

SENATE



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**SECOND INTERIM REPORT ON THE
*MAIN ESTIMATES 2005-2006***

FOUNDATIONS

**Standing Senate Committee on
National Finance**

ELEVENTH REPORT

Chair

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Deputy Chair

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INTRODUCTION

The federal government has traditionally delivered services and programs to Canadians through departments, agencies, granting councils and Crown corporations that report directly to ministers and are subject to common rules and regulations, as well as to examinations by the Office of the Auditor General of Canada. Since 1997, however, the federal government has been increasingly using an alternative service delivery mechanism to implement longer-term policy objectives – foundations.

Foundations are independent, not-for-profit organizations that use up-front government endowment funding and arm's-length boards of directors made up of expert individuals. The federal government believes that their arm's-length nature, financial stability and focused expertise allow foundations to deliver public policy in an effective, non-partisan manner. Foundations have become important vehicles for implementing policy, particularly in areas such as research, education and health. In fact, between 1996-1997 and 2004-2005, the federal government has transferred some \$10.5 billion to 23 foundations.

Since 1997-1998, the Auditor General of Canada's observations on the federal government's summary financial statements in the *Public Accounts of Canada* have raised concerns about how the government accounts for the transfer of funds to foundations. Moreover, in April 2002⁽¹⁾ and again in February 2005,⁽²⁾ the Auditor General also expressed the concern that foundations do not meet the essential requirements for accountability to Parliament. These requirements include the credible reporting of results, effective ministerial oversight, and adequate audit and evaluation framework.

In response to these concerns, the federal government has introduced a number of changes to enhance the governance arrangements and accountability of foundations to Parliament and the public. These measures have included: enhancing transparency and accountability through improved public reporting; strengthening compliance with funding agreements; and parliamentary approval of funding of foundations. Many of these provisions were announced in the 2003 and 2004 federal budget plans.⁽³⁾ In addition, in 2005 the federal

(1) Auditor General of Canada, "Placing the Public's Money Beyond Parliament's Reach," Chapter 1, *2002 Report*, April 2002, [http://www.oag-bvg.gc.ca/domino/reports.nsf/html/0201ce.html/\\$file/0201ce.pdf](http://www.oag-bvg.gc.ca/domino/reports.nsf/html/0201ce.html/$file/0201ce.pdf).

(2) Auditor General of Canada, "Accountability of Foundations," Chapter 4, *2005 Status Report*, February 2005, [http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20050204ce.html/\\$file/20050204ce.pdf](http://www.oag-bvg.gc.ca/domino/reports.nsf/html/20050204ce.html/$file/20050204ce.pdf).

(3) Department of Finance Canada, *The Budget Plan 2004*, 23 March 2004, pp. 300-302, <http://www.fin.gc.ca/budget04/pdf/bp2004e.pdf>; Department of Finance Canada, *The Budget Plan 2003*, 18 February 2003, pp. 179-181 and 307-310, <http://www.fin.gc.ca/budget03/pdf/bp2003e.pdf>.

government introduced Bill C-43, which would expand the powers of the Auditor General to conduct compliance and performance audits of foundations that have received more than \$100 million in federal transfers over a period of any five consecutive fiscal years.

The federal government's use of foundations has been a recurring concern for the Standing Senate Committee on National Finance. Indeed, between June 2002 and May 2005, the Committee held 9 meetings and heard some 17 witnesses on this issue (see Appendix A). These hearings allowed the Committee to review thoroughly both the April 2002 and February 2005 reports of the Auditor General of Canada on foundations and to discuss with federal officials the progress being made in addressing the concerns raised in these two reports. The Committee also invited representatives of three different foundations to provide information about their operations and to express their views on the accountability and accounting issues raised by the Auditor General. This report summarizes these hearings and highlights the Committee's observations and recommendations.

BACKGROUND ON FOUNDATIONS

According to a table provided by the Office of the Comptroller General of Canada, 23 entities can be classified as foundations (see Appendix B). Only 4 of these foundations were established through new legislation (Asia-Pacific Foundation of Canada; Canada Foundation for Innovation; Canada Millennium Scholarship Foundation; Canada Foundation for Sustainable Development Technology). All the others were established under the *Canada Corporations Act*. Several departments have been directly involved in the sponsoring of foundations. Foremost is the Department of Industry, which is responsible for 8 of the 23 foundations identified in the table, followed by the Department of Environment with responsibility for 4 foundations. Both Health Canada and Human Resources and Skills Development Canada are responsible for 3 foundations. The Department of Foreign Affairs has sponsored 2 foundations, while Canadian Heritage, Fisheries and Oceans Canada and the Indian Residence Schools Canada each have responsibility for one foundation.

It should be noted that the list of foundations provided by the Office of the Comptroller General does not fully correspond with that of the Office of the Auditor General. The Auditor General usually refers to 15 foundations, compared to the Office of the Comptroller General's 23. In this report, the Committee carefully references the sources of information so as not to create confusion between the two.

As mentioned above, foundations are private, not-for-profit corporations that are supported by an up-front endowment by the federal government. The principal amount and the interest earned on investment enable foundations to fund eligible beneficiaries/projects over several years. Foundations can be separated into two categories depending on how the federal up-front endowment is used:

- First, there are foundations that can use both the up-front federal endowment and the interest earned on investment. Based on the list provided by the Office of the Comptroller General, there are 16 such foundations: Aboriginal Healing Foundation; Canada Foundation for Innovation; Canada Foundation for Sustainable Development Technology; Canada Health Infoway Inc.; Canada Millennium Scholarship Foundation; Canada Health Services Research Foundation; Canadian Academies of Science; Canadian Centre for Learning; Canadian Institute for Advanced Research; Canadian Institute for Health Information; Canadian Network for Advancement of Research, Industry and Education; Canadian Youth Business Foundation; Genome Canada; Foundation for Climate and Atmospheric Sciences; Forum of Federations; and Precarn.
- Second, there are foundations that can disburse only the interest earned from investing the up-front endowment received from the federal government. These are generally referred to as “endowment funds” and include the following 7 foundations: Asia-Pacific Foundation of Canada; Green Municipal Funds; Pierre Elliott Trudeau Foundation; Clayoquot Biosphere Trust Society; Pacific Salmon Endowment Fund Society; Canadian Institute for Research on Linguistic Minorities (University of Moncton); and Frontier College Learning Foundation.

The up-front federal endowment is managed in accordance with funding agreements that are entered into between the foundations and the federal government through the responsible or sponsoring minister. A number of funding agreements require that a foundation’s endowment, together with future investment revenue, be committed over a specific period. This is the case, for example, with the Canada Foundation for Innovation, which must commit all its funds by 31 December 2010. Other funding agreements, such as that for the Pierre Elliott Trudeau Foundation, require that the endowment be maintained in perpetuity with only the investment revenue being used.

The funding agreements are legally binding contracts that place obligations on both parties. They contain several requirements which cover areas such as: the purpose of the federal assistance; the expected results to be achieved from the specific foundation investment; the reporting, audit, evaluation and accountability requirements; prudent investment vehicles; dispute resolution mechanisms; and transparency, code of conduct, and official languages requirements. Foundations must operate in accordance with the terms and conditions of the funding agreement. In turn, sponsoring ministers must ensure that the funding agreements are administered effectively and that information on the foundations’ plans and results are reported adequately.

The legislation and/or funding agreement that creates a foundation also contains specific governance provisions. Foundations are managed by an independent board of directors whose members may, in some cases, have been appointed by the federal government. These boards of directors are supported in their day-to-day operations by a small staff. Funding decisions rest with the board of directors and are based on recommendations of expert peer review panels. In many cases, funding from other governments and the private sector must be secured before a project can proceed.

When he appeared before the Committee on 12 June 2002, the Hon. Maurizio Bevilacqua, then Secretary of State for International Financial Institutions, outlined five principles that have guided the federal government in its decision to use foundations rather than one of the more traditional mechanisms to deliver public policy. These policy principles, which were reiterated in the 2003 Budget Plan, are as follows:

- Foundations should focus on a specific area of opportunity in which policy direction is provided generally through legislation and/or a funding agreement.
- Foundations should harness the insight and decision-making ability of independent boards of directors who are directly experienced in, and knowledgeable about, the issues at stake.
- Decisions by foundations should be based on expert peer review.
- Foundations should be provided with guaranteed funding that goes beyond the annual parliamentary appropriations, to give the foundations the financial stability needed for comprehensive medium- and long-term planning that is essential in their specific area of opportunity.
- Foundations should have the opportunity and hence the ability to lever additional funds from other levels of government and the private sector.⁽⁴⁾

Mr. Peter Devries, General Director, Deputy Minister's Office, Finance Canada, told the Committee that the decision to establish a foundation through legislation or to provide additional funding to an existing foundation is done through the annual budgetary process. The Department of Finance assesses the proposals and provides advice to the Minister of Finance. Final decisions are made by the Prime Minister and the Minister of Finance.⁽⁵⁾

Two characteristics of foundations make them particularly distinct from traditional approaches of delivering public policies – their up-front funding and arm's-length (or independent) nature.

(4) *Committee Proceedings*, 12 June 2002 (43:33) and *The Budget Plan 2003*, pp. 308-309.

(5) Peter Devries, Submission to the Committee, 10 May 2005, p. 2.

With respect to funding, representatives from foundations who appeared before the Committee suggested that the transfer to foundations of up-front payments made many years in advance of need has, from a public policy perspective, two main advantages. First, the up-front endowment moves funding beyond annual parliamentary appropriations, with their risk of on-again, off-again financing. This gives foundations the financial stability needed for comprehensive medium- and long-term project planning. For example, Dr. Eliot Phillipson, President and CEO of the Canada Foundation for Innovation (CFI), told the Committee:

(...) with regard to the foundation model, it has enabled CFI to plan its investments and to design innovative and flexible programs with an immediate and long-term perspective. Most importantly, it has encouraged institutions to develop strategic plans for research and research infrastructure. Knowing that funds will be available in three, four or five years for new infrastructure projects is invaluable to institutions and their researchers.

(...)

It can be challenging to fund major capital projects with annual appropriations when the funds have to be spent within a given fiscal year. The foundation model ensures the timely disbursement of the funds and allows for very effective planning and the flexible implementation of research infrastructure projects. Two examples follow. First, holding major competitions as we do over an 18- to 24-month cycle, rather than on an annual basis, has been beneficial for the institutions and for CFI. It has enhanced the institutional research planning activities, the merit review of projects using international benchmarks and the successful implementation of complex projects.

Second, recruiting the very best researchers is most challenging at a time of intense international competition. By providing institutions with the flexibility to call on funding at different levels over a number of years allows them to plan recruitment over a long term so that they hire the best people at the right time.⁽⁶⁾

Second, the Committee was told that committed long-term endowment funding is a prerequisite to financial leveraging. Should potential contributors (e.g., other levels of government and the private sector) worry that the financial tap could be turned off midstream, they may not make commitments of their own. In this vein, Richard C. Alvarez, President and CEO of Canada Health Infoway Inc., stated:

(6) *Committee Proceedings*, 2 February 2005 (6:29).

Transforming a health care network comprised of thousands of systems and hundreds of thousands of professionals involves long-term commitment and careful planning, particularly as Infoway's funds are being leveraged to drive multi-year plans in each province and territory. Therefore, having longer-term guaranteed funding beyond government appropriations provides financial stability. Needed for comprehensive long-term planning, it certainly strengthens our credibility and the commitment of other governments to budget matching funds.⁽⁷⁾

With respect to the independence of foundations, the Committee was told that their arm's-length nature provides operational flexibility and organizational effectiveness that would otherwise not be secured through the traditional model. For example, Dr. Phillipson, CFI President, stated:

The foundation model has enabled the CFI to plan its investments in an orderly manner and to design innovative and flexible programs with a medium and long-term perspective.

(...)

The foundation model ensures the timely spending of the funds and allows for very effective planning and flexible implementation of research infrastructure projects.

(...)

In summary, our experience of the last eight years has shown that this model can work in an efficient, economical and effective manner, and has resulted in innovative multidisciplinary infrastructure projects that are unlikely to have been funded through other possible mechanisms.⁽⁸⁾

(7) *Committee Proceedings*, 2 February 2005 (6:33-34).

(8) Dr. Eliot A. Phillipson, President and CEO, Canadian Foundation for Innovation, *Brief to the Committee*, 2 February 2005, pp. 13-14.

OBSERVATIONS AND RECOMMENDATIONS

A. Reporting to Parliament

In its 2002 report (paragraph 1.40), the Office of the Auditor General stressed the importance of keeping Parliament informed about the activities of foundations and their use of federal funds. The report indicated that this information should be reported in corporate plans and annual reports and that evaluation findings on the overall performance of the foundations should be tabled in Parliament.

To address these concerns, the federal government announced in its 2003 Budget Plan a number of measures aimed at strengthening the transparency of foundations to Parliament and the public. These measures included the following:

- Foundations are required to provide corporate plans annually to the minister responsible for administering the funding agreement, over the duration of the agreement. Such corporate plans must include planned expenditures, objectives and performance expectations relating to the federal funding. Summaries of these plans will be made public by the responsible minister, and hence will be available to Parliament.
- The departmental Reports on Plans and Priorities, which are tabled in Parliament, must incorporate the significant expected results to be achieved by foundations and situate these within departments' overall plans and priorities.
- The annual report for each foundation, including relevant performance reporting, audited financial statements and evaluation results, must be presented to the minister responsible for the funding agreement and made public.
- Foundations will be required to conduct independent evaluations, present these to the minister responsible and make them public. Departments will incorporate any significant findings within their annual Departmental Performance Reports, which are tabled in Parliament.
- All foundations' annual reports must contain performance information as well as audited financial statements prepared in accordance with generally accepted accounting principles.⁽⁹⁾

Chapter 4 of the Auditor General's 2005 Status Report (paragraphs 4.27 to 4.36) commented on these new measures. Overall, it noted that satisfactory progress has been made by the federal government in the way foundations and/or their sponsoring minister report to Parliament and the public. For example, the audit found that there is better information on

(9) *The Budget Plan 2003*, pp. 309-310.

foundations in the Estimates documents and Departmental Performance Reports of sponsoring departments. Another indicator of progress was the fact that sponsoring departments must report on the performance of foundations and situate this information in the context of their overall priorities.

Areas requiring improvement in reporting on foundations to Parliament and the public highlighted in Chapter 4 of the 2005 Status Report included the following: horizontal reporting, the timely tabling of foundations' corporate plans and annual reports by sponsoring ministers and the need for better performance information in corporate plans and annual reports (paragraphs 4.27 to 4.36).

The federal government estimates that the information tabled in Parliament by sponsoring ministers represents 80% of all transfers to foundations. In his appearance before the Committee on 22 February 2005, Mr. Tom Wileman, Principal at the Office of the Auditor General, explained that the 80% figure corresponds in fact to the proportion of funding devoted to three legislated foundations (Canada Foundation for Innovation; Canada Millennium Scholarship Foundation; Canada Foundation for Sustainable Development Technology). Expressed differently, only three foundations and/or their respective sponsoring minister are required to table information to Parliament. Mr. Wileman stressed that: "Should a minister choose not to table a document, there really is no means whereby the document would then be tabled."⁽¹⁰⁾ For its part, the federal government contended: "To the extent that there are other significant foundations whose reports are not tabled in Parliament, the Treasury Board Secretariat will encourage them to do so" (p. 9, 2005 Status Report).

The Committee acknowledges the efforts made in recent years by the federal government to improve the reporting of information on foundations. We believe, however, that additional progress can be made in the reporting by sponsoring ministers, and that all foundations' annuals reports, summaries and corporate plans should be tabled to Parliament. We also agree with the Auditor General on the need to improve information on results. Therefore, the Committee reiterates the recommendation by the Auditor General that:

(10) *Committee Proceedings*, 22 February 2005 (10:25).

RECOMMENDATION 1:

Sponsoring ministers should table in Parliament the corporate plans or summaries and the annual reports of foundations in a timely manner. In consultation with the foundations, the sponsoring departments should encourage them to include meaningful information on results in their plans and reports.

B. The Audit and Evaluation Regime of Foundations

Under their respective legislation/funding agreements, foundations are subject to audit and evaluation. As described in Table 1, audits can be performed for compliance, financial and performance purposes, while evaluations are generally intended to assess cost and effectiveness.

TABLE 1
AUDIT AND EVALUATION: DEFINITIONS

Compliance Audit	This type of audit focuses exclusively on whether the conditions of an agreement (for example, a funding agreement between a foundation and the sponsoring department) have been respected.
Financial Audit	This type of audit is a formal periodic examination of the accounts and financial records of a public or private organization for the purposes of verifying that funds were used as intended and recorded in accordance with generally accepted accounting principles.
Performance Audit	Formerly known as value-for-money audit, this type of audit examines whether money is being spent wisely by government and whether value is received for the money spent. The audit focuses on the economy, efficiency, effectiveness and environmental impact of government's management practices. This can be done in the context of one program, one department or government-wide issues.
Evaluation	This type of study consists in the systematic gathering of credible information to demonstrate the performance, results and cost-effectiveness of programs, for the purpose of decision-making on program improvement and resource allocation.

All foundations are responsible for appointing independent (or external) auditors to audit their annual financial statements; these audited financial statements are made in accordance with generally accepted accounting standards. Similarly, all foundations are required to have periodic evaluations performed by independent, professionally accredited external auditors. A few foundations are required also to have compliance and performance audits undertaken by external auditors.

In 2002, the Auditor General expressed the view that the external audit regime of foundations was inadequate. The report (paragraph 1.54) recommended that the federal government put in place adequate mechanisms for “broad-scope” audits of all foundations. Broad-scope audits cover compliance with authorities, propriety, value-for-money, and verification of performance information. The report also recommended that, where possible, the Auditor General of Canada be appointed as the external auditor of foundations. Again, Chapter 4 of the 2005 Status Report (paragraph 4.43) insisted that the Auditor General of Canada should be responsible for value-for-money or performance audits of (most) foundations. Ms. Fraser told the Committee:

In my view, given the materiality of these transfers, performance audits are essential to provide Parliament with information and assurance with respect to propriety, compliance with authorities, the adequacy of internal controls and verification of performance information.⁽¹¹⁾

In its initial response (2005 Status Report, p. 13), the federal government disagreed with the recommendation of having the Auditor General of Canada as external auditor of foundations. In its view, the appointment of an external auditor should remain a fundamental right of the foundations’ members. The federal government also contended that subjecting foundations to “public-sector type” audits by the Auditor General “could undermine the independence of foundations, reduce their operational flexibility and organizational effectiveness and thereby reduce their usefulness in achieving the government’s policy objectives (...) .” (2005 Status Report, paragraph 4.38)

The federal government also insisted that the audit and evaluation regime of foundations had been considerably strengthened in the 2003 and 2004 budget plans. As a result, sponsoring departments are now required to undertake compliance audits to ensure adherence to the terms and conditions of the funding agreements. Sponsoring departments must also undertake evaluations to permit horizontal assessments of the foundations’ different programs, and provide comprehensive information on the foundations’ performance reporting in their Departmental Performance Reports. Moreover, the federal government recently amended the funding agreements of some foundations (namely the Canada Foundation for Sustainable Development Technology, Genome Canada and the Green Municipal Funds) to provide that the Auditor General may perform compliance and performance audits at the discretion of the sponsoring minister.

(11) *Committee Proceedings*, 3 November 2004, (2:39).

On 24 March 2005, the federal government moved one step further with the tabling in the House of Commons of Bill C-43, the *Budget Implementation Act, 2005*. Part 7 of the Bill includes provisions that would amend the *Financial Administration Act* and the *Auditor General Act*. If adopted, Bill C-43 would effectively expand the Auditor General's mandate over certain foundations, namely those that have received, in any five consecutive fiscal years, \$100 million or more from the federal government.⁽¹²⁾ The Office of the Auditor General would have access to these foundations for the purpose of carrying out performance and compliance audits. Results of audit work in foundations would form part of the Auditor General's reports to Parliament. In a letter to the Chair of this Committee (dated 4 April 2005), the Auditor General stated that Bill C-43 "satisfactorily addresses one of the important gaps in the accountability framework of foundations."

Mr. John Morgan, Executive Director, Financial Management and Accounting Policy Directorate, Comptrollership Branch, Treasury Board Secretariat, told the Committee that approximately 11 or 12 out of the 23 foundations would be included within the scope of the Auditor General's mandate as set out under Bill C-43. He also pointed out that the Auditor General still could audit the other foundations should a sponsoring minister, through an Order-in-Council, approach her to do so. Mr. Charles-Antoine St-Jean, Comptroller General of Canada, indicated that it was the government's intention to ensure that all foundations be subject to performance audit by the Auditor General:

We have been dealing with every foundation one by one to amend the agreements. We are not finished yet, but the intent is to get to all of them shortly. As the Auditor General has agreed, it is on a best-efforts basis, so in the next few months we expect to have most of them done and to satisfy that need.⁽¹³⁾

Mr. St-Jean explained the evolution in the position of the federal government in this respect:

The position as of 2002-2003, where there was some difference of opinion between the government and the Auditor General about the opportunity of having the Auditor General being the external auditor to the foundations, has not changed. However, the Auditor General has indicated that she is not interested in doing the external audit of the foundations.

(12) The proposed amendments to the *Auditor General Act* are very similar to the provisions contained in Bill C-277, a private member's bill tabled in the House of Commons on 2 December 2004 by Mr. Benoît Sauvageau, a member of the Bloc Québécois.

(13) *Committee Proceedings*, 13 April 2005 (17:14).

The external audit of the foundations will continue to be done by the external auditors of the foundations so as to preserve their independence. However, the Office of the Auditor General is interested in conducting performance audits. By all means, it is good public policy to have the Auditor General do it, so the government has agreed to this wholeheartedly.⁽¹⁴⁾

The Committee welcomes these new developments and strongly supports Part 7 of Bill C-43. We concur with the Auditor General that, if adopted, the proposed changes will significantly improve the accountability framework of foundations. Moreover, the tabling of reports on compliance and performance audits of foundations by the Auditor General of Canada will considerably enhance the reporting of information on foundations to Parliament.

The Committee wishes to comment on the evaluation regime of foundations. As mentioned above, most funding agreements require that periodic evaluations of foundations be undertaken. The foundations themselves set their own terms of reference for evaluations. Similarly, most sponsoring departments are required to perform evaluations of their respective foundations. In this case, however, departments must follow the standards set out in the Treasury Board Evaluation Policy. In its 2005 Status Report (paragraph 4.44), the Office of the Auditor General stressed that standards comparable to those of the Treasury Board policy should be used by foundations.

The Committee supports this recommendation. We believe that this can further strengthen the accountability framework for foundations. It will also ensure that the cost and effectiveness of foundations' programs are assessed according to a common set of standards. Therefore, the Committee recommends that:

RECOMMENDATION 2:

The federal government seek every opportunity to persuade all existing foundations to incorporate into their evaluation framework the standards set out in the Treasury Board Evaluation Policy when commissioning independent evaluations.

(14) *Committee Proceedings*, 13 April 2005 (17:16).

C. Ministerial Oversight

In its 2002 report (paragraphs 1.62 to 1.64), the Office of the Auditor General expressed concern about the lack of ministerial oversight of foundations. The report made three recommendations to enhance ministerial oversight: 1) an adjustment mechanism should be in place to ensure that sponsoring departments can effectively monitor foundations and intervene when a foundation is clearly not meeting its purpose or when government priorities change; 2) provision should be made in funding agreements to allow sponsoring departments to undertake compliance audits of foundations; 3) provision should be included in the funding agreements to allow sponsoring departments to recover unspent federal funds in the event of the winding up or termination of foundations. Chapter 4 of the 2005 Status Report (Appendix D, p. 40) noted that the federal government has made good progress with respect to the second and third recommendations, but that progress remains unsatisfactory in the case of the first recommendation to improve ministerial oversight. The fact is that funding agreements are legally binding contracts that place obligations on both parties; the federal government cannot reopen funding agreements unilaterally and amend them. Therefore, mutual agreement is required to amend a funding agreement and incorporate an adjustment mechanism.

Following commitments made in the 2003 Budget Plan, the federal government was able to amend legislation and existing funding agreements to implement default and dispute resolution clauses, as well as the ability for the sponsoring minister to recover funds in the events of a breach in the agreement or wind-down. While these changes are positive steps in improving ministerial oversight, the Auditor General insisted that funding agreements still do not contain provisions whereby government can act if there is a shift in policy direction, a change in government or a change in the government's fiscal position. In her view, it is critical to amend the legislation and funding agreements to incorporate an appropriate adjustment mechanism in face of changing circumstances; otherwise, a legal issue ensues about taking away the prerogative of future parliaments in decisions:

Obviously, you can change legislation. I would ask more of a legal question. Can you do it retroactively? When funds have been given under a funding agreement that says "Do activity X," can you come in and retroactively change that?

(...)

I am not sure about that. The funds have all flowed out. If they were funds that were to be committed over a period of time, Parliament has a mechanism to change that, but now the funds have gone.⁽¹⁵⁾

The Committee concurs with the Auditor General that default and dispute resolution provisions are positive measures that enhance ministerial oversight of foundations.

We remain concerned, however, about the lack of mechanism for ministerial intervention in situations where fiscal and/or political circumstances change. Such a mechanism is essential; otherwise, foundations may end up working at cross-purposes to general government policy. Therefore, the Committee recommends that:

RECOMMENDATION 3:

The federal government ensure that an adjustment mechanism is in place that allows sponsoring ministers to intervene in cases where circumstances have changed considerably since the creation of foundations for which they have responsibility.

D. The Accounting of Federal Transfers to Foundations

Since 1997-1998, the Auditor General's observations on the federal government's summary financial statements in the *Public Accounts of Canada* have raised concerns about how the government accounts for the transfer of funds to foundations. The concerns focus on the fact that the federal government has already recorded these transfers as expenses, even though the foundations do not expect to use the funds for many years. As of 31 March 2004, some \$7.7 billion out of a total of \$9.1 billion that had been transferred to the 15 foundations identified by the Office of the Auditor General was still in their bank accounts and investments, earning interest (see Table 2). In the view of the Auditor General, such accounting treatment of transfers to foundations has resulted in a reduction of the reported annual fiscal surplus in the year the funds were transferred to foundations. In her observations on the government's financial statements in the *Public Accounts of Canada 2004*, the Auditor General stated that:

(...) decisions on funding and accountability should be based on the need for sound management of public funds; they should not be based on the goal of achieving a desired accounting result.⁽¹⁶⁾

(15) *Committee Proceedings*, 1 December 2004 (4:45).

(16) Auditor General of Canada, "Supplementary Information: Observations on the Auditor General on the Financial Statements of the Government of Canada for the Year Ended March 31, 2004," in *Public Accounts of Canada 2004 – Volume 1: Summary Report and Financial Statements, September 2004*, pp. 2.28, <http://www.pwgsc.gc.ca/recgen/pdf/v1pa04e.pdf>.

TABLE 2

SUMMARY FINANCIAL INFORMATION ON FOUNDATIONS, 1996-1997 TO 2003-2004							
Foundations ¹	Year Announced	Funding Received ²	Grants Provided ³	Interest Earned	Adminis-tration	Balance 31 March 2004 ⁴	Funding Commitments Signed ⁵
(\$ millions)							
Canada Foundation for Innovation	1997	3,651	1,230	740	39	3,122	1,529
Canada Millennium Scholarship Foundation	1998	2,500	1,155	690	47	1,988	9
Canada Health InfoWay Inc.	2001	1,200	51	83	30	1,202	42
Endowment funds ⁶	Between 2000 and 2002	389	10	48	11	416	104
Genome Canada	2000	375	188	52	19	220	198
Aboriginal Healing Foundation	1998	350	241	86	43	152	139
Canada Foundation for Sustainable Development Technology	2001	350	6	10	7	347	37
Canada Health Services Research Foundation	1997	152	37	14	7	122	21
Other foundations under \$125 million ⁷	Between 2000 and 2002	120	36	13	4	93	16
Total		9,087	2,954	1,736	207	7,6628	2,095

1. The foundations reflected in this table have each received over \$10 million in total funding from the Government since 1997, specifically for spending in a future year more than a year ahead.
2. Transfers include \$100 million announced in the March 2004 Budget that were receivable by the foundations at 31 March 2004.
3. In addition to grants, this column includes eligible project expenses.
4. These balances are at the date of the latest annual reports, where 31 March 2004 financial statements are not yet available – modified to include the \$100 million announced in the March 2004 Budget.
5. Figures based on representations from foundations, where not disclosed in their financial statements.
6. For endowment funds only the earnings are disbursed: these include Green Municipal Investment Fund; Pierre Elliott Trudeau Foundation; Clayoquot Biosphere Trust Society; Pacific Salmon Endowment Fund Society; Canadian Institute for Research on Linguistic Minorities, University of Moncton; and Frontier College Learning Foundation.
7. These are Foundation for Climate and Atmospheric Sciences and Forum of Federations.
8. In addition to funding for foundations and endowments, \$550 million had been transferred to other organizations at arm's length from the government; \$391 million of the transferred amount had yet to be used at 31 March 2004. These organizations are Canadian Institute for Health Information; Green Municipal Enabling Fund; Precarn; Canadian Network for Advancement of Research, Industry and Education; Canadian Institute for Advanced Research and Canadian Centre for Learning.

Source: *Public Accounts of Canada 2004*, <http://www.pwgsc.gc.ca/recgen/pdf/v1pa04e.pdf>.

In the 2005 Status Report (paragraph 4.17), the Auditor General still questioned the federal government's accounting treatment of transfers to foundations, but she could not state unequivocally that this accounting practice contravenes the standards established by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA). She also noted that PSAB recently issued a new accounting standard, entitled *Government Reporting Entity*, which will have to be implemented for 2005-2006.⁽¹⁷⁾

This standard states that the government reporting entity should comprise all organizations that are controlled by the government. It then indicates that control "is the power to govern the financial and operating policies of another organization with expected benefits or risk of loss to the government from the other organization's activities." The fundamental question is whether provisions of the legislation establishing some foundations, or the funding agreements with the foundations, give the federal government control as envisioned by this standard. As acknowledged in the *Government Reporting Entity* document, the determination of the fact that government control exists requires the application of "professional judgment."

At present, it is unclear what the impact of this standard on the accounting of federal transfers to foundations will be. The Office of the Auditor General and the federal government have not yet reached an agreement as to the appropriate accounting for foundations under this new standard.

PSAB is also working on another project that seeks guidance on accounting for government transfer payments, including multi-year funding of the kind used for foundations. This project, however, is still at an early stage. The issue has been highly controversial, and consensus within the government accounting community throughout Canada (that is, at all levels of government) has remained elusive.

During his appearance before the Committee, Mr. St-Jean confirmed that the Office of the Comptroller General is currently having discussions with the Auditor General on the whole issue of accounting for federal transfers to foundations:

There is one issue we are exploring with the Auditor General in terms of the accounting treatment of the advances to look at the expenses to see when the payment is made by the Government of Canada. What I would like to explore with the Auditor General to see if it is appropriate from an accounting perspective is to see if we could

(17) Public Sector Accounting Board of the Canadian Institute of Chartered Accountants, *Government Reporting Entity*, Section PS 1300, CICA Standards and Guidance Collection, 2005.

recognize the expense without having to make the payments to better protect the taxpayers' money. We are having those discussions with the Auditor General; they seem to be going in the right direction. That additional twist in terms of the management framework would go a long way to satisfy me that we have even better protection of the taxpayers' money. This is one thing we are working on closely with the Auditor General. We should be able to come to a satisfactory conclusion in the coming months.⁽¹⁸⁾

The Committee is encouraged by the discussions taking place between the Auditor General and the Comptroller General. We understand that accounting issues often boil down to differences of interpretation. We wish to stress, however, that these accounting issues have been raised for a number of years now by the Auditor General, and that we hope they can be resolved in a timely manner. We believe that Parliament should be kept informed of the progress of the discussions over the accounting of federal transfers to foundations, as well as of any new development related to the two PSAB projects. Therefore, the Committee recommends that:

RECOMMENDATION 4:

The Office of the Comptroller General of Canada and the Office of the Auditor General of Canada pursue their discussions and prepare a report detailing the progress achieved in clarifying the guidance of the Public Sector Accounting Board concerning the accounting treatment of federal transfers to foundations. This report should be tabled to Parliament.

E. The Policy on Transfer Payments

The Treasury Board Secretariat is responsible for the federal government's Policy on Transfer Payments. This policy, which came into effect in June 2000, requires all departments to report to Parliament on transfer payments exceeding \$5 million. The reports must include information such as objectives and expected results in Reports on Plans and Priorities, and evidence of related results achieved in Departmental Performance Reports. The policy also states that transfer payments should not be made in advance of need.

The Policy on Transfer Payments also applies to transfers that are used to fund many alternative service delivery mechanisms. Foundations, however, are exempted from the policy's provisions against making payments in advance of need.

(18) *Committee Proceedings*, 13 April 2005 (17:18).

In its 2002 report (paragraph 1.116), the Office of the Auditor General noted that it was concerned by this exemption. It recommended that the Treasury Board Secretariat review the use of exemptions to the transfer payment policy that allow payments to be made to foundations in advance of need. Subsequently, the 2005 Status Report (p. 18) indicated that, while the overall Policy on Transfer Payments is currently under review, it is unclear whether this review will also deal with the use of exemptions. Mrs. Fraser reiterated these facts when she appeared before the Committee last February:

We also found weaknesses in Treasury Board policies, and some recommendations that we made in 2002 have not been acted upon. For example, the policy on transfer payments allows exemptions to the requirement that payments not be made in advance of need, and these have been freely given for transfers to foundations. We recommended that the Treasury Board Secretariat review the use of these exemptions. The Secretariat has planned a review of the overall policy but it is not clear whether this review will also deal with the use of exemptions.⁽¹⁹⁾

The Committee is of the view that the application of the transfer payment policy is unclear. As mentioned in the introduction to this report, the federal government transferred some \$10.5 billion to 23 foundations between 1996-1997 and 2004-2005. In order to transfer those funds to foundations in advance of need, the federal government had to seek exemptions from the Treasury Board policy. It is unclear what the rationale behind those requests was, and what factors led the Treasury Board Secretariat to provide the exemptions. We concur with the Auditor General that a review of the use of those exemptions should be undertaken. Therefore, the Committee recommends that:

RECOMMENDATION 5:

The Treasury Board Secretariat review the use of exemptions to the transfer payments policy that allow payments to be made to foundations in advance of need. The findings of this review should be reported to Parliament.

F. Evaluating Foundations as an Instrument of Public Policy

In its 2002 report (paragraph 1.115), the Office of the Auditor General recommended that the Treasury Board Secretariat ensure that its database on alternative service delivery collects and makes available adequate information on the types and number of new

governance arrangements, including foundations. It then recommended (paragraph 1.117) that a government-wide evaluation of foundations be undertaken and that the results of this evaluation be tabled in Parliament.

Chapter 4 of the 2005 Status Report (Appendix D, p. 31) indicated that satisfactory progress has been made with respect to this database. When the Auditor General appeared before the Committee last February, she indicated that the information collected in the Treasury Board Secretariat's database on alternative service delivery could be useful for undertaking a government-wide evaluation of foundations. Mrs. Fraser reiterated that it would be interesting to undertake a study to assess the advantages and disadvantages of foundations and endowment funds vis-à-vis other traditional delivery mechanisms such as granting councils. She further stressed:

It has been several years now that this has been in place, and we think there should be some analysis done of their effectiveness, as a model.⁽²⁰⁾

The Committee is disappointed that the Treasury Board Secretariat has not yet followed up on the recommendation by the Auditor General to initiate a government-wide evaluation of foundations. We believe that the outcomes of such an evaluation would provide very useful information to parliamentarians, who must vote on the creation and funding of new foundations as well as on funding increases to existing foundations. Therefore, the Committee recommends that:

RECOMMENDATION 6:

The Treasury Board Secretariat develop an evaluation framework and undertake a government-wide evaluation of the use of foundations as instruments of public policy. This evaluation should include the appropriateness of the use of foundations, what they cost, and how effective they have been. The results of the evaluation should be reported to Parliament.

(19) *Committee Proceedings*, 22 February 2005 (10:6).

(20) *Committee Proceedings*, 22 February 2005 (10:15).

G. Parliament's Oversight Role

As mentioned above, only 4 out of the 23 foundations identified by the Office of the Comptroller General were created by legislation. Parliament specifically reviewed and debated the accountability and governance arrangements for these foundations as part of the legislation for them. This included requirements for auditing, evaluation and reporting to Parliament through the responsible minister.

The other 19 foundations were established by Cabinet under the *Canada Corporations Act*. Their accountability and governance arrangements are found in the funding agreements that were entered into between these foundations and their sponsoring ministers. These funding agreements, however, are not tabled in Parliament. Therefore, parliamentarians have little opportunity to debate the objectives, organizational structure, reporting requirements and level of funding of those foundations.

The Committee is concerned that Parliament was not given the ability to examine in detail and debate openly the creation of the vast majority of foundations. The 19 foundations that were created under the *Canada Corporations Act* have received some \$3.8 billion in federal funding. The Committee believes that Parliament should have a greater role in the determination of accountability and governance arrangements of all foundations. Therefore, the Committee recommends that:

RECOMMENDATION 7:

The federal government seek Parliamentary review of any proposed funding agreement for new foundations or proposals for changes to existing foundations.

CONCLUDING REMARKS

The accountability of, and the accounting of federal transfers to, foundations have been issues of particular interest to the Standing Senate Committee on National Finance for a number of years. We have reviewed carefully the 2002 and 2005 audits of the Office of the Auditor General on foundations and examined progress by the federal government in this area. We believe that the federal government has, over the past three years, implemented positive measures that enhance reporting to Parliament, improve accountability and strengthen ministerial oversight. Our recommendations would be a step further towards sound accountability of the

federal government's created foundations. We are also encouraged by the discussions between the Comptroller General and the Auditor General on the accounting of federal transfers to foundations and we hope that an agreement will soon be reached in the interpretation of the PSAB new accounting standard.

The Committee's interest in the accounting and accountability issues of foundations is ongoing. We intend to monitor the progress of the federal government in this area and to comment further as we deem required.

LIST OF RECOMMENDATIONS

- 1. Sponsoring ministers should table in Parliament the corporate plans or summaries and the annual reports of foundations in a timely manner. In consultation with the foundations, the sponsoring departments should encourage them to include meaningful information on results in their plans and reports.**
- 2. The federal government seek every opportunity to persuade all existing foundations to incorporate into their evaluation framework the standards set out in the Treasury Board Evaluation Policy when commissioning independent evaluations.**
- 3. The federal government ensure that an adjustment mechanism is in place that allows sponsoring ministers to intervene in cases where circumstances have changed considerably since the creation of foundations for which they have responsibility.**
- 4. The Office of the Comptroller General of Canada and the Office of the Auditor General of Canada pursue their discussions and prepare a report detailing the progress achieved in clarifying the guidance of the Public Sector Accounting Board concerning the accounting treatment of federal transfers to foundations. This report should be tabled to Parliament.**
- 5. The Treasury Board Secretariat review the use of exemptions to the transfer payments policy that allow payments to be made to foundations in advance of need. The findings of this review should be reported to Parliament.**
- 6. The Treasury Board Secretariat develop an evaluation framework and undertake a government-wide evaluation of the use of foundations as instruments of public policy. This evaluation should include the appropriateness of the use of foundations, what they cost, and how effective they have been. The results of the evaluation should be reported to Parliament.**
- 7. The federal government seek Parliamentary review of any proposed funding agreement for new foundations or proposals for changes to existing foundations.**

APPENDIX A – LIST OF WITNESSES

NAME	ORGANIZATION	DATE OF APPEARANCE
Peter Devries, <i>General Director, Deputy Minister's Office</i>	Finance Canada	10 May 2005
Charles-Antoine St-Jean, <i>Comptroller General of Canada</i> John Morgan, <i>Executive Director Financial Management and Accounting Policy Directorate, Comptrollership Branch</i>	Treasury Board Secretariat	13 April 2005
Sheila Fraser, <i>Auditor General of Canada</i> John Wiersema, <i>Deputy Auditor General</i> Tom Wileman, <i>Principal</i>	Office of the Auditor General of Canada	22 February 2005
Elisabeth Arnold, <i>Director, Centre for Sustainable Community Development</i> Eliot Phillipson, <i>President and CEO</i> Carmen Charrette, <i>Senior Vice-President</i> Richard C. Alvarez, <i>President and Chief Executive Officer</i>	Green Municipal Funds Canadian Foundation for Innovation Canada Health Infoway	2 February 2005 2 February 2005 2 February 2005
Sheila Fraser, <i>Auditor General</i> John Wiersema, <i>Deputy Auditor General</i>	Office of the Auditor General of Canada	1 December 2004
Sheila Fraser, <i>Auditor General</i> Doug Timmins, <i>Assistant Auditor General</i> Tom Wileman, <i>Principal</i>	Office of the Auditor General of Canada	3 November 2004
Dr. Marshall Moffat, <i>Director, Knowledge Infrastructure, Innovation Policy Branch</i>	Industry Canada	4 February 2003
The Honourable Maurizio Bevilacqua, <i>Secretary of State (International Financial Institutions)</i> Kevin G. Lynch, <i>Deputy Minister</i> Jeremy Rudin, <i>General Director, Economic and Fiscal Policy Branch</i> Peter DeVries, <i>Director, Economic and Fiscal Policy Branch</i>	Department of Finance	12 June 2002
Ms Sheila Fraser, <i>Auditor General of Canada</i> Ms Maria Barrados, <i>Assistant Auditor General, Audit Operations Branch</i> Mr. John Mayne, <i>Principal, Audit Operations Branch</i>	Office of the Auditor General of Canada	4 June 2002

APPENDIX B – INFORMATION ON MAJOR FOUNDATIONS: 1996-1997 TO 2004-2005

Foundation	Funding (\$ millions)		Year Created	How Created	Sponsoring Department	Foundation's Responsibility					Ministerial Responsibility				Return of Funds (winding-up or default)
	2004-2005 ¹	Total to Date				Audited Financial Statements	Corporate Plans and Annual Reports	Performance Audits	Evaluations	Reports Tabled in Parliament ⁶	Compliance Audits	Performance Audits	Evaluations	Mechanism for Intervention	
Aboriginal Healing Foundation	40	390	1998	CCA ²	IRSRC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	No ⁸
Canada Foundation for Innovation		3,600	1997	Legislation	Industry	Yes	Yes	No	Yes	Yes	Yes	No	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes
Canada Health Infoway Inc.		1,200	2001	CCA	Health	Yes	Yes	No	Yes	No	Yes ⁴	No	No	Dispute Resolution Mechanism ^{7b}	Yes
Canada Millennium Scholarship Foundation		2,500	1998	Legislation	HRSDC	Yes	Yes	No	Yes	Yes	No	No	No	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes
Canadian Health Services Research Foundation		152	1997	CCA	Health	Yes	Yes	No	Yes	No	Yes	No	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7b}	Yes
Genome Canada	225	600	1999	CCA	Industry	Yes	Yes	No	Yes	Yes	Yes ⁵	Yes ⁵	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes
Canada Foundation for Sustainable Development Technology	200	550	2001	Legislation	NRCan/Environment	Yes	Yes	No	Yes	Yes	Yes ⁵	Yes ⁵	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes
Canadian Foundation for Climate and Atmospheric Sciences		110	1999	CCA	Environment	Yes	Yes	No	Yes	No	Yes	No	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes

Foundation	Funding (\$ millions)		Year Created	How Created	Sponsoring Department	Foundation's Responsibility					Ministerial Responsibility				Return of Funds (winding-up or default)
	2004-2005 ¹	Total to Date				Audited Financial Statements	Corporate Plans and Annual Reports	Performance Audits	Evaluations	Reports Tabled in Parliament ⁶	Compliance Audits	Performance Audits	Evaluations	Mechanism for Intervention	
Green Municipal Funds ¹¹	300	550	1999	CCA	NRCan/Environment	Yes	Yes	Yes	Yes	Yes	Yes ⁵	Yes ⁵	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes
Pierre Elliot Trudeau Foundation		125	2001	CCA	Industry	Yes	Yes	No	Yes	No	Yes	No	Yes	Default Provision ³ and Dispute Resolution Mechanism ^{7a}	Yes
Other Endowments and Foundations ^{9, 10}	130	704													
Total ¹	895	10,531													

1. \$615M is subject to the coming into force of the appropriate provisions provided for under the 2005 Budget Implementation Bill.
2. CCA – *Canada Corporations Act*.
3. In the case of default, Minister may rescind agreement and recover unspent and uncommitted funds.
4. Recipient undertakes compliance audits either on a voluntary basis or per terms of funding agreement.
5. Includes provision in the funding agreement for the Auditor General to perform such audit.
6. Foundations' annual reports. In addition, departments are also required to include the significant plans and results of foundations in their Reports on Plans and Priorities and Departmental Performance Reports.
7. If a dispute arises out of, or in connection with the Funding Agreement, a) it shall be submitted to and finally resolved by arbitration or b) the parties agree to meet to pursue resolution through negotiation or appropriate dispute resolution.
8. Funds to be transferred to a third party.
9. Includes: Forum of Federations; Clayoquot Biosphere Trust Society; Pacific Salmon Endowment Fund Society; Canadian Institute for Research on Linguistic Minorities, University of Moncton; Frontier College Learning Foundation; Canadian Institute for Health Information; Precarn; Canadian Network for Advancement of Research, Industry and Education; Canadian Institute for Advanced Research, and Canadian Centre for Learning.
10. In 2004-2005 an additional \$130M was announced to 4 foundations; Canadian Academies of Science (\$30M), Precarn Inc. (\$20M), Canadian Youth Business Foundation (\$10M), Forum of Federations (\$20M), and one endowment; Asia-Pacific Foundation of Canada (\$50M).
11. In 2004-2005, the Enabling and Investment Funds administered by the Federation of Canadian Municipalities were combined into one Fund.

Source: Office of the Comptroller General of Canada, document tabled with the Committee on 13 April 2005.