential for corporations to choose to allocate income to the province with the lowest rate of tax. Further, provinces are motivated to challenge one another over the appropriate allocation to their respective jurisdictions.
- 7.55** Actions by several parties serve to reduce the possible impact of this risk.
- Canada Revenue Agency
- 7.56** CRA audits personal and corporate tax returns. They use risk assessment criteria to identify returns with potentially higher risk of errors or omission.
- 7.57** For corporate returns, CRA has a policy requiring a mandatory review of the provincial income allocation whenever a corporate tax return is audited. CRA also serves as arbiter in disputes between provinces over the provincial corporate income allocation. It does not allow joint audits of corporate returns with any provincial auditor.
- Auditor General of Canada
- 7.58** As provided in the tax collection agreements between Canada and the provinces, the federal Auditor General audits the statement of income taxes payable prepared by Finance Canada. The Auditor General's objective is to conclude whether the individual assessments recorded in CRA's systems are made in accordance with CRA's

practices. Second, they must conclude whether the assessment information provided by CRA to Finance Canada, plus the tax payments and balances payable to the provinces, are fairly presented in the statement of income taxes payable.

7.59 To accomplish these objectives, the Auditor General conducts a number of audit procedures. One procedure involves selecting and auditing a statistically-based sample of personal and corporate tax returns. An appropriate number of samples are selected for each province. The number of samples is based upon the respective levels of financial materiality determined by each province's legislative auditor. The Auditor General also asks Finance Canada to confirm with each of the provinces the entitlements, payments and balances outstanding. These confirmed details are reconciled by the Auditor General to the records of Finance Canada. From this audit, each province may be assured its reported tax revenues are fairly stated.

7.60 Under recent amendments to the tax collection agreements, Finance Canada will periodically provide the provinces with opinions of the federal Auditor General based on the results of a review of relevant control procedures at CRA. The agreements provide that the timing, scope and purpose of such reports will be determined by the Auditor General after consultation with the provincial auditors.

7.61 Subject to the agreement of the Auditor General of Canada, the provincial legislative auditors may participate in the work of both of these audits.

Finance NB

7.62 Within Finance NB, the Audit and Inspection Services section reviews and challenges the provincial income allocation for all corporations operating within the Province. They communicate with CRA on all changes to permanent establishments in the Province. Finally, they represent the Province's point of view in discussing any allocation issues raised by other provinces.

7.63 Audit and Inspection Services has undertaken a new initiative with respect to personal income taxes. They have asked CRA to identify high income earners who live and work in more than one province. These individuals have a motive to report income in the province with the lowest rate of tax; therefore, the Province and CRA will perform additional audit procedures to ensure the assessment of tax occurs in the most appropriate province.

Finance Canada estimates and payments

7.64 The third area of risk involves the estimating and payment of funds to the Province.

7.65 There is a risk of error in the calculation of tax estimates by Finance Canada and in transferring funds from Finance Canada to the Province.

7.66 Several parties perform procedures designed to reduce this risk of misstatement to the Province.

Auditor General of Canada

7.67 In the financial audit of the Government of Canada, the Auditor General confirms all relevant financial transactions between Finance Canada and the Province. They review all estimates, instalment payments, and balances payable to the Province.

Finance NB

7.68 Finance NB staff review in detail each estimate and revised estimate of payments as prepared by Finance Canada. There is frequent and open communication between provincial and federal staff.

7.69 Finance NB periodically updates a multi-year financial projection document for use by the provincial Cabinet. This document is considered confidential advice to Cabinet and thus was not made available for our review. However, staff indicated the document provides a continuous monitoring of estimated versus actual tax revenues. It is used to produce current financial forecasts, fiscal updates, and budget estimates.

7.70 A final accounting of tax revenues is ultimately provided in the Public Accounts of the Province.

Auditor General of New Brunswick

7.71 The Public Accounts are audited by the Auditor General of New Brunswick. Our Office reviews the estimates, payments, and balances due from Canada. We confirm all tax payments and balances with Finance Canada.

7.72 As previously noted, our Office may participate with the federal Auditor General in their audits of tax revenues and controls at CRA. In addition, provision is made in the tax collection agreement for our Office to perform audit examinations of selected CRA tax assessment information.

Analysis

7.73 We have noted numerous actions taken at the federal and provincial levels to address the risks associated with personal and corporate income taxes. In summary, we believe the following actions are particularly relevant:

- CRA has numerous internal controls and audit procedures designed to address the risks surrounding the completeness and accuracy of tax assessments for both personal and corporate returns. Their

policy of reviewing the provincial corporate income allocation in every audited corporate tax return is a significant measure designed to reduce the risk of misallocation of tax revenues between provinces.

- The federal Auditor General performs audits of CRA and the Government of Canada, providing assurance that income tax assessments are completed in accordance with CRA's practices and that the resulting provincial income tax revenues are fully accounted for and paid to the provinces.
- Finance NB's review of the official estimates provides additional assurance that the income tax revenues are fairly reported and paid to the Province. With respect to corporate income taxes, the review of provincial corporate income allocation appears to be a particularly effective initiative undertaken by Finance NB.

7.74 We believe these are appropriate measures taken to mitigate the risks associated with personal and corporate income tax revenues of the Province.

Harmonized sales tax

7.75 Effective April 1, 1997, the Province aligned its provincial sales tax with the federal Goods and Services Tax (GST) to create a harmonized sales tax (HST). The HST is a value-added tax of 15%, composed of the federal GST (7%) and a provincial component of 8%. The HST is applied to the same base of goods and services as the federal GST.

7.76 The other provinces participating in the HST model are Nova Scotia and Newfoundland and Labrador.

7.77 GST is collected on goods and services *consumed in Canada*. For example, it is collected on televisions imported from China and sold in Canada. It is not collected, however, on furniture manufactured in Canada but exported for sale in the United States.

7.78 The domestic consumption principle also applies with the HST. Goods and services consumed in the three participating provinces attract the full HST. For example, a business in Ontario shipping refrigerators to New Brunswick would charge the 15% HST to its customer. In contrast, a New Brunswick company shipping lumber to Ontario would only charge the 7% GST to its customer.

Process overview

7.79 The HST is collected in accordance with federal and provincial legislation.

7.80 The parties involved in the operation of the HST include Finance Canada, the Canada Revenue Agency, the Canada Border Services Agency, and the participating provinces. Statistics Canada provides essential economic data for the HST revenue model.

7.81 Each participating province has a tax collection agreement with Finance Canada detailing the operation of the HST. Under the tax collection agreements, representatives from each of the participating provinces and the federal government serve on committees which monitor the operation of the HST and propose revisions to tax policy when required.

7.82 The HST system operates quite differently from the PIT/CIT system. For PIT/CIT, revenues are based *directly* on tax returns filed by individuals and corporations. With the GST/HST, both GST and HST revenues are *combined* into a revenue pool. This revenue pool is *allocated* to the governments of the participating provinces and Canada based upon a statistical model reflecting the economic activity in each jurisdiction. Thus, there is not a *direct* link between the GST/HST revenues and the GST/HST returns filed by businesses.

7.83 There are four key components of the GST/HST system.

Entitlements

7.84 Finance Canada annually prepares an initial estimate of the federal and provincial entitlements under the GST/HST. This estimate is driven by a revenue allocation formula. The revenue allocation formula captures a broad base of economic activity in each province and territory. Collectively, this represents the economic activity in Canada. Based on the proportion of economic activity occurring in each participating province, they are entitled to a calculated percentage of the pool of GST/HST revenues collected.

7.85 For the taxation year 2005, the first estimate of federal GST revenues, collectable on sales of goods and services in all provinces and territories in Canada, was \$39.4 billion. The provincial tax component for the three participating provinces was estimated at \$2.6 billion, giving a total estimated GST/HST revenue pool of \$42.0 billion. New Brunswick's share of that revenue pool was forecast at 2.01%, yielding \$842 million in HST revenue for the Province.

7.86 The 2005 entitlements of each participating province and the federal government are shown in Exhibit 7.2.

Exhibit 7.2

2005 GST/HST revenue pool entitlements

Jurisdiction	Percentage entitlement	Entitlement (in millions of dollars)
New Brunswick	2.01 %	\$842
Nova Scotia	2.76 %	\$1,157
Newfoundland & Labrador	1.45 %	\$610
Canada	93.78 %	\$39,366
Total GST/HST Revenue Pool	100.00 %	\$41,975

Instalment payments

7.87 Finance Canada begins each taxation year making monthly instalment payments to the three provinces based on the first estimate. Twice during the year, Finance Canada updates the estimate of the revenue pool and the percentage entitlements based on updated economic data provided by Statistics Canada. The instalment payments are adjusted accordingly.

Revenue pool

7.88 When goods are imported into Canada, GST/HST is collected at the border. Goods may be imported three ways: commercially, through the postal and courier systems, or personally by travelers. For *non-commercial* goods destined for individual consumption, the full 15% HST is collected by CBSA. For *commercial* goods destined for re-sale or for other industrial or institutional use, the legislation provides that only the GST portion is collected by CBSA while the provincial portion is reported by the importing business to CRA.

7.89 When Canadian businesses sell goods to their Canadian customers, they collect the GST/HST, file periodic assessment returns with CRA, and remit the tax accordingly.

7.90 Both federal GST revenues and provincial HST revenues are combined into one revenue pool. The revenue pool is allocated by Finance Canada to the Government of Canada and the participating provinces.

Reconciliation

7.91 For four years subsequent to each taxation year, the size of the revenue pool is updated to reflect actual GST/HST returns filed by Canadian businesses with CRA. The percentage entitlements are also adjusted to reflect the most recent economic statistics from Statistics Canada. Adjustments are made each year to reconcile instalment payments with the revised entitlements.

7.92 At the end of the fourth subsequent year, final economic statistics are provided by Statistics Canada. Finance Canada prepares

final entitlement figures, reconciles instalment payments made over the combined five-year period with the final entitlements, and makes an appropriate adjustment with the provinces to reflect any shortfall or overpayment.

Risk management

Completeness of tax revenues

7.93 A number of risk areas could expose the Province to a misstatement of HST revenues.

7.94 The first area of risk involves the completeness of the GST/HST revenue pool.

7.95 As previously noted with personal and corporate income taxes, CRA acknowledges the risk of understated tax revenues given Canada's self-assessing tax system. CRA has implemented systems, controls and audit procedures to identify and correct situations of non-compliance. Such audit procedures include verifying that the correct rate of tax is charged by vendors in non-participating jurisdictions to customers in the participating provinces. CRA says, however, it cannot be expected to identify all unreported tax.

7.96 CBSA now provides the customs services previously included under the umbrella of the Canada Customs and Revenue Agency (CCRA). The same control procedures are in place at CBSA to collect GST/HST at the border.

7.97 As we previously noted, the Auditor General of Canada audits the tax revenues that are administered by CRA. As an example of the work performed, the Auditor General tests a representative sample of GST/HST returns filed by taxpayers. They also ensure that all GST/HST remittances and assessments are accounted for in the appropriate financial period. This audit work provides assurance as to the completeness of GST/HST revenues on a global basis.

7.98 The customs collection systems previously audited by the Auditor General at CCRA are now audited at CBSA. This audit provides assurance as to the fairness of the administered revenues reported by CBSA in the Public Accounts of Canada.

Revenue allocation formula

7.99 The second area of risk involves the revenue allocation formula.

7.100 The revenue allocation formula is clearly set out in the tax agreements and does not change without the agreement of all participating provinces and Canada. It is, however, very complex. This complexity could lead to errors or omissions in the preparation of HST

entitlements. As a result, the HST entitlement could be incomplete or inaccurate, and one province's gain in revenue would be another jurisdiction's loss.

7.101 In response to this risk, Finance NB performs a number of tasks. They conduct an intensive review of every HST estimate and the related instalment payments. They participate in the HST review committees. These committees provide an open forum for discussion of the entitlement results with peers from all jurisdictions. They also consider proposals to improve the revenue allocation formula and tax policy changes.

7.102 Finally, as previously described in the PIT/CIT section, the multi-year fiscal projection prepared by Finance NB for Cabinet includes HST revenues. Changes in HST entitlements from estimate to final determination are noted, analyzed, and considered in revising financial projections.

Data sources

7.103 The third area of risk for the Province lies in the sources of input data.

7.104 Input data is gathered at the federal level by Statistics Canada and other government agencies. Finance NB participates in semi-annual workshops held by Statistics Canada. At these workshops, the economic input data is reviewed, but not audited; therefore, some risk exists that errors could occur in the input data.

7.105 Staff at Finance NB asked whether sufficient sampling of the economic data was performed by Statistics Canada to ensure an accurate representation was made of the Province's economic activity. Statistically, each participating province's activity is very small relative to the national economy. Statistics Canada confirmed to our Office that they adjust their sample sizes to ensure they appropriately capture the economic activity of each province individually.

Distribution of revenues

7.106 The fourth area of risk involves the distribution of the GST/HST revenue pool.

7.107 Staff at Finance NB asked us to investigate whether the full amount of the GST/HST revenue pool was actually distributed to the participating provinces and the Government of Canada. They wondered if there could be balances accumulating from prior years which were not appropriately distributed.

7.108 Finance NB may take assurance from the audit of CRA by the federal Auditor General. This audit shows that the combined GST/HST revenues are recorded by CRA and that information on HST revenues is reported to Finance Canada based on entitlements determined by the revenue allocation formula.

7.109 The federal Minister of Public Safety and Emergency Preparedness is responsible for the operations of the CBSA. The revenues collected by CBSA are reported in the Public Accounts of Canada and audited by the Auditor General of Canada.

7.110 Finance Canada, a department within the Government of Canada, is also audited by the federal Auditor General. The Public Accounts of Canada disclose details of the provincial HST revenues administered by Finance Canada. We confirmed with staff of the Auditor General of Canada that no balance carries forward to the benefit of the Government of Canada.

7.111 The federal Auditor General also compares instalment payments to the Province with the entitlement estimates.

7.112 At the provincial level, the Public Accounts of the Province are audited by this Office. We also review the HST revenue estimates, instalment payments, and balances receivable from Finance Canada. We confirm all transactions with Finance Canada.

Analysis

7.113 We have noted numerous measures taken at the federal and provincial levels in response to the risks of misstatement of HST revenues to the Province. In summary, we believe the following actions are particularly relevant:

- CRA and CBSA have numerous internal controls and audit procedures designed to address the risks surrounding the completeness and accuracy of GST/HST assessments.
- Key economic data inputs to the HST revenue allocation formula are provided by Statistics Canada. Statistics Canada operates independently of Finance Canada.
- The work of the federal Auditor General provides assurance that HST revenues are properly estimated, recorded, and paid to the participating provinces.
- The HST review committees are a vital forum for all participants in the HST framework to challenge the entitlement calculations and to propose improvements to the revenue allocation formula.

Finance NB staff conduct a detailed review of every HST entitlement and freely communicate with their peers as part of the tax review committee process.

7.114 We believe these are appropriate measures taken to mitigate the risks of misstatement of HST revenues.

Department of Transportation

Engineering Consulting and Road Construction Materials

7.115 We conducted an audit of Engineering Consulting and Road Construction Materials in the Department of Transportation in 2000. One component of this audit was to review how the Department purchased engineering services from consultants and to determine if there might be ways the Department could reduce the costs (which were nearly \$10 million for the year ended 31 March 1999) associated with these services. Our objective for this component of the audit was:

To determine if the Department can reduce costs while maintaining quality by adopting a more competitive process for the contracting of engineering services.

7.116 To support the objective we established three criteria, two of which were not met. The two criteria not met were:

- where it is cost effective to do so, all qualified firms should have an opportunity to compete for government contracts; and
- the method of selecting consulting engineers for projects should be cost effective.

7.117 As the Department did not meet these criteria we made five recommendations. The Department responded to the recommendations by stating they would be “prepared to consider piloting the requesting of proposals for engineering contracts”.

7.118 We have reviewed the actions taken by the Department in response to the recommendations and reported the results in our follow-up chapters beginning with our 2002 Report. We noted in our 2002 Report that the Department had piloted the use of a request for proposals process for one engineering services contract and was evaluating the results. The Department indicated it was planning on performing a second pilot project at the time of our review in 2002 but later decided not to proceed with it. Our third and final year of follow up was conducted last year, and as reported in our 2004 Report the Department reached the following conclusions:

- direct project costs for the pilot were similar to situations where no requests for proposal (RFP) were sought;
- design standards were maintained;

- there were additional administration costs; and
- the time frame was extended because of the use of the RFP.

7.119 Normally we do not report on recommendations after the three updates. But this case was different because we found that the Department had not adopted any of the five recommendations, and that their decision was based on the results of just one pilot project.

7.120 The Department requested proposals for an engineering contract estimated to cost \$50,000. We decided to evaluate the adequacy of the use of this pilot project to guide their decisions on the recommendations. And we have observations on how our recommendations were addressed by the pilot project. We also have comments on the conclusions drawn by the Department from their experience with the pilot.

Examining how the recommendations were addressed

7.121 Following are the original five recommendations made in 2000 plus a summary of the Department's efforts to investigate the merits of the recommendations through the pilot project. The first recommendation ties into the criterion which stated that, where cost effective, all qualified firms should have an opportunity to compete for government contracts. The next four recommendations relate to the second criterion which stated that the method of selecting consulting engineers for projects should be cost effective.

7.122 We recommended the Department publicly advertise each engineering consulting project so that all consulting firms have the opportunity to express their interest in the available work.

7.123 For the contract that the Department chose to pilot, they indicated there were a limited number of suppliers available for the service. In their opinion, they invited bids from all qualified firms available in the province. However, as there was no public advertising of the pilot project this recommendation was not addressed.

7.124 We recommended the Department ask for proposals from several qualified consultants for each engineering contract.

7.125 Although the Department did not publicly advertise the pilot project, the Department did contact ten New Brunswick firms that it believed were capable of handling the contract and asked them to submit proposals. This is consistent with the practice we recommended.

7.126 We recommended the process by which the Department chooses consultants to request proposals from be formalized and documented. The process, associated evaluation criteria and results of the process should be transparent to all consultants.

7.127 The process by which the Department chooses which consultants to request proposals from was described verbally but was not documented. The decision to formalize and document the process was dependent upon departmental acceptance of our recommendations. Since the Department did not accept our recommendations, it was not done.

7.128 We recommended that the Department require the cost of the project to be included in the proposals received from the competing consultants.

7.129 A requirement for cost information was included in the request for proposals. The consultants provided estimates of what they felt the ultimate cost would be and an explanation of the charge-out rates used to prepare the cost estimate. But the quotes included in the RFPs were not binding.

7.130 We recommended the process by which the Department chooses which consultant to hire be formalized and documented. Cost should be an important component of this. The methodology, associated evaluation criteria and results of the process should be available to all consultants.

7.131 The process for choosing which consultant to hire was documented for the one pilot project only. The decision to formalize and document the process for all hiring was dependent upon the Department's acceptance of our recommendations. Since the Department did not accept our recommendations, this was not done.

7.132 Cost was one of the evaluation criteria used in selecting the successful contractor. However as mentioned above, the costs were not binding so the value of cost inclusion was diminished.

7.133 The Department made the details available to the consultants on how the successful proposal was chosen for the pilot.

7.134 We have several concerns with the process that was used to decide whether the recommendations would be adopted.

Our concerns with the Department's follow-up initiative

- The pilot project was not publicly advertised and we are unable to estimate the impact that this had on the nature and the number of bidders on the project.
- In our 2000 Report we pointed out that significant savings occurred in other provinces when two conditions were in place: cost was an important factor in the selection process and bids were solicited in a competitive environment. This pilot project was not conducted in a truly competitive environment. We say this because one engineering contract does not simulate how bidders would act if all contracts were awarded in a competitive market place. For example, with the knowledge that many engineering contracts will be available during the year and that most, if not all, of these would be awarded on a non-competitive, rotational basis, why would a firm be motivated to offer government its most competitive price in a pilot project involving just one contract? As a result we are not convinced that the pilot project generated the lowest cost that could be available to the Province from an RFP process conducted in a competitive environment.
- The Department reported that there were additional administration costs encountered and the time frame was extended when compared to the process that takes place when RFPs are not sought. However the Department did not keep formal records of the additional costs and time required. This would be necessary if the Department is to formally evaluate any new contracting process. We also point out that the outcome may have been different had the Department considered the internal efficiencies that would result from adopting this as a standard practice as opposed to using it in just one pilot project.

Conclusion

7.135 Based on the above factors, our opinion is the one pilot project done by the Department is not adequate to determine if the Department can reduce costs (while maintaining quality) by adopting a more competitive process for the contracting of engineering services. And the Department still does not meet the two criteria.

7.136 The result is, companies that want to compete for engineering services contracts may not have the opportunity. And without competition, it is possible government pays too much for these services. Finally, the existing hiring process provides the Department with no evidence to support the decisions it makes in hiring engineering consultants.

7.137 We are not satisfied that the actions taken by the Department were sufficient to allow an informed decision to take place on whether the methodology we recommended could be of benefit to the Province.

Departmental comments

7.138 We provided our observations to the Department, which responded as follows:

The results of our first pilot project led to the conclusion that costs outweighed the benefits of seeking requests for proposals for engineering services. Those results were that direct project costs were similar to the non-RFP process, there was additional administrative effort involved and the overall project timeframe was extended.

Although the results did not indicate that a change was warranted, the advantages of a more formal pilot are recognized. As a result we have decided to conduct such a pilot project.

Compliance audits

7.139 We have recently committed additional audit resources to measure government's compliance with provincial legislation and with its accounting and other administrative policies.

7.140 Our work on legislation will focus primarily on acts and regulations that have a relatively narrow application. This type of legislation would not normally receive in-depth audit attention from either our annual financial statement audits or our value-for-money audits.

7.141 We will also examine government's level of compliance with accounting and other administrative policies. The intent will be to focus on policies that are important to the efficient operation of government. However we will also audit compliance with policy which has received little or no audit attention in recent years.

7.142 Projects we have begun include the following:

employee travel claims;
relocation expenses;
safeguarding movable physical assets;
lease or loan of assets outside of government;
Collection Agencies Act;
Degree Granting Act; and
levy on motor vehicle insurers.

Losses through fraud, default or mistake

7.143 The results of these audits will be reported to the appropriate departments. Any items of significance will be included in our annual Reports to the Legislative Assembly.

7.144 Section 13(2) of the *Auditor General Act* requires us to report to the Legislative Assembly any case where there has been a significant deficiency or loss through fraud, default or mistake of any person.

7.145 During the course of our work we became aware of the following significant losses. Our work is not intended to identify all instances where losses may have occurred, so it would be inappropriate to conclude that all losses have been identified.

Department of Education

- Missing equipment, money and supplies in various school districts \$27,096

Department of Family and Community Services

- Cheques cashed by persons not eligible to receive the funds \$10,461

Department of Health and Wellness

- Missing cash and equipment, and ineligible Medicare service claims \$4,210

Department of Justice

- Missing cash \$1,912

Department of Natural Resources

- Missing equipment in various regions \$12,495

Department of Training and Employment Development

- Missing equipment and cash shortages in various community colleges \$20,730

Department of Transportation

- Missing equipment and supplies in various districts \$2,855

7.146 Losses reported by our Office only include incidents where there is no evidence of break and enter, fire, or vandalism.

7.147 The Province reports in Volume 2 of the Public Accounts the amount of lost tangible public assets (other than inventory shortages).

7.148 In 2005, the Province reported lost tangible public assets in the amount of \$139,981 compared to a loss of \$204,035 reported in 2004.

Chapter 8

Follow up on Prior Years’ Recommendations

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Follow up on Prior Years' Recommendations

Background

8.1 We have a strategic goal that departments and agencies accept and implement our recommendations. Consequently, we track both the number of recommendations accepted and the number of recommendations implemented. This chapter reports on those two key performance indicators.

8.2 This goal and these indicators help us fulfill our mission. In its simplest terms that mission is “We promote accountability.” And these two performance indicators help us promote accountability by showing where our work influenced positive change in government; change towards greater economy, efficiency and effectiveness.

8.3 This chapter also promotes accountability in that MLAs and the general public can gain some appreciation for how responsive departments and agencies have been to our recommendations. One aspect of accountability is acting appropriately with information brought to your attention. When we report recommendations publicly under Section 13 of the *Auditor General Act*, it is a serious matter. The Report of the Auditor General includes “anything he considers to be of significance and of a nature that should be brought to the attention of the Legislative Assembly.” We think it is important that MLAs and the public see if departments and agencies are making progress with those recommendations that were significant enough to have been brought to the attention of the Legislative Assembly in previous years.

Scope

8.4 Our practice is to track the status of our recommendations for four years after they first appear in the Report of the Auditor General. If a department or agency disagreed with the recommendation, we do not usually follow up on it. A department or agency would be very unlikely to adopt a recommendation it had previously disagreed with. The one thing that might change that is if the recommendation became the subject of enquiry by the Public Accounts Committee or the Crown Corporations Committee, or in the Legislative Assembly. This extra scrutiny by the Members could cause a department or agency to reconsider its response. Alternatively, a body such as the Public

Accounts Committee could adopt one of these disagreed recommendations as one of their own and repeat it in its report to the full Legislative Assembly.

8.5 We do not normally prepare an update after the first year; we wish to provide the departments and agencies ample opportunity to take action. After years two, three and four we prepare a status report, which shows departments' and agencies' progress (or lack thereof) in implementing our recommendations. In other words, in this Report for 2005, we are tracking progress on recommendations from 2001, 2002, and 2003. Our plan is to begin follow up on recommendations from 2004 in next year's Report.

8.6 To prepare this chapter, we request written updates on progress from the respective departments and agencies. We review these updates by meeting with appropriate officials. In some cases we request additional documentation to test the accuracy of the updates we have been given. In other words, if a department says it has implemented a recommendation, we do some checking to see if this is the case.

8.7 This follow-up work is normally performed at what professional accountants refer to as "review level" assurance. Rather than carry out a full audit on these updates, we carry out enough procedures to allow us to conclude the information is plausible in the circumstances. Whereas an audit provides high (but not absolute) assurance, this review level assurance is more accurately referred to as "moderate".

8.8 Exhibit 8.1 gives a quick overview of the status of recommendations by department and agency. We devote most of the space in this chapter to the status of recommendations from 2001. This is because these recommendations have reached the end of the four year follow-up cycle. We believe it is important from an accountability point of view for the Members of the Legislative Assembly and the general public to have one last look at these recommendations which have not been adopted.

8.9 For the most part, we have not given any comment on our 2002 and 2003 audits, other than that provided by Exhibit 8.1. (The exhibit refers to our prior Reports in the "Year" column to enable the reader to find the original recommendations either online or through a hard copy of the Report.) In certain cases, though, where we believe a recommendation from 2002 or 2003 requires more attention

Exhibit 8.1
Status of recommendations made by our Office

Department	Audit area	Year	Recommendations					
			Total	Not accepted	Implemented	Partially implemented	Accepted/Not implemented	No longer applicable
Various	Crown agency governance	2003	19	0	0	0	10	9
Agriculture	Internal controls	2001	8	0	8	0	0	0
Business New Brunswick	Accounts receivable	2002	6	0	6	0	0	0
Education	Pupil transportation	2001	74	5	54	10	2	3
	Distance education	2001	5	1	4	0	0	0
Environment and Local Government	Environmental inspections	2002	21	0	9	5	5	2
	Local service districts	2001	3	0	3	0	0	0
Family and Community Services	Child day care facilities	2003	22	0	7	7	8	0
	NB Housing	2003	3	0	0	2	1	0
	Prescription Drug Program	2001	17	2	11	4	0	0
Finance	Early Retirement Program	2001	7	0	0	0	0	7
	Pension plan governance	2002	23	4	10	1	7	1
	Oracle	2001	6	0	6	0	0	0
	Accounts receivable	2002	9	0	9	0	0	0
	Tax expenditure programs	2003	6	0	0	1	5	0
Health and Wellness	Client Service Delivery System	2002	1	0	1	0	0	0
	Accountability of psychiatric hospitals and psychiatric units	2003	22	1	17	1	3	0
	Prescription Drug Program	2001	10	2	5	3	0	0
Justice	Accounts receivable	2002	9	1	2	5	0	1
Natural Resources	Crown lands management	2001	10	0	3	1	6	0
Office of Human Resources	Absenteeism	2003	26	7	9	6	4	0
	HRIS	2003	5	0	3	1	1	0
Public Safety	High risk drivers	2001	18	0	12	3	3	0
	Office of the Fire Marshal	2002	23	0	15	6	2	0
	Motor vehicle revenue	2002	2	0	2	0	0	0
Service New Brunswick	Service agreements	2003	2	0	0	2	0	0
Supply and Services	Provincial archives of New Brunswick	2001	25	1	17	4	3	0
	Purchasing	2001	17	2	6	2	7	0
	Contracts for IT professionals	2001	7	0	6	1	0	0
	Cellular phones	2002	7	0	0	6	1	0
	Management of insurable risks to public works buildings	2003	16	1	1	7	7	0
Training and Employment Development	Employment development programs	2002	12	0	11	1	0	0
	Training and skills development	2003	3	0	2	1	0	0
Transportation	Vehicle Management Agency	2002	40	12	21	4	2	1

Number of recommendations made	484
Number of recommendations accepted	421
Number of recommendations implemented	260
Number of recommendations partially implemented	84
Number of recommendations from 2001 that have not been implemented (including partial and accepted)	49

from a department or agency than it has received, we have provided some additional commentary. We have also reported on recommendations from 2002 and 2003 that were originally agreed to but that are now, either tacitly or directly, disagreed with by the department or agency concerned.

8.10 We had one limitation in our scope this year:

- With respect to our 2002 audit of cellular phones, the Department of Supply and Services did not provide us with access to the tender submissions for various services. Therefore we were unable to perform our full range of review procedures on their written update. The chief limitation imposed was that we were unable to see the supporting documentation for a yet to be awarded 30 April 2004 tender for communications services. Because of this we are unable to determine the lost savings.

Results in brief

8.11 Exhibit 8.1 shows that departments and agencies accepted 421 of the 484 recommendations we made in 2001, 2002 and 2003. Departments and agencies had implemented 260 of these by the time we drafted our 2005 Report. We rated another 84 as partially implemented.

8.12 Forty-nine recommendations from 2001 have not been fully implemented. Given our practice of following up on recommendations for four years, we do not intend to follow up on these recommendations in 2006.

8.13 The Department of Supply and Services has still not awarded tenders for cellular phone airtime usage charges and long distance charges. This is despite the fact that the Department responded to our 2002 audit on cellular phones with the statement that "The Department will be tendering for cellular air time and cellular long distance rates by the spring of 2003." The Province has ignored potentially significant cost savings by not awarding this tender. This is a lack of due regard for economy. It also contravenes the *Public Purchasing Act*.

Comments on recommendations from 2001

8.14 Departments and agencies have not fully implemented forty-nine of our recommendations from our 2001 Report. Exhibit 8.2 shows all forty-nine recommendations and their current status. The term "partial" in the final column means we have judged the recommendation as partially implemented. The term "accepted" means we have determined the department or agency has not made progress with the recommendation, but neither have they disagreed with it in their responses of the last four years.

Exhibit 8.2
Recommendations made in 2001 that were not fully implemented

Department	Audit	Recommendation	Result after four years
Education	Pupil transportation	We recommended that the Department ensure that routes and bus stops are re-evaluated on a regular basis.	partial
		We recommended that the Department develop standards regarding the definition of an acceptable driver abstract and apply this definition consistently on a province-wide basis.	partial
		We recommended that the Department formally define an "acceptable" criminal record and ensure consistent application on a province-wide basis.	partial
		We recommended that the Department formalize the requirements for reference checks on all prospective school vehicle drivers. We recommended the Department document the results from interviews and reference checks in all employee files.	partial
		We recommended that the Department use accident statistics regarding types of accidents as a tool for planning topics for refresher courses.	partial
		We recommended that the Department analyze accident statistics on a per driver basis to better enable the Department to monitor driver habits.	partial
		We recommended that the Department formalize performance expectations for bus drivers, and establish a standard performance appraisal process. We recommended that the Department ensure these standards are implemented on a province-wide basis.	partial
		We recommended that the Department ensure superintendents are fulfilling their responsibilities concerning performing performance appraisals on drivers as per Regulation.	partial
		We recommended that the Department establish responsibility for student council owned vehicles.	partial
		We recommended that the Department ensure drivers of student council owned vehicles are following the guidelines provided by the Department.	accepted
		We recommended that the Department monitor the number, types, age, and condition of student council owned vehicles to ensure the safety of this mode of transportation.	accepted
		We recommended that the Department consider an appropriate form of driver training for drivers of student council owned vehicles.	partial
Family and Community Services	Prescription Drug Program	To ensure that health cards are issued in a fair manner, we recommended that the financial eligibility requirement for each of the four groups of health card recipients within the plan be reviewed and amended, as necessary. The eligibility requirements for the "health card only" should be enhanced so that they are clear to employees and applicants.	partial
		We recommended that the two departments work together and determine their information needs, including whether or not the PDP Division should have access to NBCase. Formal communication channels between the two departments should be established.	partial
		We recommended that the two departments work together and develop a proper monitoring system for the plan that satisfies both departments' needs.	partial
		In order to enhance accountability for the plan, we recommended that the two departments formalize their relationship in a written agreement that states their roles and responsibilities. We recommended that the two departments establish goals for the plan. We also recommended that the two departments establish a formal working committee that meets regularly to ensure that interdepartmental issues are identified and addressed promptly.	partial
Health and Wellness	Prescription Drug Program	We recommended that the two departments work together and determine their information needs, including whether or not the PDP Division should have access to NBCase. Formal communication channels between the two departments should be established.	partial
		We recommended that the two departments work together and develop a proper monitoring system for the plan that satisfies both departments' needs.	partial
		In order to enhance accountability for the plan, we recommended that the two departments formalize their relationship in a written agreement that states their roles and responsibilities. We recommended that the two departments establish goals for the plan. We also recommended that the two departments establish a formal working committee that meets regularly to ensure that interdepartmental issues are identified and addressed promptly.	partial
Natural Resources	Crown lands management	We recommended that the Department establish measurable goals and objectives that adequately address the Minister's four responsibilities as assigned under subsection 3(1) of the Crown Lands and Forests Act. These should be disclosed in the Department's key public documents.	accepted
		We recommended that departmental goals and objectives be linked to the spending estimates and they be disclosed at an appropriate level to the MLAs and the general public.	accepted
		We recommended that as part of establishing objectives related to its responsibilities under the Act, the Department develop suitable performance measures and that it report on them on an appropriate basis.	accepted
		We recommended that the Summary of Performance of Crown Timber Licensees be published in the Department's annual report at the conclusion of each five-year management plan. The Department should also consider an annual update on progress made regarding outstanding deficiencies.	partial
		We recommended that the performance measures in the "Summary" be linked to the Minister's four responsibilities for Crown lands.	accepted
		We recommended that the Annual Report of the Department provide actual and budget financial information in summary form and a narrative explaining major variances for all major types of revenue and expenditures.	accepted
		We recommended that the Department report other aspects of financial performance related to Crown land. This could include a statement clearly showing all the revenues and expenditures it incurs in the "business" of harvesting of Crown wood.	accepted

Exhibit 8.2

Recommendations made in 2001 that were not fully implemented - continued

Department	Audit	Recommendation	Result after four years	
Public Safety	High risk drivers	We recommended the Department formally document a definition of high risk driver. To the extent possible, this definition should be consistent with national perspectives.	partial	
		We recommended the Department expand its driver re-education courses to include additional types of high-risk driving behaviours.	accepted	
		We recommended the Department adopt criteria to assist the Registrar in a more proactive application of section 95(3).	accepted	
		We recommended the Province of New Brunswick consider the costs and benefits of joining those other Canadian jurisdictions that have initiated a mandatory medical testing program designed to identify those ageing drivers who pose a risk to themselves or others.	partial	
		We recommended the Department develop ways to ensure notices of suspension are delivered in a timely fashion to high-risk drivers.	accepted	
		We recommended the Department revisit possible legislative changes regarding mandatory photo ID and impounding vehicles to determine if they have merit.	partial	
Supply and Services	Provincial archives	We recommended that PANB develop a formal succession plan to cover key staff who will be retiring under the VERW.	accepted	
		We recommended that PANB develop a regular review process to ensure that organizational policies and procedures are consistent with the Archives Act, the strategic plan, and current archival standards.	accepted	
		We also recommended that a plan be developed to clear the backlog of private records that do not currently appear in a finding aid.	partial	
		We further recommended that the finding aids for cartographic records be computerized to improve accessibility to them.	partial	
		We recommended that PANB play a central role in developing and implementing an audio-visual records management strategy for the Province of New Brunswick, as seems to be their role under the Records Management Policy discussed previously in this chapter. As part of that strategy, guidelines should be developed that will be applied by departments in managing their audio-visual records.	partial	
		We recommended that a PANB staff member be constantly present in the research room at the Bonar Law building during open hours.	accepted	
	Purchasing		We recommended that performance indicators be developed for each organizational strategic objective, that targets be set for each performance indicator, and that actual achievement be reported against those targets in the Department of Supply and Services' annual report. This may require capturing additional data relating to the day-to-day operations of PANB.	partial
			We recommended that purchases of services of \$10,000 or less be subject to the same provisions as purchases of supplies between \$1,500 and \$5,000.	accepted
			We recommended that there be an effective monitoring process for contracts where the risk to the Province of incurring unexpected costs or unexpected delays in delivery are significant. We recommended that the Department of Supply and Services undertake this responsibility.	accepted
			We recommended that the use of exemptions be reviewed for compliance with legislation.	partial
			We recommended that the Department ensure legislation and policy covering the granting of preferences over \$25,000 for schools are consistent.	accepted
			We recommended the Department receive reports on exempted professional services purchased by departments.	accepted
			We recommended that the Minister ensure that legislation clearly assigns responsibility for ensuring the compliance of government funded bodies with the Act.	accepted
			We recommended that the Minister ensure that legislation clearly gives him the right to examine the records of government funded bodies.	accepted
			We recommended that the Minister put in place systems and practices to ensure the compliance of government funded bodies with the Act.	accepted
			We recommended that the purchasing of exempted supplies and services follow a process that will ensure a fair and equal opportunity to compete for government contracts.	partial
Contracts for IT professionals	We recommended the Department release the IPS contract to departments earlier. This would provide departments with adequate opportunity to comply with the terms and conditions of the IPS, in particular the requirement to obtain three quotes. Releasing the IPS earlier would also help departments plan their IT activities if they have key skills contracted under this contract of supply.	partial		

8.15 These recommendations have reached the end of the four year follow-up cycle. We believe it is important from an accountability point of view for the Members of the Legislative Assembly and the general public to have one last look at these recommendations which have not been fully implemented. Perhaps the Members could reflect upon them when making their enquiries during meetings of the Public Accounts Committee and the Crown Corporations Committee.

8.16 In the following paragraphs, we also repeat those recommendations from 2001 we consider to be of significance and of a nature that should be brought to the attention of the Legislative Assembly once again. The recommendations are from 2001 audits in:

- Department of Education - Pupil transportation;
- Department of Family and Community Services (FCS) and Department of Health and Wellness (DHW) – Prescription Drug Program;
- Department of Natural Resources – Crown lands management;
- Department of Public Safety – High risk drivers;
- Department of Supply and Services – Provincial Archives; and
- Department of Supply and Services - *Public Purchasing Act*.

8.17 We provide responses the departments and agencies made with respect to those recommendations. Where applicable, we have added our own comments.

Department of Education Pupil Transportation

8.18 This audit had over seventy recommendations. The Department has been thorough in implementing the recommendations and most have either been implemented or partially implemented. We have commended the Department's swift implementation in a prior Report.

8.19 We do wish to note four recommendations that have not been implemented though. These four addressed various issues around student council vehicles. Because of the potential impact on safety, we believe we should repeat those recommendations in an attempt to ensure they are dealt with. In recommendations 3.307 through 3.310 of our 2001 Report we **recommended that the Department:**

- **establish responsibility for student council owned vehicles;**
- **ensure drivers of student council owned vehicles are following the guidelines provided by the Department;**
- **monitor the number, type, age, and condition of student council owned vehicles to ensure the safety of this mode of transportation; and**

- **consider an appropriate form of driver training for drivers of student council owned vehicles.**

8.20 The Department's initial response to the four recommendations was:

In February 2000, the Department published a series of guidelines for the use of student council vehicles. The guidelines were the results of discussions with two ad-hoc committees (English and French) composed of school principals, school districts student services coordinators, physical education teachers and department staff. Copies of the guidelines were provided to all middle and high schools across the Province. Following the publication of those guidelines and feedback the Department is now developing a formal policy of these issues. This policy will be finalized during the 2001-2002 school year and will establish minimum training for the drivers of those vehicles and set safety standards.

8.21 In 2003 the Department added that "the Pupil Transportation Branch issued guidelines on the use of Student Council Vehicles and other vehicles for school related activities in February 2000". In 2004 the Department advised us "Two policies were drafted: Policy 512 (Student Council Vehicles) and Policy 513 (Transportation to and from Off-Site School-Related Activities)." Further, the Department noted it was "waiting for legal advice prior to making them official. For the time being, school districts are making use of the guidelines that were issued in 1999."

8.22 This year a similar statement said "in 1999, guidelines were distributed to all school districts. A draft policy has been developed. The department is waiting for legal advice prior to final review with school districts."

***Department of Family and
Community Services (FCS)
and Department of Health
and Wellness (DHW)
Prescription Drug Program***

8.23 This audit originally had 17 recommendations. At the time of preparing this chapter, five of the recommendations appear in Exhibit 8.2.

8.24 During the past year, the departments formed a joint committee for the purpose of addressing the issues raised in the audit. The joint committee has successfully implemented four recommendations in the past few months. Two recommendations still not fully implemented are shown below. We repeat those recommendations along with charts showing the departments' responses for four years. In our opinion,

these responses provide an excellent example of how time can continue to elapse when two departments must work together to resolve an issue.

- **(5.111) - We recommended that the two departments work together and determine their information needs, including whether or not the PDP Division should have access to NBCase. Formal communication channels between the two departments should be established.**

Exhibit 8.3

Year	Family and Community Services Responses	Health and Wellness Responses
2001	Access to the NBCase system by PDP is not an option at this time due to current legislation that prevents such sharing of personal information with other departments	PDP will assign a staff person to work with FCS staff in determining information needs and establishing a formal communication process.
2003	No access to NBCase by PDP will be provided at this time.	PDP has assigned a staff person to determine information needs. FCS has informally advised that access to the NBCase system by PDP is not an option at this time due to current legislation that prevents the sharing of personal information with other departments. FCS has agreed to put in place a communication mechanism including the resolution of case-specific situations.
2004	FCS and DHW representatives have met and mutually decided that access to NB Case would not be necessary as long as policies and procedures were sent to PDP on a regular basis. A program consultant in Housing and Income Support Branch of FCS has been assigned the responsibility to communicate any new changes to PDP. Both departments have worked very closely over the past two years to establish appropriate communication channels and this communication is on-going.	PDP will revisit the FCS decision concerning access to NBCase.
2005	FCS has received a legal opinion stating that we should not be providing access to NB Case to a staff person outside our department. PDP will seek their own legal opinion as they have the mandate in their legislation to administer Plan F for prescription drugs. PDP will discuss the issue again with FCS as soon as a legal opinion is received.	PDP has obtained a departmental opinion which seems to contradict FCS's position on PDP accessing the NBCase System. This will be raised at the PDP/FCS Liaison Committee to determine steps required to resolve this issue.

- **(5.126) - We recommended that the two departments work together and develop a proper monitoring system for the plan that satisfies both departments' needs.**

Exhibit 8.4

Year	Family and Community Services Responses	Health and Wellness Responses
2001	We endorse the need for monitoring of all programs, including those related to Plan F and are willing to discuss this issue with PDP, although we recognize that monitoring of a jointly administered program presents challenges, especially with limited resources. The costs associated with monitoring vs. the benefits to be realized will have to be identified before any FCS resources are committed.	PDP currently monitors prescription drug usage of FCS clients for its own purpose. The program has shared or created documents when requested by FCS. PDP would be willing to co-operate in a more formal process that would enable both departments to share available data for use in program management.
2003	Meetings between two departments on this issue are ongoing.	<p>PDP continues to monitor prescription drug usage for all of its clients and continues to be willing to share this case management data with FCS. However, FCS has advised that it is not currently considering any procedures that might be necessary to enable its case managers to deal with the actions that might be indicated as a result of receiving such information.</p> <p>Any successful monitoring and prevention strategy will require joint departmental response for abuse of prescription drug privileges. Further discussion is necessary within DHW and with FCS to determine a strategy and the responsibility to deal with abuse issues.</p> <p>FCS has advised that the costs associated with monitoring vs. the benefits to be realized would have to be identified before any FCS resources would be committed to this recommendation.</p>
2004	FCS and DHW representatives have meet on a regular basis to discuss various issues and monitor the health card process. This is on-going between the two departments.	PDP continues to monitor prescription drug usage for all of its clients and continues to be willing to share this case management data with FCS. PDP proposes to address this issue under the draft Terms of Reference for the PDP/FCS Committee.
2005	This issue is part of the Liaison Committee's Work Plan. FCS is confident that the Committee will develop a proper monitoring system for the plan that will satisfy both department's needs.	PDP believes this recommendation has been implemented. PDP continues to monitor drugs usage of all clients and currently shares this information with FCS case managers on a case-by-case basis. A process for sharing information is included on the PDP/FCS Liaison Committee work-plan.

Department of Natural Resources – Crown lands management

8.25 The recommendations that remain to be implemented relate to performance reporting. **We recommended that**

- **(6.59) - the Department establish measurable goals and objectives that adequately address the Minister's four responsibilities as assigned under subsection 3(1) of the *Crown Lands and Forests Act*. These should be disclosed in the Department's key public documents.**
- **(6.79) - departmental goals and objectives be linked to the spending estimates and they be disclosed at an appropriate level to the MLAs and the general public.**
- **(6.97) - as part of establishing objectives related to its responsibilities under the Act, the Department develop suitable performance measures and that it report on them on an appropriate basis.**
- **(6.104) - the performance measures in the "Summary of Performance of Crown Timber Licensees" be linked to the Minister's four responsibilities for Crown lands.**
- **(6.117) - the Annual Report of the Department provide actual and budget financial information in summary form and a narrative explaining major variances for all major types of revenue and expenditures.**
- **(6.122) - the Department report other aspects of financial performance related to Crown land. This could include a statement clearly showing all the revenues and expenditures it incurs in the "business" of harvesting of Crown wood.**

8.26 In October, 2005 the Department responded to our April 2005 request for an update as follows:

The Department has considered setting measurable goals and objectives to align with each of the Minister's responsibilities of (1) development, (2) utilization, (3) protection and (4) integrated management of the resources of Crown land as set out in section 3(1) of the Crown Lands and Forests Act. The Department has concluded that attempts to isolate each of these four responsibilities for goal setting purposes were fraught with

difficulty because many of the department's activities cannot be easily placed in one of these four categories. (For example is plantation herbiciding a "protection" or "development" responsibility?) The Department believes that reporting on such activities as silviculture in the fashion it did in the 2003-04 Annual Report is the best way to display what it accomplished with the public funds provided by the Legislature.

The Department recognizes that it can improve the financial information it provides about revenue by linking it more closely to specific program activity and will undertake to do so beginning with the 2005-06 Annual Report.

In 2005-06 the Minister of Natural Resources will be releasing the department's first ever "State of the Forest" report. This document, together with the web links that will be provided, will greatly enhance the information about Crown Land Forest Management made available to the public.

***Department of Public Safety
High risk drivers***

8.27 For two of the six recommendations not fully implemented, the Department responded to our 2005 update letter by informing us that the recommendations had been implemented. Our field work this summer, however, indicated that this was not the case. In 2001 we **recommended the Department**

- **(7.74) - adopt criteria to assist the Registrar in a more proactive application of section 95(3).**
- **(7.84) - develop ways to ensure notices of suspension are delivered in a timely fashion to high-risk drivers.**

8.28 We encourage the Department to revisit these two recommendations.

***Department of Supply and
Services – Separate audits of
the Provincial Archives and
the Public Purchasing Act***

8.29 We made 42 recommendations on these two audits combined. Sixteen of these are still outstanding although some work has been done on at least six of these.

8.30 During the four years since we carried out the audits, the Department has raised a lack of resources as a reason for not being able to deal with some of the matters, particularly reviewing and enforcing the *Public Purchasing Act*.

Comments on recommendations from 2002 and 2003

Department of Supply and Services – 2002 audit of cellular phones

8.31 During this audit we recommended the Department comply with the *Public Purchasing Act* and tender airtime and long distance usage for cell phones.

8.32 At the time of the audit in 2002 the Department responded:

The Department will be tendering for cellular air time and cellular long distance rates by the spring of 2003, in conjunction with the new cellular hardware contract. This is consistent with the telecom procurement policy approved by the Board of Management at the request of the Department of Supply and Services.

8.33 Two years later, in 2004, the Department stated “RFP's have been issued for cellular service plans and long distance which will result in five year service contracts”. When we reviewed the issue this year the Department responded that it “has released a series of tenders for these services”.

8.34 Despite its commitment in 2002, the Department of Supply and Services has still not awarded tenders for cellular phone airtime usage charges and long distance charges. By failing to award these tenders on a timely basis, we estimate the Province has paid hundreds of thousands of dollars in unnecessary cellular airtime and long distance charges. This is a lack of due regard for economy. And, as importantly, this also contravenes the *Public Purchasing Act*.

Department of Transportation – 2002 audit of Vehicle Management Agency

8.35 During this audit we recommended that the Agency revisit the **Balanced Scorecard to ensure it includes established industry benchmarks for its performance indicators.**

8.36 In its original response from 2002, the Department said “VMA agrees to review information on industry standards and will consider the feasibility of using this information in various aspects of measuring performance.” Last year the Department added “VMA is in the process of fine tuning and reviewing the Balanced Scorecard. The recommendation will be considered during the review.”

8.37 In 2005, however, the Department informed us “Because of the diversity of the vehicle fleet (e.g. type of vehicle, make model, age and nature of use) being repaired at its shops, VMA is currently using internal benchmarks to compare results from similar size Agency shops rather than comparing to industry benchmarks.”

8.38 Based on this response, we concluded the Department has decided not to include industry standards in its balanced scorecard. Thus, we will not be carrying this recommendation forward to future years.

8.39 We do believe, though, that there is value in rereading our original reasoning for recommending that the Agency use external benchmarks. Paragraph 9.118 of our 2002 Report says:

One general comment we can make by looking at the performance measures in the Balanced Scorecard is that they are limited to comparing performance of individual shops to the Agency average. Certainly this does offer a valuable perspective. It is important to have good historical data on your own performance. And it is a worthwhile exercise to see how components of the organization have compared to the organization as a whole. But there are some limitations to using only internal comparisons. By comparing the Agency's performance to established fleet benchmarks, the Agency would be in a better position to assess performance and to determine where corrective action may be necessary. It would have more objective evidence of whether it was doing a good job.

8.40 Further, the Auditor General's Introductory Comments in that 2002 Report noted "In situations where government is providing services that can also be provided by the private sector it is extremely important to regularly evaluate whether or not a change should be made. This is the only way to ensure taxpayers are receiving value for money."

Department of Health and Wellness – 2003 audit of accountability of psychiatric hospitals and psychiatric units

8.41 During this audit we recommended that each psychiatric services agreement be signed by both the Division and the RHA to ensure mutual agreement and understanding of expectations. In this year's update the Department responded:

The Department has not instituted the practice of having the psychiatric services agreement signed by both the Division and the RHA to ensure mutual agreement and understanding of expectations. The delivery of Services is outlined in the Appendix of the Provincial Health Plan. Budget and standards that must be followed are in a letter signed by the Minister to the RHA Chairman.

The Department believes that the appropriate vehicle for reaching such agreement and understanding is the Collaborative Leadership Forum.

Department of Supply and Services – 2003 audit of management of insurable risks to public works buildings

8.42 We concluded the Department will not adopt the recommendation.

8.43 During this audit we recommended that the Department of Supply and Services establish value for each building it is responsible for and update these values on SBGS on a regular basis. This year the Department replied “At this time we do not see any merit in establishing a value for each building in our inventory. This would be low on our priority list.” In other words, the Department disagrees with the recommendation.

Office of Human Resources (OHR) - 2003 audit of management of absenteeism

8.44 During this audit we recommended that the Office of Human Resources develop systems that enable supervisors to review reports that would clearly show the development of absences patterns, and ensure that short but frequent absences are appropriately scrutinized and reviewed by management.

8.45 We also recommended an additional systems enhancement: OHR should develop a formalized trigger regarding the number of days absent that would force a review by management and/or Human Resource personnel. *Example: If an employee is absent x number of days, a meeting would take place between employee and employer to discuss the situation and possible return to work.*

8.46 The Office of Human Resources wisely chose to carry out a cost benefit analysis prior to making the enhancements. It replied to us this year that “an assessment of the merits of enhanced reporting was completed by OHR and it was determined that enhanced reporting was not warranted at this time as it was not cost-beneficial”.

8.47 Based on this response, we do not intend to track these two recommendations further.

Chapter 9

Office of the Auditor General

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Office of the Auditor General

Background

Exhibit 9.1
Self assessment checklist

9.1 In recent years, our Reports have contained a checklist relating to our assessment of our compliance with the annual report policy of government. A comparative version for 2005 is presented below.

	2005	2004
Was a report prepared?	Yes	Yes
Is there a discussion of program relevance?	Yes	Yes
Are goals and objectives stated?	Yes	Yes
Does the report discuss achievement of plans?	Yes	Yes
Are performance indicators presented?	Yes	Yes
Are details available on level of client acceptance ?	Yes	Yes
Is actual and budget financial information presented?	Yes	Yes
Does the report explain variances from budget?	Yes	Yes

Office role and relevance

Our role

9.2 Our role within the provincial public service is unique. We are independent of the government of the day and provide information directly to the Legislative Assembly. The Legislative Assembly uses our information to help fulfil its role of holding the government accountable for how public monies are managed and how services are delivered. We also assist government by providing recommendations to senior officials of the departments and agencies we audit.

Our mission

9.3 **We promote accountability by providing objective information to the people of New Brunswick through the Legislative Assembly.**

Office relevance

9.4 Volumes 1 and 2 of our 2004 Report generated significant interest. 400 copies of each volume were printed and distributed. Access to our Report is also available through the internet, and we are tracking the number of times our Report is visited. Discussions of our findings in the Legislative Assembly and the Public Accounts and Crown Corporations Committees are evidence of the continuing relevance of our work.

9.5 Each year we include in our Report matters that we believe are significant to the Legislative Assembly and the public. These include our findings, conclusions and recommendations arising out of our audit work during the year.

9.6 Our service also includes separate audit conclusions on the reliability of financial statements. These conclusions (auditor's reports) are provided to the Legislative Assembly with the financial statements for the Province as well as the Crown agencies and Trust Funds that we audit.

9.7 We see our work remaining relevant and contributing to:

- public confidence in our system of government;
- the Legislative Assembly's ability to carry out its responsibility of holding the government to account; and
- the government's ability to carry out its responsibilities using sound management systems and practices.

Strategic plan

9.8 Our 2003-2008 strategic plan can be found on our web site. It identifies three main goals that we are concentrating on over the five years. These are:

- the Legislative Assembly and the public are aware of and value all the work that we do, and have confidence in our ability to provide timely, objective and credible information;
- departments and agencies accept and implement our recommendations; and
- our stakeholders - the Legislative Assembly, the public, auditees and our employees - view us as leading by example.

9.9 We have developed strategies around each of these goals, along with specific objectives and actions. Each year we will develop a business plan that sets targets for each of our objectives. We have identified twelve performance indicators that we are using to measure our progress.

Performance indicators

MLA survey

9.10 In 2004 we surveyed and interviewed Members of the Public Accounts and Crown Corporations Committees in order to measure our effectiveness in meeting their needs.

9.11 The responses to the survey indicated a high degree of satisfaction with the work that we do. We converted the responses into a numerical index, which produced an overall satisfaction rate of 86.8%.

9.12 We surveyed the members of the committees again in 2005, but the number of responses received was insufficient to allow us to draw any meaningful overall conclusions.

Auditee survey

9.13 Following the completion of each audit, we survey the department or Crown agency to determine their level of satisfaction with our work.

9.14 The responses to the survey following our 2004 audits indicate a high degree of satisfaction, especially with the financial audits we conducted. We converted all the responses into a numerical index, which produced an overall satisfaction rate of 80.8%, compared to a rate of 87.0% in 2003.

9.15 Generally, auditees felt that we communicated well with their organization during our work and in the preparation of our reports, and that we dealt with them in a courteous and professional manner. Some concerns were again expressed that in our value-for-money and detailed systems audits our knowledge of the organization could be improved.

Employee survey

9.16 In the fall of 2004 we conducted our second employee satisfaction survey. This provides us with feedback on topics such as quality of work life, communication and career development. We converted the responses into a numerical index, which produced an overall satisfaction rate of 66.3%, compared to a rate of 62.6% in 2003.

9.17 We were pleased to see an improvement in 2004 in all areas of the survey. However, we are still not satisfied with the overall rating, and are continuing to address the issues raised by staff.

Acceptance and implementation of recommendations

9.18 Chapter 8 of this Report provides an overview of the recommendations included in our 2001 through 2003 Reports. It summarizes the status of our recommendations, and focuses in particular on those recommendations we made in 2001 that have not been fully implemented.

9.19 In general, we are pleased with the actions taken by departments and Crown agencies in response to our work and reports.

Completion of audits on time and within budget

9.20 Our long-term goal is to complete the audit of the Province's financial statements by 30 June and to complete all Crown agency and Trust Fund audits by 30 September.

9.21 Our ability to achieve this objective is not totally within our control, because it really depends on when our auditees close their books for the year and are ready for us to do our work. Notwithstanding this, we believe the indicator is important because it

results in us encouraging our auditees to close their books as quickly as possible. We support timely reporting of financial information. The indicator also places a discipline on our Office to complete the audit work by a specific date.

9.22 The audit of the Province of New Brunswick was not completed by 30 June. Our auditor's report on the Province's financial statements was dated 30 September.

9.23 We are the auditors of twenty-one Crown agencies, six pension plans and the Fiscal Stabilization Fund. We completed thirteen of the Crown agency audits, three of the pension plan audits and the audit of the Fiscal Stabilization Fund by 30 September. For the eight Crown agency audits that were not completed there were delays related to a lack of available resources in our Office to do the work. And we did not have the resources to complete the audits of three of the pension plans in time to meet our 30 September target.

9.24 We establish detailed time budgets for each of our audits. During the audit, we monitor the time spent by staff members on individual sections of the work. At the end of each audit, we summarize the total time spent, compare it to the total budgeted hours and analyze major fluctuations. For our financial audits, we use the results of this analysis to help us prepare the budget for the following year's work.

9.25 The actual time spent on our audit of the Province's financial statements exceeded the budgeted time by approximately 500 hours. This was mainly as a result of the Province making a significant change in its accounting this year, recording tangible capital assets for the first time. The audit effort required to verify the calculation of the amounts recorded by the Province took far more time than we had anticipated.

9.26 Most of the sixteen Crown agency and pension plan audits we completed by 30 September were carried out within or close to budget. Three smaller audits were significantly over budget. One was a first-time audit for our Office; the other two had unanticipated accounting issues that took extra time to resolve.

9.27 We undertook five major value-for-money audits during the past year that led to chapters in our 2005 Report. Two took significantly more time than we had budgeted.

Interest in, and discussion of, our work

9.28 Four of our performance indicators attempt to assess the relevance of the work we do by tracking the interest in our work and Reports.

9.29 As mentioned earlier, we monitor the number of times our web site is visited to access our Report. In the period from October 2004 to April 2005, covering the release of volumes 1 and 2 of our 2004 Report and the subsequent four months, there were over 7,000 visits to the complete Reports. In addition to this there were specific visits to individual chapters. In the week following 26 October 2004, the day we released volume 1, there were over 7,700 visits, or “hits”, to our web site. In the week following December 14, 2004, the day we released volume 2, there were over 9,500 hits.

9.30 We would also like to track the number of times our work is mentioned in the Legislative Assembly, and in meetings of the Public Accounts Committee and the Crown Corporations Committee. However, this has proven to be an impossible task. The official record of proceedings in the Legislative Assembly (Hansard) is at least two years behind, and minutes of committee meetings are no longer routinely prepared.

9.31 Nevertheless, we believe that our relevance is demonstrated by the fact that the Public Accounts and Crown Corporations Committees continue to make use of our Reports in carrying out their work. We also offer our services to the committees to provide them with opportunities to explore topics in greater depth.

Use of time

9.32 An important indicator for us is the percentage of time we spend directly on audit work. Our goal is to reach a target of 60% of all professional paid time in our Office being spent directly on financial statement audits or value-for-money audits.

9.33 A detailed analysis of staff time for 2004 indicates that 57.73% of the total paid time of all staff, with the exception of our administrative support staff, was spent directly on audit work (including work on our annual Report). Approximately half of this time is spent on value-for-money audits. Non-audit time includes statutory holidays, vacations, courses for accounting students and professional staff, sick leave and administrative duties not chargeable to a specific audit.

Cost of our audits

9.34 We have always budgeted and tracked the number of hours for each of our audits. However, in an effort to be as economical and efficient as we can be in the work that we do, we are also tracking the

cost of each audit. In the broadest sense, the cost of our audits can be said to be the cost of operating our Office, represented by our total expenditures set out later in this chapter.

9.35 The data we have compiled to date is relatively unsophisticated, and will be further refined in the years to come. It shows that the cost of the audit of the Province of New Brunswick's financial statements is approximately \$200,000. The total cost of the sixteen Crown agency and pension plan audits we completed by 30 September was approximately \$93,000. The total cost of the five major value-for-money audits included in this year's Report was \$350,000. The cost of preparing our 2004 Report, including the work we do to follow up on recommendations made in previous Reports, was approximately \$110,000.

Financial information

9.36 Budget and actual expenditure for 2003-04 and 2004-05 by primary classification is shown in Exhibit 9.2. The approved budget for the 2005-06 year is presented for comparative purposes.

9.37 Staff costs continue to account for approximately 90% of our budget and were underspent by \$22,400 for the year ended 31 March 2005. This was the result of staff turnover, and the inevitable delays in filling vacant positions.

*Exhibit 9.2
Budget and actual expenditure (thousands of dollars)*

	2006	2005		2004	
	Budget	Budget	Actual	Budget	Actual
Wages and benefits	1,535.8	1,513.8	1,491.4	1,473.8	1,415.6
Other services	133.2	135.6	131.9	138.2	118.6
Materials and supplies	8.8	9.0	5.7	8.4	10.9
Property and equipment	33.2	32.6	34.6	52.6	25.8
	1,711.0	1,691.0	1,663.6	1,673.0	1,570.9

9.38 Our legislation requires an annual audit of our accounts by a qualified auditor, appointed by the Speaker of the Legislative Assembly on the advice of the Board of Management. This audit is conducted by the Office of the Comptroller and their audit report is tabled before the Legislative Assembly.

Staff resources

9.39 Our Office continues to provide experience and training to our employees. New employees must enrol in a professional accounting program, namely CA (Chartered Accountant), CGA (Certified General

Accountant) or CMA (Certified Management Accountant). Before staff begin this professional training they must have, as a minimum, one university degree at the bachelor level.

9.40 Staff turnover is an inevitable consequence of being a training office for professionals. During the past year, three staff members left the Office. We were pleased to see that two of these individuals remained within the public sector.

9.41 Our staff complement, based on our available budget, is 23. Brent White, CA, Paul Jewett, CA and Phil Vessey, CA are the directors for our three audit teams. At 31 March 2005 there were fourteen professional staff with accounting designations. Our staff also included seven students enrolled in accounting programs. Two other members of our staff provide administrative support services. The following is a list of staff members at 31 March 2005:

Mylène Chiasson ⁽²⁾	Nathan Phillips, CA
Cathy Connors Kennedy, CA	Ken Robinson, CA
Duane Dickinson ⁽²⁾	Jennifer Sherwood ⁽²⁾
Kim Embleton ⁽²⁾	Rebecca Stanley ⁽¹⁾
Deidre Green, CA	Al Thomas, CA
Eric Hopper, CA	Phil Vessey, CA
Peggy Isnor, CA	YanJun Wang ⁽²⁾
Paul Jewett, CA	Brent White, CA
Cecil Jones, CA	Darlene Wield ⁽¹⁾
Nick McCarthy ⁽²⁾	Daryl Wilson, FCA
Chrissy Mullin ⁽²⁾	Tania Wood-Sussey, CA
Bill Phemister, CA	

⁽¹⁾ Administrative support

⁽²⁾ Student enrolled in a professional accounting program

Appendices

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Summary of Significant Audits Conducted in Departments and Crown Agencies over the Past Eight Years

The following is a list of value-for-money audits reported in a separate chapter of our annual Reports over the last eight years, organized by department and agency. The year of reporting is in brackets following the subject of the audit. The list is organized using the current name of the department or agency, even though in some cases the audit was conducted prior to a government reorganization.

Department of Agriculture, Fisheries and Aquaculture

Salmon Aquaculture (2004)

This chapter assesses whether Province of New Brunswick programs ensure that New Brunswick salmon cage culture operations are economically, environmentally, and socially sustainable.

Review of Legislation (2000)

This chapter examines how well the Department is meeting its administrative responsibilities pertaining to legislation it has been assigned, and whether the results are being adequately measured and reported to the Legislative Assembly.

Department of Business New Brunswick

Financial Assistance to Business and Performance Reporting (1998)

This chapter examines whether the Department is appropriately approving and monitoring financial assistance provided to business under the *Economic Development Act*, and whether an appropriate effectiveness reporting system is in place in the Department and functioning.

Department of Education

Facilities Maintenance (2005)

This chapter examines whether the Minister of Education has adequate systems and practices in place to ensure that school facilities are appropriately maintained.

Pupil Transportation (2001)

This chapter examines the systems and practices in place in the Department of Education for the safe transportation of pupils to and from their schools.

Excellence in Education (1998)

This chapter examines whether the government has adequate systems in place to measure and report on the effectiveness of the Excellence in Education initiatives, and whether the government has complied with the accounting and audit provisions established by the Board of Management.

Department of the Environment and Local Government

Beverage Containers Program (2004)

This chapter examines whether the Department has established satisfactory procedures to measure and report on whether the Beverage Containers Program is achieving its intended results. It also reports on the progress the Department has made in implementing the recommendations and responding to the findings of our 1994 report on the Beverage Containers Program.

Environmental Inspections (2002)

This chapter examines the inspection process established by the Department to monitor and report compliance with environmental legislation.

Domestic Well Water Quality (2000)

A reliable supply of safe drinking water is important to everyone. Approximately 40% of New Brunswickers living in small towns and rural areas rely on domestic wells as their primary source of water. Two regulations under the *Clean Water Act* that contribute to the prevention of drinking water problems for individuals on newly drilled or dug domestic wells are the *Water Well Regulation* and the *Potable Water Regulation*. This chapter examines the performance of the Departments of the Environment and Local Government and Health and Wellness in ensuring compliance with these regulations as they relate to private wells.

Tire Stewardship Program (1999)

This chapter examines the approach taken by government in establishing the Tire Stewardship Program, and whether or not the Department is overseeing the Program in accordance with the legislation and regulation. Our work also addresses whether or not the public is adequately protected from danger of tire fires.

Department of Family and Community Services

Special Care Homes and Community Residences (2005)

This chapter examines whether the Department has appropriate practices to ensure compliance with the Province's legislation and standards for special care homes and community residences.

Nursing Home Services (2004)

This chapter examines whether the Department has appropriate practices to ensure that licensed nursing homes are complying with the Province's legislation for nursing homes, and that the Province's legislation and departmental policies for nursing homes are reviewed and amended on a regular basis.

Child Day Care Facilities (2003)

This chapter examines whether the Department has appropriate policies and practices to ensure compliance with the Province's legislation and standards for child day care facilities.

Prescription Drug Program (2001)

This chapter examines the government plan to provide drug benefits to people who receive income assistance and those who have drug expenses for which they do not have the resources to pay. Our objective was to determine whether the Departments have appropriate systems and practices in place to ensure that each person who is eligible for benefits is offered the program, and that the plan provides services only to those people who qualify.

Department of Finance

Tax Expenditures (2003)

This chapter examines and assesses the processes of approving, monitoring, evaluating and reporting provincial tax expenditure programs.

Pension Plan Governance (2002)

This chapter examines whether the governors of two provincially sponsored pension plans have established satisfactory procedures to measure and report on the effectiveness of the plans' asset management activities.

Early Retirement Program (2001)

This chapter examines the process followed by government to reach the decision to offer a voluntary early retirement program to its employees.

Pension Plan Governance (2000)

This chapter examines the governance structure of four provincially-sponsored pension plans.

Consumption Tax (1999)

As of 1 April 1997 the provincial consumption tax was replaced by the federally administered Harmonized Sales Tax. Since then the government has hired additional auditors to identify unassessed taxes. We were interested in examining the economy and efficiency of this special audit effort and the collection of sales tax in general.

Evergreen and Wackenhut Leases

(Special Report for the Public Accounts Committee - 1998)

Our objective as assigned by the Public Accounts Committee was “to review the financial terms of the Evergreen and Wackenhut leases and compare the total cost under the private sector arrangements as compared to traditional government methods.”

Department of Health and Wellness

Prescription Drug Program (2005)

This chapter examines whether the Department has adequate procedures in place to manage the performance of the Prescription Drug Program, and whether there is adequate reporting on the Prescription Drug Program’s performance. It also examines whether the Department has adequate procedures in place to ensure that the drug assessment process for formulary listing and the amount paid for drugs and pharmacy services are managed with due regard for cost effectiveness.

Accountability of Psychiatric Hospitals and Psychiatric Units (2003)

This chapter assesses whether the Department has appropriate accountability processes in place for the operations of the psychiatric hospitals and psychiatric units under the direction of the Regional Health Authorities.

Client Service Delivery System (2002)

This chapter examines why the development of the Client Service Delivery System, which was approved in 1995 for \$4.5 million and was to be operational in three years, is costing substantially more and taking much longer than anticipated. It also examines whether there has been any non-compliance with contractual arrangements, government policy or provincial legislation related to the higher costs and longer completion time.

Prescription Drug Program (2001)

This chapter examines the government plan to provide drug benefits to people who receive income assistance and those who have drug expenses for which they do not have the resources to pay. Our objective was to determine whether the Departments have appropriate systems and practices in place to ensure that each person who is eligible for benefits is offered the program, and that the plan provides services only to those people who qualify.

Domestic Well Water Quality (2000)

A reliable supply of safe drinking water is important to everyone. Approximately 40% of New Brunswickers living in small towns and rural areas rely on domestic wells as their primary source of water. Two regulations under the *Clean Water Act* that contribute to the prevention of drinking water problems for individuals on newly drilled or dug domestic wells are the *Water Well Regulation* and the *Potable Water Regulation*. This chapter examines the performance of the Departments of the Environment and Local Government and Health and Wellness in ensuring compliance with these regulations as they relate to private wells.

Food Safety (1999)

This chapter examines the Province's role in inspecting the 2,870 food service establishments in the Province. The objective of this project was to determine whether or not current systems and practices are sufficient in ensuring that food service establishments are complying with the food safety standards set out in the Regulations under the *Health Act*.

Extra-Mural Hospital (1999)

On 1 July 1996, The Extra Mural Hospital Corporation became the Extra-Mural Program as it merged into the regional hospital corporations. Why was this decision made? How does government make such decisions? Our interest in understanding the decision-making process of government led us to examine the merge decision.

Ambulance Services (1998)

This chapter examines the consequences of the replacement of St. John Ambulance volunteer services with paid service providers.

Department of Natural Resources**Crown Lands Management (2001)**

This chapter examines the Minister's responsibilities for Crown lands, and looks at how well the Department is doing in measuring and reporting on the effectiveness of its Crown lands programs.

Private Forest Lands (2000)

This chapter examines the government's role in encouraging the management of private forest lands as the primary source of timber for wood processing facilities in the Province.

Office of Human Resources**Absenteeism Management (2003)**

This chapter examines whether government has systems and practices in place to effectively manage employee absenteeism in the Civil Service.

Department of Public Safety**Office of the Fire Marshal (2002)**

This chapter examines whether the Office of the Fire Marshal is adequately carrying out the provisions of the *Fire Prevention Act*, and whether it has appropriate human resource systems and practices in place to sufficiently deliver provincial fire prevention and protection programs.

High Risk Drivers (2001)

This chapter examines whether the Department has a system in place to identify and respond appropriately to high-risk drivers of private passenger vehicles. It also looks at one specific class of high-risk driver – the student driver.

Department of Supply and Services

Management of Insurable Risks to Public Works Buildings (2003)

This chapter examines how the Department manages significant insurable risks for the public works buildings it is responsible for.

Cellular Phones (2002)

This chapter examines whether the government has an adequate system in place to administer the acquisition and use of cell phones.

Provincial Archives of New Brunswick (2001)

This chapter examines the work of the Provincial Archives of New Brunswick. It considers their role in the assessment and preservation of archival records.

Purchasing (2001)

This chapter examines whether the Minister is fulfilling his responsibilities under the *Public Purchasing Act* and Regulation.

Contracts for IT Professionals (2001)

This chapter presents the results of an examination of forty contracts from six departments for the services of various Information Technology professionals.

Land Management Fund (2000)

The Land Management Fund buys, manages and sells land on behalf of the government. This chapter examines whether the Fund is achieving the purposes for which it was established. This chapter also examines compliance with the government-wide policy on the disposal of real property.

Department of Training and Employment Development

Employment Development Programs (2002)

This chapter examines the management of economic development programs, and whether there are adequate procedures in place to measure and report on program effectiveness.

Department of Transportation

Vehicle Management Agency (2002)

This chapter examines whether the Vehicle Management Agency is providing repair and maintenance services for government cars, executive vehicles and light trucks in a manner which minimizes costs and maximizes efficiency. It also examines whether the Agency has adequate systems and practices in place to monitor and control the usage of fuel for government cars and light trucks.

Engineering Consulting and Road Construction Materials (2000)

This chapter examines the Department's procedures for obtaining engineering consulting services and managing its inventories of road construction materials. It also examines the progress made by the Department in implementing End Results Specifications as a guarantee of road construction quality.

Government-wide audits

Program Evaluation in Government Departments (2004)

Our objective for this project was to determine the approach to program evaluation employed by provincial departments.

Contract Administration (1999)

More and more government services are being delivered by the private sector through privatization, public-private partnerships and straight contracting-out arrangements. Our objective in performing audit work in this area was to determine what systems are in place to ensure contracts are being administered in accordance with negotiated terms and conditions.

Fredericton-Moncton Highway (1999)

This chapter examines the decision-making process that led up to the issuance of a Request for Proposals to three short-listed bidders on 27 March 1997. With the issuance of the Request for Proposals it was clear that the government was going to build the highway through a public-private partnership. We looked at the objectives government set for this project, whether alternative arrangements were considered, and whether the Request for Proposals reflected the government objectives.

Leasing of Equipment (1999)

Our audit objectives for this project were to ensure that decisions to lease were made with due regard for economy and that leases are being properly recorded in the books of the Province. Our analysis and conclusions are based on examining leasing decisions for personal computers, photocopiers, fire tankers and heavy equipment.

Performance Measurement and Effectiveness Reporting (1999)

It had been ten years since the Province adopted its first annual report policy. This was the policy that recognized annual departmental and agency reports as the “major accountability document” for the Legislative Assembly and the general public. This chapter examines the progress that had been made in the past ten years in the area of performance measurement and effectiveness reporting.

Crown agency audits

Crown Agency Governance (2003)

This chapter summarizes the results of our governance reviews over the past five years, reviews practices in other jurisdictions, and makes major overall recommendations on steps the Province can take to improve Crown agency governance.

Hospital Corporation Governance (1998)

Our objective for this project was to gain an understanding of the governance arrangements relating to regional hospital corporations in the Province and to solicit the views of board members on certain issues impacting the role and effectiveness of hospital corporation boards.

New Brunswick Liquor Corporation

Governance (1999)

For a number of years our Office has taken an interest in the governance and accountability of Crown corporations. This year we examined governance and accountability practices at the New Brunswick Liquor Corporation.

NB Power

Governance (2005)

This chapter examines whether the current governance structures and processes established for NB Power set a framework for effective governance.

Regional Development Corporation

Provincially Funded Programs and Projects (2004)

This chapter examines whether the Regional Development Corporation has satisfactory procedures in place to measure and report on the effectiveness of the provincially funded programs and projects it administers.

Economic Development Fund (1999)

In fiscal year 1997-98 over \$15 million was expended from the Economic Development Fund for initiatives such as tourism marketing, agriculture development, Crown land silviculture and Film New Brunswick. Our objective in conducting work in this area was to ensure that adequate systems were in place related to the approval of funding and monitoring initiatives.

NB Agriexport Inc. (2000)

This chapter highlights the results of a special review of the operations and accountability of NB Agriexport Inc., carried out at the request of the Crown Corporations Committee.

Regional Health Authorities (2000)

This chapter summarizes the Auditor General's observations and recommendations as a result of assisting the Crown Corporations Committee in its initial hearings with regional hospital corporations.

Service New Brunswick

Property Assessment for Taxation Purposes (2005)

This chapter examines whether Service New Brunswick complies with the *Assessment Act* by assessing real property at "real and true value".

**Sections of the Auditor General Act
Relevant to the Responsibilities of
the Auditor General**

Key Definitions

1 In this Act

"agency of the Crown" means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body

(a) whose accounts the Auditor General is appointed to audit by its shareholders or by its board of management, board of directors or other governing body,

(b) whose accounts are to be audited by the Auditor General under any other Act or whose accounts the Auditor General is appointed by the Lieutenant-Governor in Council to audit,

(c) whose accounts are to be audited by an auditor, other than the Auditor General, appointed by the Lieutenant-Governor in Council, or

(d) the audit of the accounts of which the Auditor General is required to review or in respect of which the auditor's report and the working papers used in the preparation of the auditor's statement are required to be made available to the Auditor General under any other Act,

and includes

(e) (Repealed)

(f) regional health authorities as defined in the *Regional Health Authorities Act*,

(f.1) the New Brunswick Securities Commission,

(g) the New Brunswick Liquor Corporation established under the *New Brunswick Liquor Corporation Act*,

(g.1) (Repealed)

**Articles de la Loi sur le vérificateur général
se rapportant aux fonctions du
vérificateur général**

Définitions-clés

1 Dans la présente loi

«organisme de la Couronne» désigne une association, une autorité, une régie, une commission, une corporation, une fondation, un conseil, une institution, une organisation ou un autre corps

(a) dont la vérification des comptes est confiée au vérificateur général par ses actionnaires ou son conseil de gestion, conseil d'administration ou autre corps directeur,

(b) dont les comptes sont vérifiés par le vérificateur général en vertu de toute autre loi ou dont les comptes sont vérifiées par le vérificateur général par le fait de sa nomination par le lieutenant-gouverneur en conseil,

(c) dont les comptes sont vérifiés par un vérificateur, autre que le vérificateur général, nommé par le lieutenant-gouverneur en conseil, ou

(d) dont la vérification des comptes doit être révisée par le vérificateur général ou à l'égard duquel le rapport du vérificateur et les documents de travail utilisés dans son compte-rendu doivent être mis à la disposition du vérificateur général en vertu de toute autre loi;

et s'entend également

(e) (Abrogé)

(f) des régies régionales de la santé telles que définies dans la *Loi sur les régies régionales de la Santé*,

(f.1) de la Commission des valeurs mobilières du Nouveau-Brunswick,

(g) de la Société des alcools du Nouveau-Brunswick établie en vertu de la *Loi sur la Société des alcools du Nouveau-Brunswick*,

(g.1) (Abrogé)

(g.2) the Workplace Health, Safety and Compensation Commission under the *Workplace Health, Safety and Compensation Commission Act*, and

(g.3) the Atlantic Lottery Corporation Inc.,

(g.4) New Brunswick Power Holding Corporation under the *Electricity Act*;

(g.5) New Brunswick Power Transmission Corporation under the *Electricity Act*;

(g.6) New Brunswick Power Generation Corporation under the *Electricity Act*;

(g.7) New Brunswick Power Nuclear Corporation under the *Electricity Act*;

(g.8) New Brunswick Power Distribution and Customer Service Corporation under the *Electricity Act*; and

(g.9) New Brunswick Electric Finance Corporation under the *Electricity Act*;

but does not include

(h) a trust company carrying on business under the *Trust Companies Act* whose books are to be audited by an inspector or auditor appointed by the Lieutenant-Governor in Council under section 12 of the *Trust Companies Act* or a loan company or trust company carrying on business under the *Loan and Trust Companies Act* whose books are to be audited under any provision of that Act,

(g.2) de la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail en vertu de la *Loi sur la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail*, et

(g.3) la Société des Loteries de l'Atlantique Inc.,

(g.4) Corporation de portefeuille Énergie Nouveau-Brunswick établie en vertu de la *Loi sur l'électricité*;

(g.5) Corporation de transport Énergie Nouveau-Brunswick établie en vertu de la *Loi sur l'électricité*;

(g.6) Corporation de production Énergie Nouveau-Brunswick établie en vertu de la *Loi sur l'électricité*;

(g.7) Corporation d'énergie nucléaire Nouveau-Brunswick établie en vertu de la *Loi sur l'électricité*;

(g.8) Corporation de distribution et service à la clientèle Énergie Nouveau-Brunswick établie en vertu de la *Loi sur l'électricité*;

(g.9) Corporation financière de l'électricité du Nouveau-Brunswick établie en vertu de la *Loi sur l'électricité*;

mais ne comprend pas

(h) une compagnie de fiducie faisant affaire en vertu de la *Loi sur les compagnies de fiducie* dont les livres doivent être vérifiés par un inspecteur ou un vérificateur nommé par le lieutenant-gouverneur en conseil en vertu de l'article 12 de la *Loi sur les compagnies de fiducie* ou une compagnie de prêt ou une compagnie de fiducie exerçant ses activités en vertu de la *Loi sur les compagnies de prêt et de fiducie* dont les livres doivent être vérifiés conformément à une disposition de cette loi;

Examination of Accounts

8(1) The Auditor General shall audit on behalf of the Legislative Assembly and in such manner as he considers necessary the accounts of the Province relating to

- (a) the Consolidated Fund,
- (b) all public property, and
- (c) all trust or special purpose funds.

8(2) Where the accounts of an agency of the Crown are not audited by another auditor, the Auditor General shall perform the audit.

8(3) Where the accounts of an agency of the Crown are audited other than by the Auditor General the person performing the audit shall

- (a) deliver to the Auditor General forthwith after completion of the audit a copy of his report of his findings and his recommendations together with a copy of the audited financial statement of the agency of the Crown;
- (b) make available forthwith to the Auditor General, when so requested by him, all working papers, reports, schedules and other documents in respect of the audit or in respect of any other audit of the agency of the Crown specified in the request; and
- (c) provide forthwith to the Auditor General, when so requested by him, a full explanation of work performed, tests obtained, and any other information within his knowledge in respect of the agency of the Crown.

8(4) Where the Auditor General is of the opinion that any information, explanation or document that is provided, made available or delivered to him by the person referred to in subsection (3) is insufficient, he may conduct or cause to be conducted such additional examination and investigation of the records and operations of the agency or corporation as he considers necessary.

Examen des comptes

8(1) Le vérificateur général doit vérifier au nom de l'Assemblée législative de la manière qu'il juge nécessaire les comptes de la province concernant

- (a) le Fonds consolidé,
- (b) tous les biens publics, et
- (c) tous les fonds en fiducie ou fonds destinés à des fins spéciales.

8(2) Le vérificateur général doit vérifier les comptes et les opérations financières concernant un organisme de la Couronne et qui ne sont pas vérifiés par un autre vérificateur.

8(3) Lorsque les comptes et les opérations financières d'un organisme de la Couronne ne sont pas vérifiés par le vérificateur général, la personne qui les vérifie doit

- (a) transmettre au vérificateur général, une fois la vérification achevée, une copie des conclusions de son rapport avec les recommandations et la copie de l'état financier vérifié de l'organisme de la Couronne;
- (b) rendre disponibles sans délai au vérificateur général, sur demande de celui-ci, tous documents de travail, rapports, bordereaux et autres documents concernant la dite vérification ou toute autre vérification de l'organisme de la Couronne précisés dans sa requête; et
- (c) communiquer sans délai au vérificateur général, sur demande de celui-ci, des explications complètes sur le travail accompli, les épreuves obtenues et tous autres renseignements qu'elle possède sur l'organisme de la Couronne.

8(4) Lorsque le vérificateur général trouve insuffisants les renseignements, explications ou documents qui lui sont fournis, rendus disponibles ou transmis par la personne mentionnée au paragraphe (3), il peut, s'il le juge nécessaire, procéder ou faire procéder à un examen ou à une enquête portant sur les dossiers et les opérations de l'organisme ou corporation.

Report on Financial Statements

10 The Auditor General shall examine the several financial statements required by section 48 of the *Financial Administration Act* to be included in the Public Accounts and shall express his opinion as to whether they fairly present information in accordance with stated accounting policies of the Province and on a basis consistent with that of the preceding year, together with any reservations he may have.

Special Assignments

11(1) Whenever the Legislative Assembly, the Standing Committee on Public accounts, the Lieutenant-Governor in Council, the Chairman of the Board of Management or the Minister of Finance so requests, the Auditor General may, if in his opinion such an assignment does not interfere with his primary responsibilities, inquire into and report on any matter relating to the financial affairs of the Province or to public property or inquire into and report on any person or organization that has received financial assistance from the Province or in respect of which financial assistance from the Province is sought.

11(2) For the purposes of this section, the Auditor General has the powers of a commissioner under the *Inquiries Act*.

Content of Annual Report

13(1) The Auditor General shall report annually to the Legislative Assembly

- (a) on the work of his office, and
- (b) on whether, in carrying on the work of his office, he received all the information and explanations he required.

13(2) Each report of the Auditor General under subsection (1) shall indicate anything he considers to be of significance and of a nature that should be brought to the attention of the Legislative Assembly including any cases in which he has observed that

- (a) any person wilfully or negligently failed to collect or receive money belonging to the Province;

Rapport sur les états financiers

10 Le vérificateur général examine les différents états financiers qui doivent figurer dans les comptes publics en vertu de l'article 48 de la *Loi sur l'administration financière*; il indique s'il est d'avis que les états sont présentés fidèlement et conformément aux conventions comptables établies pour la province et selon une méthode compatible avec celle de l'année précédente et indique les réserves qu'il peut avoir.

Projets spéciaux

11(1) Le vérificateur général peut sur demande de l'Assemblée législative, du Comité permanent des comptes publics, du lieutenant-gouverneur en conseil, du président du Conseil de gestion ou du ministre des Finances, faire enquête et rapport sur toute question relative aux affaires financières ou aux biens de la province ou aux biens publics ou sur toute personne ou organisation qui a reçu ou sollicite une aide financière de la province si le vérificateur général estime que pareille demande n'entrave pas l'exercice de ses principales attributions.

11(2) Aux fins du présent article, le vérificateur général détient les pouvoirs que confère à un commissaire la *Loi sur les enquêtes*.

Contenu du rapport annuel

13(1) Le vérificateur général doit faire rapport annuellement à l'Assemblée législative

- (a) sur le travail de son bureau, et
- (b) sur le fait qu'il a reçu ou non dans l'exécution du travail de son bureau toutes les informations et tous les éclaircissements qu'il a demandés.

13(2) Le vérificateur général doit indiquer dans chaque rapport préparé en vertu du paragraphe (1) tout fait qu'il estime significatif et qui par sa nature doit être porté à l'attention de l'Assemblée législative y compris les cas dans lesquels

- (a) une personne a, volontairement ou par négligence, omis de percevoir ou de recevoir des sommes appartenant à la province;

(b) public money was not accounted for and paid into the Consolidated Fund;

(c) an appropriation was exceeded or applied to a purpose or in a manner not authorized by the Legislature;

(d) an expenditure was made without authority or without being properly vouched or certified;

(e) there has been a deficiency or loss through fraud, default or mistake of any person;

(f) money has been expended without due regard to economy or efficiency;

(g) procedures have not been established to measure and report on the effectiveness of programs, where, in the opinion of the Auditor General, the procedures could appropriately and reasonably be used; or

(h) procedures established to measure and report on the effectiveness of programs were not, in the opinion of the Auditor General, satisfactory.

(b) il n'a pas été rendu compte de deniers publics et ceux-ci n'ont pas été versés au Fonds consolidé;

(c) un crédit a été dépassé ou a été affecté à une fin ou d'une manière non autorisée par la Législature;

(d) une dépense a été engagée sans autorisation ou sans avoir été dûment certifiée ou appuyée de pièces justificatives;

(e) il y a eu manque ou perte par suite de fraude, faute ou erreur d'une personne;

(f) des sommes ont été dépensées sans due considération pour l'économie ou l'efficacité;

(g) des procédures n'ont pas été établies pour mesurer l'efficacité des programmes et en faire rapport, lorsque, de l'opinion du vérificateur général, les procédures pourraient être utilisées de façon appropriée et raisonnable; ou

(h) des procédures établies pour mesurer l'efficacité des programmes et en faire rapport n'étaient pas, de l'opinion du vérificateur général, satisfaisantes.

Submission of Annual Report

13(3) Each annual report by the Auditor General to the Legislative Assembly shall be submitted to the Speaker of the Legislative Assembly on or before the thirty-first day of December in the year to which the report relates and the Speaker of the Legislative Assembly shall table each such report before the Legislative Assembly forthwith after receipt thereof by him or, if the Legislative Assembly is not then in session, within ten days following the commencement of the next ensuing session of the Legislative Assembly.

13(4) If the Legislative Assembly is not in session when the Auditor General submits his annual report, the Speaker shall cause a copy of the report to be filed with the Chairman of the Standing Committee on Public Accounts for review by that Committee if the Committee has been authorized to sit after prorogation by a resolution of the Legislative Assembly pursuant to the *Legislative Assembly Act*.

Présentation du rapport annuel

13(3) Chaque rapport annuel du vérificateur général à l'Assemblée législative est soumis à l'Orateur de l'Assemblée législative au plus tard le trente et un décembre de l'année à laquelle il se rapporte, et l'Orateur doit le déposer devant l'Assemblée législative immédiatement, ou, si l'Assemblée ne siège pas, dans les 10 jours de l'ouverture de la session suivante.

13(4) Si l'Assemblée législative ne siège pas lors du dépôt du rapport annuel par le vérificateur général, l'Orateur doit en faire déposer une copie auprès du président du comité permanent des comptes publics pour être examiné par ce comité si le comité a été autorisé à siéger après prorogation par une résolution de l'Assemblée législative conformément à la *Loi sur l'Assemblée législative*.