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**Follow-up Report: Audit of the
Implementation of the Recommendations of
the Brooke Claxton Coroner's Jury**

Project 2000-613

2001-06-27



Public Works and
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Canada

Audit and Review

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Executive Summary

Authority for the Project

This audit was part of the 2000/2001 Audit and Review plan as approved by Public Works and Government Services Canada's (PWGSC's) Audit and Review Committee (ARC).

Objectives

The objective of this follow-up audit was to determine whether there was reasonable assurance that appropriate steps were being taken to implement the departmental commitments to the Coroner and the recommendations contained in the previous Audit of the Implementation of the Recommendations of the Brooke Claxton Coroner's Jury.

Scope

The audit assessed the status of implementation for all departmental commitments to the ten Coroner's Jury recommendations into the Brooke Claxton fatality at headquarters and the regional offices. Examination procedures primarily involved inquiry, analysis and discussion with corroborating evidence being obtained as appropriate. Reliance was placed on the information provided by officials, with sufficient confirmation to determine whether their assertions were plausible.

This project was conducted under the guidelines of the previous Treasury Board Review and Internal Audit Policy which was in effect up to March 31, 2001.

Background

On September 9, 1996 a construction worker was killed at a construction site at the Brooke Claxton Building, Tunney's Pasture, Ottawa, Ontario.

The west side of the perimeter was being excavated to facilitate the replacement waterproofing membrane. A three ton concrete ventilation well became detached from the foundation wall and fell on the construction worker.

On the 17th of March 1997, while classifying the cause of death as accidental, the Coroner's jury made several recommendations designed to improve safety of the work site. These recommendations were provided to the Department on July 10, 1997 and the department replied

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to the recommendations on July 28, 1997, outlining the status and its commitments regarding each recommendation.

An audit of the implementation of the Recommendations of the Brooke Claxton Coroner's Jury was included in the 1998/99 Audit and Review Plan and included a review of implementation plans in headquarters and in regional offices. Regional Director Generals completed a survey to identify current and planned initiatives to implement the Departmental commitments, as well as any potential impediments to implementation.

This audit (98-613) found that PWGSC had a sound record of improving its attention to construction safety. However, in the event of another tragic death or serious injury, the Department was at an unacceptable level of risk if it could not demonstrate that it was specifically managing the July 28, 1997 commitments to the Coroner, within the broader context of the Construction Safety Program. The audit further concluded that the absence of an established, coherent management framework for construction safety, including policies and procedures, training and monitoring, adversely impacted on the ability of the Deputy Minister to demonstrate due diligence in discharging his construction safety accountabilities.

Key Findings

Progress has been made in moving the departmental commitments to the Coroner towards full implementation. This has been done by numerous initiatives to address specific commitments and by the initiative to establish a coherent management control framework for all of construction safety.

Additional efforts are required in order to fully implement the recommendations and subsequent departmental commitments to the Coroners Jury. While progress has been made and there was increased awareness of the importance of construction safety there was still inconsistency within headquarters and regions as to the degree of implementation. Commitments for two of the recommendations have been fully implemented. For each of the other eight recommendations additional efforts are required in one or more regions in order to achieve full implementation of the departmental commitments.

Recommendation #1: (One responsible person for all projects on a common site)

Implementation Status: Discussion continues in two regions on who this individual should be.

Recommendation #2: (Plans to be available prior to the commencement of a project)

Implementation Status: Two regions self-assessed themselves as requiring further efforts. The reasons given for this status were that this requirement still needs to be formally communicated to Project Managers and that a full and complete set of drawings for every facility may not exist.

Recommendation #3: (Approval by the designer before any substitution of materials)

Implementation Status: Fully Implemented

Recommendation #4: (Any structure below ground should be fully supported from below)

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Implementation Status: Fully Implemented

Recommendation #5: (Abide by all Health & Safety regulations and allow Provincial inspection)

Implementation Status: This practice has been occurring across the Department with the exception of one region where reasons cited for restricting access involved Provincial inspectors not having the required security clearances and client government departments for whom PWGSC is doing work not allowing full access.

Recommendation #6: (Orientation and safety sessions prior to the commencement of a project)

Implementation Status: Two regions still require additional efforts to fully implement this recommendation. One region needs to complete its training sessions with project managers orienting them to the need for these meetings. A second region is still in the process of discussing how to fully implement this commitment.

Recommendation #7: (An inspection checklist to be developed by the designer)

Implementation Status: To date only one region has fully implemented this recommendation.

Recommendation #8: (Advise workers of their right to refuse dangerous work)

Implementation Status: Two regions require additional efforts in order to fully implement this recommendation, one region being in the process of communicating this to staff through training and the second region is reviewing the policy as it relates to contractors.

Recommendation #9: (Attendance of all construction workers at Health and Safety meetings)

Implementation Status: Two regions have not modified their contract clauses in order to require this of contractors. One of these regions is also having trouble scheduling training for departmental employees.

Recommendation #10: (HRDC Safety Officer to be assigned to each construction site)

Implementation Status: It has been recognized that HRDC does not have the resources, nor is willing to assign a Safety Officer to every construction site. The departmental response to the recommendation committed the Department to increased training to federal employees. Training is ongoing and underway to varying degrees across the Department.

Of eight RPS commitments to the Coroner which have not been fully implemented, three of these commitments exceeded the requirements of the recommendation and this is making operationalizing some of the commitments more difficult. The actual commitments made to the Coroner reflect the urgency of addressing the situation at that time. With the passage of time comes changes in operating approaches and working relationships. Accordingly there may be benefit in a reassessment of the commitments based on the experience that has been gained since their establishment.

The resource impact of implementing the safety directives was not assessed prior to issuance of the directive. Operational managers have expressed considerable frustration at being tasked with the responsibility of implementing the directives without additional resources or guidance on how implementation was to be accomplished.

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Instances were found where operational decisions have been made which do not support the Department's commitment to implement the recommendations. While certain decisions have been taken at operational levels, approval for these operational decisions has not been obtained from senior levels in RPS nor have they been integrated into the RPS policy framework, i.e. procedures for ADM approval have not been utilized. An example of this type of decision is the determination of a project size limit below which building permits will not be obtained and the province will not be informed.

A Departmental Construction Safety Program "Assurance Function" is not yet as mature as it could be. There is no independent "assurance function" taking place to inform senior management whether commitments are being implemented and directives and procedures are being followed. There was general agreement that an assurance function was a required role and that it should be resident in the Corporate Environment Safety and Health (CESH) group. Until recently a lack of resources has prevented CESH from fulfilling this role. CESH is currently in the process of staffing positions to carry out the assurance role.

Functional direction/coordination over construction safety could be improved. The Construction Safety Directive 073 and the Safety & Health Accountability Matrix of June 1999 do not officially assign the role of "functional direction/coordination" with respect to construction safety. Headquarters and regional staff generally felt that there was a need for improved functional direction.

Efforts to achieve compliance to the Deputy Minister Directive on Construction Occupational Health and Safety are not consistent across RPS. There has been some difficulty in immediately integrating the requirements of the directive into existing departmental operations, however the importance and urgency given to attain compliance varies considerably across RPS.

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1 Introduction

1.1 Authority for the Project

This audit was part of the 2000/2001 Audit and Review plan as approved by Public Works and Government Services Canada's (PWGSC's) Audit and Review Committee (ARC).

1.2 Objectives

*The objective of this follow-up audit was to determine whether there was reasonable assurance that appropriate steps were being taken to implement the departmental commitments to the Coroner and the recommendations contained in the previous 1998 *Audit of the Implementation of the Recommendations of the Brooke Claxton Coroner's Jury*.*

1.3 Scope

The audit assessed the status of implementation for all departmental commitments to the ten Coroner's Jury recommendations into the Brooke Claxton fatality at headquarters and the regional offices. Examination procedures primarily involved inquiry, analysis and discussion with corroborating evidence being obtained as appropriate. Reliance was placed on the information provided by officials, with sufficient confirmation to determine whether their assertions were plausible.

1.4 Background

On September 9, 1996 a construction worker was killed on a PWGSC construction site at the Brooke Claxton Building, Tunney's Pasture, Ottawa, Ontario.

The west side of the perimeter was being excavated in order to facilitate the replacement of the waterproofing membrane. A three ton concrete ventilation well became detached from the foundation wall and fell on the construction worker.

On the 17th of March 1997, while classifying the cause of death as accidental, the Coroner's jury made several recommendations designed to improve safety of the work site. These recommendations were provided to the Department on July 10, 1997 and the department replied to the recommendations on July 28, 1998, outlining the status and its commitments regarding each recommendation. The recommendations and Departmental commitments are outlined in Annex A.

An audit of the implementation of the Recommendations of the Brooke Claxton Coroner's Jury was included in the 1998/99 Audit and Review Plan and included a review of implementation plans in headquarters and in regional offices. Regional Director Generals completed a survey to

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identify current and planned initiatives to implement the Departmental commitments, as well as any potential impediments to implementation.

This Audit (98-613) found that PWGSC had a sound record of improving its attention to construction safety. However, in the event of another tragic death or serious injury, the Department was at an unacceptable level of risk if it could not demonstrate that it was specifically managing the July 28, 1997 commitments to the Coroner, within the broader context of the Construction Safety Program. The audit further concluded that the absence of an established, coherent management framework for construction safety, including policies and procedures, training and monitoring, adversely impacted on the ability of the Deputy Minister to demonstrate due diligence in discharging his construction safety accountabilities.

As the Department was seen to be at an unacceptable level of risk in the 1998 audit this follow-up audit was included on the 2000-2001 Audit and Review Plan. This follow-up audit assesses the status of implementation for all ten of the Coroner's Jury recommendations and subsequent departmental commitments. While it was not an assessment of the entire departmental management control framework over construction safety, major elements of the framework which relate to the ten recommendations are covered. The audit looked at the steps taken to implement the recommendations at both headquarters and in the regional offices.

2 Issues Examined

This follow-up audit focused on the departmental commitments made in response to the Brooke Claxton Coroner's Jury recommendations as well as the recommendations of the previous 1998 audit. It must be recognized that while considerable progress may have been made towards the achievement of a recommendation, the focus of the audit was on whether appropriate steps have been taken to fully implement the recommendations as committed.

3 Findings

Progress has been made in moving the departmental commitments to the Coroner towards full implementation. This was done by initiatives to address specific commitments and by the initiative to establish a coherent management control framework for all of construction safety. Specific initiatives since the 1998 audit included:

- Issuance of Deputy Minister Directives 007 and 073
- Development of the Health and Safety Strategic Plan
- Development of a draft Code of Practice
- Development of the Safety and Health Accountability Matrix
- Development of departmental safety training
- Use of Safety Association training
- Draft procedures, practices and scenarios
- Project site spot audits, and

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- Initiatives to cooperate with Municipal, Provincial, HRDC and Construction Safety organizations.

Additional efforts are required in order to fully implement the recommendations and subsequent departmental commitments to the Coroners Jury. While progress has been made and there was increased awareness of the importance of construction safety there is still inconsistency within headquarters and regions as to the degree of implementation. Commitments for two of the recommendations have been fully implemented. For each of the other eight recommendations additional efforts are required in one or more areas or regions in order to achieve full implementation of the departmental commitments.

The **first recommendation** called on the department to ensure that there be one responsible person for all projects on a common site. The department committed itself to implementing this recommendation however, discussion continues in two regions on who this individual should be. Not having one responsible person on a worksite could lead to a lack of co-ordination of activities and confusion which could potentially contribute to the occurrence of an accident.

The department committed itself to implement the **second recommendation** which called for all plans to be available to employers at the worksite prior to the commencement of a project. Two regions self-assessed themselves as requiring further efforts. The reasons given for this status were that this requirement still needs to be formally communicated to Project Managers and that a full and complete set of drawings for every facility may not exist. From a Health and Safety perspective a full set of plans is important in order to fully assess potential hazards on a worksite. Should an accident occur on a PWGSC worksite and a full set of plans were not available then there would be a risk of liability and embarrassment to the Crown.

The **third recommendation** which called for approval by the designer before any substitution of materials, and the **fourth recommendation**, which asked that any structure below ground be fully supported from below, have been fully implemented across the Department.

For the **fifth recommendation**, the Department committed itself to abide by all relevant Health and Safety regulations and to allowing Provincial inspectors onto PWGSC worksites. There have been difficulties in getting formal agreements with Provinces to do inspections however, the practice of allowing provincial inspectors onto PWGSC worksites has been occurring across the department with the exception of one region. In this region, the reasons for restricting access involved Provincial inspectors who do not have the required security clearances and client government departments for whom PWGSC is doing work not allowing full access. Restricting access of Provincial inspectors puts the Department at risk of not being able to demonstrate due diligence.

In order to satisfy the **sixth recommendation**, which called for orientation and safety sessions prior to the commencement of a project, the Department committed itself to briefing "individuals" including contractors and sub-contractors on required safety procedures. Two regions still require additional efforts to fully implement this recommendation. One region needs to complete its training sessions with project managers orienting them of the need for these

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meetings. A second region is still in the process of discussing how to fully implement this commitment. Workers who have not been sufficiently informed of safety procedures are potentially at risk of an accident.

The **seventh recommendation** called for an inspection checklist to be developed by the designer to ensure that inspections are carried out as the project progresses. In response, the Department committed to considering additional field review services from the consultant when there is doubt that the normal field review services may not provide the required degree of construction inspection. To date only one region has fully implemented this recommendation. Having sufficient assurance that safety procedures are being followed on departmental construction sites is essential to demonstrating due diligence.

The Department committed itself to implementing the **eighth recommendation** which was to ensure that workers are advised of their right to refuse dangerous work. Two regions require additional efforts in order to fully implement this recommendation, one region being in the process of communicating this to staff through training and the second region reviewing the policy as it relates to contractors. In the event of an accident where a worker has not been informed of their right to refuse dangerous work the Department is at risk of legal liability and embarrassment.

For the **ninth recommendation** the Department agreed to implement the recommendation that there be mandatory attendance of all construction workers at periodic Health and Safety meetings. This was to be done through general training as well as courses specific to the work being undertaken. Most organizations in RPS have tried to implement this commitment using standard contract clauses. Two regions, however, have not modified their contract clauses in order to require this of contractors. One region is having trouble scheduling training for departmental employees. Workers who have not been sufficiently trained in safety procedures are potentially at risk of accident.

The **tenth recommendation** called for an HRDC Safety Officer to be assigned to each construction site. It has been recognized that HRDC does not have the resources, nor is willing to assign a Safety Officer to every construction site. The departmental response to the recommendation committed the Department to increased training to federal employees which would increase awareness of the responsibilities and obligations inherent in exercising due diligence. Training is ongoing and underway to varying degrees across the Department. As mentioned, one region is having difficulties scheduling training for its employees. Having fully trained employees and an effective assurance function in place are essential for senior management to be able to demonstrate due diligence.

Of eight RPS commitments to the Coroner which have not been fully implemented, three of these commitments exceeded the requirements of the recommendation and this is making operationalizing some of the commitments more difficult. With respect to the **fifth recommendation** (which recommended that Project Managers should hold an orientation and Safety session prior to the commencement of any project) the Department committed to ensure that everyone on the job site including Project Managers, contractors, sub-contractors and

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consultants are briefed regarding safety procedures. With respect to the **eighth recommendation** (which recommended that it be mandatory for all construction workers to attend periodic Health & Safety meetings) the Department committed to provide training to "workers", interpreted as all workers on a job site rather than just departmental employees. The **ninth recommendation** said that on Federal construction sites a Federal Safety Officer should be assigned in conjunction with a Provincial Safety Officer to each construction site. As pointed out earlier, HRDC is not assigning a Federal Safety Officer to every worksite. Acknowledging this may have been sufficient, however, the Department committed itself to increased training for federal employees.

Potentially, three of the eight recommendations which have not been fully implemented could be addressed by the full implementation of standard contractual clauses which enforce contractor adherence to departmental construction safety requirements. The two recommendations relating to contractor training and the recommendation which commits the Department to developing an inspection checklist could potentially be adequately addressed by including standard contract clauses in contract documents. In the absence of standard clauses certain organizations within RPS have developed their own clauses as a temporary measure. Other parts of RPS are still in the process of developing standard clauses or are awaiting direction from headquarters. Suggested standard clauses which can be adapted to reflect the regional requirements are essential to the implantation of the departmental construction safety requirements.

The actual commitments made to the Coroner reflect the urgency of addressing the situation at that time. With the passage of time comes changes in operating approaches and working relationships. Accordingly there may be benefit in a reassessment of the commitments based on the experience that has been gained since their establishment.

Instances were found where operational decisions have been made which do not support the Department's commitment to implement the recommendations. While certain decisions have been taken at operational levels, approval for these operational decisions has not been obtained from senior levels in RPS nor have they been integrated into the RPS policy framework, i.e. procedures for ADM approval have not been utilized. An example of this type of decision is the determination of a project size limit below which building permits will not be obtained and the province will not be informed. Building permits are what trigger inspections by Municipalities for code compliance. Though building permits are not explicitly a construction safety issue they could be a factor in any determination of due diligence. Provincial notification is what triggers site inspections by Provincial Safety Officers.

A Departmental Construction Safety Program "Assurance Function" is not yet as mature as it could be. It was observed that construction safety advisors currently conduct audits from an operational perspective and provide advice to Project Managers/Property Managers. There was no independent "assurance function" in place, however, to inform senior management whether commitments were being implemented and directives and procedures were being followed.

It was recognized that HRDC/Provincial/Municipal inspectors provide assurance to some degree. Resource restrictions and the potential that they were not aware of a project's existence or are denied access to a site, limits the extent of assurance from these sources. This situation is further

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complicated by departmental safety requirements which exceed provincial/municipal requirements in some areas and would therefore not be reviewed by these inspectors.

There was general agreement amongst RPS parties interviewed that an assurance function was a required role and that it should be resident in the Corporate Environment Safety and Health (CESH) group. The Safety and Health Accountability Matrix does identify CESH as being a lead organization for "Audit" on departmental construction sites. Until recently a lack of resources has prevented CESH from fulfilling this role. CESH is currently in the process of staffing positions to carry out the assurance role.

This corporate assurance function would provide senior management periodic information about the status of implementing construction safety commitments and adherence to directives and procedures.

Functional direction/coordination over construction safety could be improved. The Construction Safety Directive 073 and the Safety & Health Accountability Matrix of June 1999 do not officially assign the role of "functional direction/coordination" with respect to construction safety. The Safety and Health Accountability Matrix does however identify AES as the lead for construction safety guidelines work/best practices and procedures. AES has been informally providing functional advice operationally.

Headquarters and regional staff generally felt that there could be benefit from functional direction given the expanding emphasis placed by the Department in this area, the complexity of the subject matter and the recognition that individual managers can not be experts in all areas.

Efforts to achieve compliance to the Deputy Minister Directive on Construction Occupational Health and Safety are not consistent across RPS. There has been a noticeable cultural shift towards the recognition of the importance of construction safety in RPS. There has been some difficulty in immediately integrating the requirements of the directive into existing departmental operations, however the importance and urgency given to attain compliance varies considerably across RPS. Some staff have questioned whether the DM Directive is in force or not as it is currently past the expiry date indicated on the directive and no formal update has been issued. There was also some perceived dissatisfaction with the DM Directive as some staff felt their feedback had not been considered in the development of the Directive.

The resource impact of implementing the safety directives was not assessed prior to issuance of the directive. Operational managers have expressed considerable frustration at being tasked with the responsibility of implementing the directives without additional resources or guidance on how implementation was to be accomplished. Regions and headquarters units are individually conducting this assessment and attempting to develop resourcing strategies.

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**ANNEX A: CORONER'S JURY RECOMMENDATIONS, DEPARTMENTAL COMMITMENTS
AND AUDIT ASSESSMENT**

Recommendation	July 28, 1997 Commitment	Audit Assessment
1. There should be one person responsible for all projects on a common site.	This person will be a senior project manager who will co-ordinate the various tasks to be performed.	Implementation Underway
2. All plans must be available to the employers at the work site prior to the commencement of the project.	In its new construction policy statement and code of practice PWGSC will include a directive to have the plans readily available for inspection by all federal employees, contractors and consultants prior to and during all construction activities.	Implementation Underway
3. Before any named material specified or plans are substituted, approval must be obtained from the designer. A note to this effect should be included on the drawing.	The Department proposes to make it a mandatory contractual obligation for contractors to notify the Department or its consultant for approval prior to effecting any changes proposed by the contractor.	Achieved
4. Any structure added, below ground level, to an existing wall should be securely attached to that wall as well as being fully supported from below.	The addition of new concrete structures to existing walls by anchoring to the existing structure could impose structural stress factors to the wall which were not anticipated by the original designer of the existing building. The Department prefers to have the weight of new additions supported from below in accordance with the jury's recommendation for adequate support beneath the structure.	Achieved
5. On Federal construction sites, Public Works Canada, voluntarily agrees to abide by the relevant Provincial Health and Safety Regulations and Provincial Safety Inspectors be allowed on site and have authority with regard to safety.	The Department has written to the provincial and territorial Departments of Labour in order to formulate and operate an inter- governmental construction and health program. In addition this Department has had meetings with senior industry representatives, including the Ottawa Regional Labour Management Health and Safety Committee, which included representatives from the Construction Safety Association of Ontario, Senior Officials of all provincial and territorial Labour and Construction Safety Administrations except for P.E.I. and representatives of the Nova Scotia Construction Safety Association, and related organizations. A draft memorandum of agreement is being prepared which will form the basis upon which provincial and territorial Safety inspectors may operate on federal construction sites.	Implementation Underway
6. Project Managers should hold an	Training programs are now underway and	Implementation

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<p>orientation and Safety session prior to the commencement of any project.</p>	<p>one session has already been completed. PWGSC's new policy and procedures document will emphasize that individuals such as project managers, contractors, sub-contractors and consultants are briefed regarding required Safety procedures.</p>	<p>Underway</p>
<p>7. The designer of a structure should develop an inspection checklist to ensure that inspections are carried out as the installation progresses as opposed to on real completion.</p>	<p>Architectural and Engineering consultants commissioned by the Crown commit to provide field review services during the progress of the job, to determine that the construction work undertaken meets the general intent of the contract documents. When there is a doubt that the normal field review services may not provide the required degree of construction inspection, the department will consider commissioning additional field review services from the consultant and/or employing a site safety and health officer or a clerk-of-works.</p>	<p>Implementation Underway</p>
<p>8. Workers be advised of their right to refuse dangerous work, both at the time of their initial employment, and at the commencement of each project. This advice should come from the employer and/or the project manager.</p>	<p>This will be implemented pursuant to the Department's new policy and procedures.</p>	<p>Implementation Underway</p>
<p>9. It should be mandatory that all construction workers attend periodic Health and Safety meetings.</p>	<p>The Department intends to implement such a program by using the training programs of the provincial and territorial construction association. Accordingly workers will be given specific and generic training courses applicable to the work being undertaken. These courses will be given prior to commencement of work, together with updates as requested during construction.</p>	<p>Implementation Underway</p>
<p>10. On Federal construction sites a Federal Safety Officer should be assigned in conjunction with a Provincial Safety Officer to each construction site.</p>	<p>Unfortunately the Labour Branch of the Department of Human Resources Development does not have sufficient staff to implement this recommendation. However, with the increased training of federal staff it is foreseen that there will be an increased awareness of the responsibilities and obligations inherent in exercising due diligence on federal construction sites.</p>	<p>Implementation Underway</p>