



**Report on the
Yukon Workers' Compensation
System**



Office of the Auditor General of Canada
Bureau du vérificateur général du Canada

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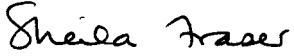


VÉRIFICATEUR GÉNÉRAL DU CANADA

To the Board of Directors of the Yukon Workers' Compensation Health and Safety Board:

I am pleased to present our report on the special examination of the Yukon Workers' Compensation System in accordance with the provisions of section 104 of the *Workers' Compensation Act*.

As specified in section 104(8), the report contains information that, in my opinion, should be brought to the attention of the Board, the Minister, and the Legislative Assembly. We understand that, pursuant to section 104(9), the Board will immediately provide a copy of the report to the Minister, the Workers' Compensation Appeal Tribunal, and the Workers' Advocate, and will make the report publicly available.


Sheila Fraser, FCA
Auditor General of Canada

VANCOUVER, 10 September 2002

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Report on the Yukon Workers' Compensation System

Main Points

1. Overall, we found that the Yukon workers' compensation system is fundamentally sound and responsive to the needs of those who are injured in the workplace. While improvements are needed, for the most part the Yukon Workers' Compensation Health and Safety Board (YWCHSB) is aware of the important issues it faces and is taking action to address them. These issues include the need to address governance; improve claims management; control increasing claims and administration costs; develop and implement creative and appropriate ways of attracting and retaining key personnel, particularly in claims management; and strengthen performance reporting to both management and outside stakeholders. An additional area that we believe requires more priority and action is prevention and enforcement.
2. The Board of Directors recently approved a Governance Handbook for the use of Board members to oversee the work of the YWCHSB, but a number of issues need to be addressed that are beyond the Board's control. The Minister may wish to consider proposing legislative amendments that would provide for public interest representation on the Board of Directors, remove the Chair of the Appeal Tribunal from the Board of Directors, and require that the President report to the Board of Directors alone and not to the Minister. We emphasize that to make these structural changes work as intended, the Government, the Minister, the Board, the President, and the staff of the YWCHSB would have to collaborate and put the interests of both the compensation system and Yukon citizens above those of any one stakeholder group or individual.
3. We identified certain deficiencies in the way workers' claims for compensation are managed, in particular a need for a quality assurance program. However, it has been difficult within the salary constraints of the Government's classification system to recruit and retain staff with experience in the handling of claims, including quality assurance. The YWCHSB should explore options with the Yukon Government for increased flexibility in classification and salary levels for certain positions that require special skills and that the YWCHSB can demonstrate are difficult to recruit for and staff. We also see the need for a strategy to ensure that when key positions become vacant they can be filled without delay.
4. Although the YWCHSB has made accident prevention a priority and increased its prevention efforts, it has no formal strategy for preventing workplace injuries. As an example, it is not ensuring that employers who are required by law to have safety programs have established them and operate

them effectively. In light of its relatively small jurisdiction and limited resources, the YWCHSB should conduct a risk assessment to determine the appropriate level of prevention effort in the Yukon and then develop performance targets toward that level. We also believe that the YWCHSB should finish its review of occupational health and safety regulations and the drafting of new regulations, as appropriate, for consideration by the Commissioner in Executive Council.

5. Until 1999, the YWCHSB had enjoyed many years of operating surpluses, allowing it to subsidize substantially the assessments of employers in the territory. The YWCHSB has invested the Compensation Fund's money prudently. However, claims costs are increasing and administration costs, already high compared with those of other jurisdictions, are steadily increasing, though not without valid reason. As it considers the need for higher assessment rates in the future, the YWCHSB will have to demonstrate to stakeholders that it is operating economically, efficiently, and effectively. This is particularly important in managing its \$4 million Achieving Better Customer Service project. The YWCHSB also needs an appropriate policy on the tendering of contracts to make its operations more transparent and open to competition and to ensure that it gets best value from its contracts.

6. The YWCHSB needs to identify and assess the risks to achieving its objectives so it can address them formally and systematically in the strategic plan. While its strategic plan does include some goals, we believe the YWCHSB needs to establish a full range of measurable goals and targets, recognizing that this will take some time. Progress toward those goals and targets would form the basis for reporting on results, both to management and to outside stakeholders. In our view, practical and appropriate performance reporting would help the YWCHSB to satisfy itself and demonstrate to others that it operates efficiently and effectively. For similar reasons, we also encourage the Appeal Tribunal and the Workers' Advocate to develop their own performance reporting.

Background and other observations

7. The YWCHSB is entrusted with managing the Compensation Fund in the best interests of workers and employers. The workers' compensation system has been under intense public scrutiny in the Yukon for a number of years. A public inquiry in 1996 found it a fundamentally good and responsive system dealing with very difficult, complex issues related to workplace injuries. This is still true—and just as the inquiry concluded then, there are areas today that need improvement. Adding the independent Workers' Compensation Appeal Tribunal and the Workers' Advocate to the system has strengthened it, but appeals remain inherently costly.

8. Throughout our examination, we observed areas that could be improved and we make a number of related recommendations in this report. We also point out some constraints on the YWCHSB's operations. In particular, as one of the smallest workers' compensation boards in Canada, it nonetheless has many of the same responsibilities and functions as larger boards with significantly more resources. Doing all the things expected of

today's compensation boards requires money. But it also requires some key staff with unique skills, people who may be difficult to attract to the North and to retain.

The key players in the system have responded. The responses of the Yukon Workers' Compensation Health and Safety Board, the Yukon Workers' Compensation Appeal Tribunal, and the Workers' Advocate are included in this report. They agree with our recommendations, and their responses describe current or planned action to address them.

Introduction

A system under intense scrutiny

9. Workers' compensation is a no-fault insurance system that protects employers and workers from the expense and uncertainties of litigation. In recent years, many workers' compensation boards across Canada have come under a great deal of scrutiny by governments, employers, labour groups, and the general public. At least seven provinces have undertaken independent reviews of their workers' compensation boards since 1988.

10. The Yukon Workers' Compensation Health and Safety Board (YWCHSB) has been no exception: In 1996, public criticism of its management practices and its handling of workers' claims led to a ministerial public inquiry (the Gladish Inquiry). The inquiry concluded that workers' compensation was a fundamentally good and responsive system dealing with very difficult, complex issues related to workplace injuries; however, in certain areas it needed to improve. Claims decisions, for example, were not written clearly, lacked supporting documentation, and were not communicated properly to workers. The inquiry also noted problems in the rehabilitation of workers.

11. In response to stakeholders' concerns—about the claims appeal process, accountability, and the relationship between the YWCHSB and the responsible Minister—in 1999 a ministerial task force undertook a review of the *Workers' Compensation Act*. The task force's recommendations led to legislative amendments in November 1999.

12. The amended Act requires a special examination of the workers' compensation system. It also requires that the responsible Minister begin a review of the Act by 1 January 2003 and conduct a comprehensive review of the Act in 2013.

Mandate, funding, and key statistics

13. The Yukon workers' compensation system dates back nearly 85 years. Its principles are outlined in the *Workers' Compensation Act* (see Exhibit 1). In 1992, the workers' compensation system was amalgamated with the occupational health and safety program to advance strategies for preventing workplace injuries in the territory.

14. In 1973, the Compensation Fund was established as an account within the Yukon Consolidated Revenue Fund. The money for the Compensation Fund comes from annual assessments levied on employers, based on their reported assessable payrolls. Those assessments and the Fund's investment income pay the costs of all claims for work-related injuries and accidental deaths. They also pay for accident prevention activities and administration costs.

15. The Compensation Fund is one of the smallest in Canada. At the end of December 2001, its total assets were about \$140.4 million, including \$136.9 million in investments; offsetting the assets, it had a benefits liability

of \$78.2 million, \$59.6 million in reserves, and \$2.6 million in other liabilities. Its revenues in 2001 were about \$7.2 million from assessment premiums and about \$9.4 million from investments and other sources of income. It had claims expenses of about \$17.5 million and administration costs of around \$6.9 million.

Exhibit 1 Objectives of the *Workers' Compensation Act*

- To provide for an open and fair system of guaranteed, adequate compensation for all workers or their dependants for work-related disabilities.
- To provide disabled workers with rehabilitation to assist them to overcome the effects of work-related disabilities as much as possible.
- To maintain a solvent compensation fund managed in the interest of workers and employers.
- To provide for fair assessments on employers.
- To provide an appeal procedure that is simple, fair, and accessible, with minimal delays.
- To combine efforts and resources for the prevention of workplace disabilities, including the enforcement of health and safety standards.
- To establish a board, independent of government, with equal representation from workers and industry and a neutral chair to administer workers' compensation, health and safety for all industries.
- To ensure that workers, dependants of deceased workers and employers are treated with compassion, respect and fairness.

Source: *Workers' Compensation Act*

16. At the end of 2001, the Yukon Territory had a population of about 30,400, an employed labour force of 13,400, and nearly 2,240 employers paying assessment premiums into the Compensation Fund. During that year, Yukon workers filed 1,026 claims for workers' compensation; about 92 percent of them were accepted as valid. Of the valid claims, 62 percent entailed no loss of time from work, as they were for minor injuries or for major injuries that perhaps involved financial compensation but did not result in time away from work after the day of the accident.

Key players in the Yukon workers' compensation system

17. In addition to the Yukon Workers' Compensation Health and Safety Board, the key players are the Workers' Compensation Appeal Tribunal (Appeal Tribunal) and the Workers' Advocate. Other players include employers, workers, medical practitioners, providers of rehabilitation services, and the Yukon Government.

18. The *Workers' Compensation Act* has delegated the trusteeship of the Compensation Fund to the YWCHSB. The job of the YWCHSB is to manage the Fund in the best interests of its main stakeholders—workers and their employers.

19. The YWCHSB is governed by a Board of Directors (the Board) that comprises a neutral Chair and an alternate Chair; six voting members—

three employer representatives and three worker representatives; and two non-voting members—the President (chief executive officer) and the Chair of the Appeal Tribunal. Except for the President, the Board consists of part-time members. Most of its current members are relatively new, appointed only in the last two years.

20. The Board of Directors is responsible for

- establishing policies,
- creating rules governing conflict of interest,
- reporting on the activities of the YWCHSB,
- approving the operating and capital budgets, and
- planning for the future of the YWCHSB.

21. Among other things, the President is responsible for administering the YWCHSB and developing and implementing its policies. The President and the administrative staff (about 58 full-time equivalents) are members of the Yukon public service.

22. Besides the Executive, there are three administrative branches:

- The Operations branch is responsible for assessments, records, and information systems and for managing the Compensation Fund's investments.
- The Programs branch is responsible for all of the services provided to claimants under the *Workers' Compensation Act* and for all aspects of administering the *Occupational Health and Safety Act*. This includes claims adjudication, rehabilitation, prevention, safety training and education, and inspection.
- The Planning, Evaluation and Policy branch is responsible for policy analysis and development. It also provides evaluation and strategic planning support as well as quality assurance services.

23. In April 2000, the Workers' Compensation Appeal Tribunal was established as an independent body to deal with appeals of claims decisions. Its six part-time members include a Chair, an alternate Chair, two employer representatives, and two worker representatives; it also has an administrative staff of one. Its operating costs are paid out of the Compensation Fund and are part of the YWCHSB's administration costs. They amounted to around \$144,000 in 2000 and \$194,000 in 2001.

24. The Workers' Advocate is appointed by the Minister of Justice. This position was established under the *Workers' Compensation Act* to assist and represent workers in claims appeals. The Workers' Advocate provides advice to workers and assists them with their claims for compensation. The Workers' Advocate office budget is to be prepared and approved by the Minister of Justice after consultation with the YWCHSB. In practice, the YWCHSB is not consulted formally but is informed of the budget after its approval. The Advocate's costs in 2000 amounted to \$195,000 and in 2001 to about \$309,000. The Advocate's costs are also paid out of the Compensation Fund as part of the YWCHSB's administration costs.

Focus of the examination

25. We undertook this examination under section 11 of the *Auditor General Act*, pursuant to an order-in-council and in accordance with the provisions of the *Yukon Workers' Compensation Act*. We looked at how well the various elements of the workers' compensation system are working, including the Yukon Workers' Compensation Health and Safety Board, the Workers' Compensation Appeal Tribunal, and the Workers' Advocate. Our examination focussed on

- governance;
- administration of workers' compensation and health and safety programs; and
- strategic planning and performance measurement and reporting.

More on our objectives, criteria, and approach can be found at the end of this report in About the Examination.

Observations and Recommendations

Governance **Sound governance is critical**

26. Governance refers to the process and structure used to oversee the managing of an organization and the direction it is taking. A sound governance framework ensures that an organization can carry out its mandate and objectives effectively.

27. The Board of Directors of the YWCHSB recently approved a Governance Handbook for the use of Board members. However, there are several issues beyond the Board's control that need to be addressed. Most of them can be dealt with by making some structural changes. We emphasize, however, that the Government, the Minister, the Board of Directors, the President, and the staff of the Yukon Workers' Compensation Health and Safety Board need to collaborate and put the interests of the system and of Yukon citizens above those of any one stakeholder group or individual; this would help them to ensure that the structural changes we recommend have the desired effect.

28. A main objective of the *Workers' Compensation Act* is to establish a board that is independent of the government. The workers' compensation system is unique, in that its funding comes essentially from employers' assessments and not from the government. The YWCHSB is a public trust—employers entrust their funds to it, and workers rely on it when they are injured on the job. It is important that the YWCHSB have the autonomy it needs to operate in the best interests of all its stakeholders.

Improving the process of appointing Board members

29. **Appointment of members.** Under the Act, the Commissioner in Executive Council appoints all members of the Board of Directors. The responsible Minister must consult with employers and employer organizations

and/or workers and labour organizations about all appointments to the Board except the President's. Both the Government and the Board have a role in ensuring that directors are appointed who have the qualifications the Board needs. Board members have expressed the concern that appointments have been made with little consideration of the core competencies and the time investment required of a Board member. Stakeholders told us they want to see a nomination process that is transparent, efficient, effective, and representative of their needs and expectations.

30. Appointment of the President. The appointment of the President or chief executive officer is a key element of corporate governance. Currently, the Commissioner in Executive Council can appoint and dismiss the President only on the recommendation of the Board. It is important that the Board maintain this role because it reinforces the President's accountability to the Board of Directors.

31. Voting Chair. The Act is silent on whether the neutral Chair can vote. With two main stakeholder groups represented on the Board, the Chair needs to remain neutral so that neither group perceives the Chair to be favouring the other. Given the even number of voting members, sometimes opposing views and interests cannot be reconciled to decide important issues. To avoid this, the Board members recently decided that when there is a deadlock, the Chair may cast the deciding vote.

32. Public interest representation. Workers' compensation systems in some other jurisdictions have a small number of Board members appointed to represent the public interest. This creates a tripartite board, helping to avoid a voting deadlock that could affect the Chair's neutrality. The presence of public interest representatives on the Board could help ensure that members put the interests of the system ahead of specific individual or group interests.

33. Chair of the Appeal Tribunal. The Ministerial Task Force Review of 1999 recommended that the Chair of the Appeal Tribunal sit as a non-voting member of the Board to maintain both continuity and an understanding of the Board's policies. However, the Act makes no distinction between the responsibilities of a non-voting member and those of a voting member. Furthermore, the participation of the Chair of the Appeal Tribunal in Board discussions could create the perception that the Appeal Tribunal is not independent. An alternative approach would require representatives of the Appeal Tribunal and the Board to meet on a regular basis, perhaps quarterly, to share information on matters of common interest and importance to the workers' compensation system.

Accountability and reporting relationships need to be clarified

34. Accountability to the Legislative Assembly. The Fund is a trust administered by the Yukon Workers' Compensation Health and Safety Board on behalf of the Yukon Government. However, the YWCHSB is unlike a Crown corporation over which a government, as the shareholder, exercises control. While the YWCHSB acts on the Government's behalf, it should act independently though held accountable to the Minister through the

government-appointed Board of Directors. The Minister, in turn, is accountable to the Legislative Assembly for the Board's performance.

35. As the Act requires, the YWCHSB reports annually to the Minister on all of its activities and the Minister tables its report in the Legislative Assembly. The Chair and the President also appear annually before the Legislative Assembly. In addition, the Board members hold an annual meeting to report to workers and employers on the administration of the compensation system.

36. The Board's Governance Handbook proposes that the Chair maintain regular contact with the Minister and, at least twice a year, provide an informal update on its activities and the status of the organization as a whole. We believe it is important for the Board and the Minister to have a clear mutual understanding of accountability—an understanding that includes the expectations for performance monitoring and for ongoing contact between the Minister and the Board. It is also important to recognize that the Minister supports the interests of the system and not the interests of a stakeholder group or individual.

37. **Position of the President.** The President is a non-voting member of the Board of Directors. As chief executive officer, he is responsible for the administration of the YWCHSB. The President has the status and responsibilities of a deputy head under the *Public Service Act*. The Board's Governance Handbook describes the relationship between the Board and the President and the accountability, performance, and reporting requirements. However, it is vague on the responsibilities of the President and his reporting relationship to the Yukon Government or the Minister.

38. The Chair, the alternate Chair, or another member of the Board should be available to provide information the Minister may need, if required to respond to questions about the YWCHSB in the Legislative Assembly. The Minister and the Government appoint Board members and can propose amendments to the *Workers' Compensation Act* if they are dissatisfied with any aspect of the YWCHSB and its operations. Thus, while the YWCHSB can operate quite independently of the Government from day to day, it can still be subject to a large degree of Government control.

39. As the chief executive officer responsible for the administration of the YWCHSB, the President has a fiduciary duty to the Board of Directors. Being accountable to both the Board of Directors and the Minister puts the President in a difficult situation in our view, particularly if the President receives conflicting directions. This could be resolved if the President were made accountable only to the members of the Board, who in turn are accountable to the Minister. Making this change would streamline the reporting relationship.

40. **Recommendation.** The Minister may wish to consider proposing legislative amendments to

- provide for public interest representation on the Board of Directors;

- remove the requirement that the Chair of the Workers' Compensation Appeal Tribunal be a member of the Board of Directors, but require that representatives of the Appeal Tribunal and the Board meet regularly; and
- require that the President report only to the Board of Directors and not to the Minister.

Management's response. The Yukon Workers' Compensation Health and Safety Board thanks the Auditor General for the recommendation. This section responds to a request made by the Minister responsible for the YWCHSB and by its Chair. They asked the Auditor General to address the question of governance directly in the examination and, where appropriate, to provide advice and guidance, including guidance on the reporting relationship of the President to the Board of Directors and the Yukon Government.

Relationship with the Yukon Government has been problematic

41. The relationship between the Yukon Government and the Yukon Workers' Compensation Health and Safety Board (YWCHSB) has had its problems. For example, they have disagreed over the funding of mine safety and occupational health and safety programs. In 1993 the federal government transferred the programs and funds to the Yukon Government, which then turned the programs over to the YWCHSB and provided it with annual funding for the programs. In 2001, the Yukon Government decided to terminate the funding for these programs without consulting the YWCHSB.

42. Officials of the YWCHSB also told us that amendments to the *Workers' Compensation Act* in 1999 did not seem to reflect fully the concerns and recommendations they had raised with the Government, even though the amendments have implications for its work and its administration costs. Further, the Yukon Government disagreed recently with the premium assessed it as an employer by the YWCHSB, and both parties spent a great deal of time and effort in an appeal process that ended in an unchanged assessment.

43. The YWCHSB had difficulty, without legislative amendments, in resolving two long-standing issues: raising the maximum wage rates for compensation, which had been set in previous legislation; and reinstating benefits to a number of remarried spouses of deceased workers. Both matters were addressed by the passage of two separate bills in the most recent sitting of the Legislative Assembly. However, the YWCHSB feels that its concerns about the bill dealing with the maximum wage rate were not addressed adequately by the Government before it tabled the bill.

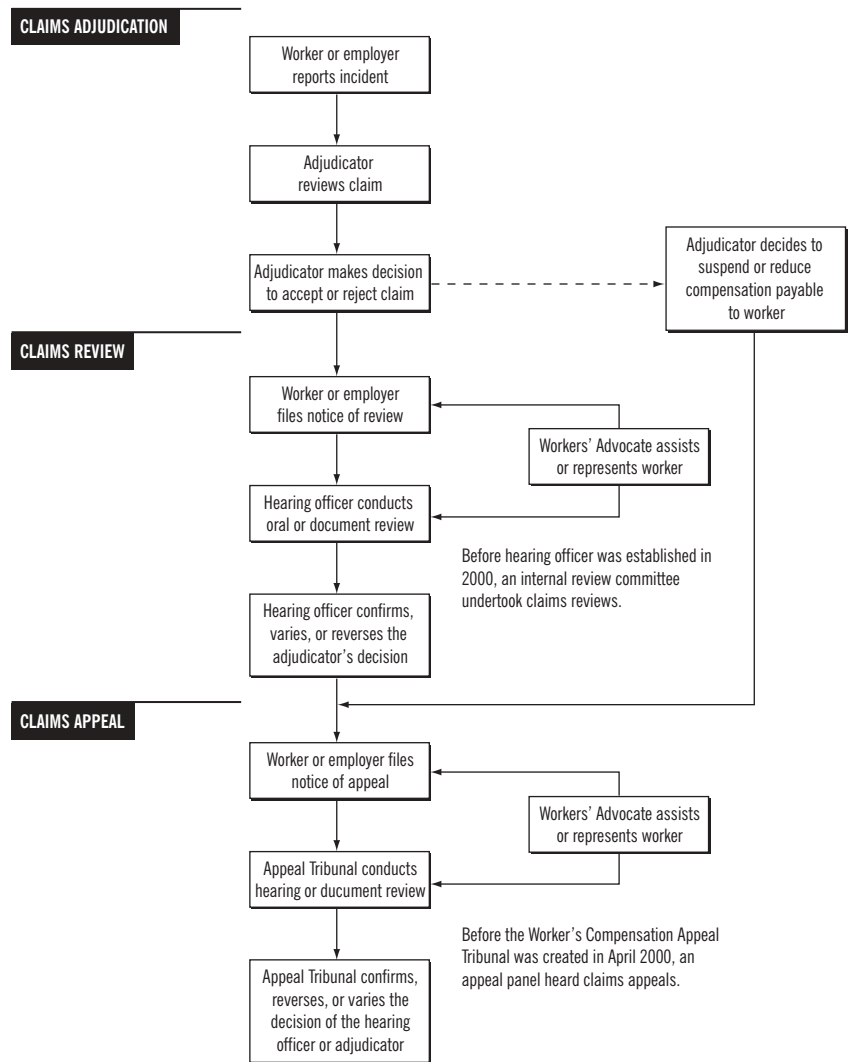
44. It is important that the YWCHSB and the Yukon Government collaborate to build and maintain a healthy working relationship in the interests of the workers' compensation system. The Minister's support for this effort will be essential.

Administration of workers' compensation health and safety programs

Improvements required in claims management

45. **Adjudicating claims.** Claims adjudication is a key activity of the Yukon Workers' Compensation Health and Safety Board. There are seven claims adjudicators, ranging from benefits entitlement clerks to disability case managers. A claims adjudicator first considers the merits of a claim for compensation and makes a decision. A worker or an employer may request that a hearing officer review the adjudicator's decision and may also appeal the hearing officer's decision to the Appeal Tribunal. The worker may appeal the adjudicator's decision directly to the Appeal Tribunal when a suspension or reduction of benefits is involved. Exhibit 2 shows the process of claims adjudication, review, and appeal.

Exhibit 2 Claims adjudication, review, and appeal process



Source: Yukon Workers' Compensation Health and Safety Board

46. The adjudication of claims for compensation is governed by the *Workers' Compensation Act* and policies of the YWCHSB. We expected to see clear policies, guidelines, and procedures for making sound and fair adjudication decisions that comply with the applicable legislation and policies. There are usually no major problems in applying policies to claims that involve no loss of time from work, which accounted for about 62 percent of all claims in 2000 and 2001. However, we noted problems in applying policies to certain other claims. We also found some areas of claims management that can be improved.

47. Claims expenses increased from about \$9.1 million in 1998 to nearly \$17.5 million in 2001. The YWCHSB notes that claims costs are also increasing in other jurisdictions. It points out that claims adjudication has changed considerably over the years, with a dramatic change in the types and complexity of claims, heightened expectations for claims management, and more complicated calculation of compensation rates and interest.

48. Previous reviews have identified deficiencies in claims management. In 1997, with the assistance of a disability management services firm, the YWCHSB undertook a file review of 200 problem claims. The review identified a high incidence of non-compliance with legislation and policies. In late 2001, the YWCHSB contracted a senior adjudicator from another province to undertake a review of 50 files selected at random. This more recent review showed that claims management had improved.

49. The policy on benefits for loss of earnings has created significant problems in adjudicating claims filed by seasonal workers. The YWCHSB acknowledges that from 1995 to early 1997, different adjudicators applied the policy and calculated benefits in different ways. Some based workers' benefits on their hourly wages at the time of injury and others based them on the workers' yearly earnings, in which case the benefits were lower. In 1997, the Board of Directors approved an application document dictating that all benefits be based on annual earnings—a controversial decision that some considered unfair to adversely affected seasonal workers.

50. The Appeal Tribunal found in some cases that the YWCHSB had incorrectly applied the policy on benefits for loss of earnings. For example, an adjudicator used the 1997 application document to determine a worker's earnings retroactively, even though the document had not existed when the injury occurred.

51. On 30 August 2001, the Board of Directors decided that to address the perceived inequity to some seasonal workers, claims filed between 12 February 1997 and 31 December 1999 would not be covered by the application document. That decision could affect a number of workers who filed a claim during that period. The YWCHSB advised those who wanted their benefits reviewed to contact the Workers' Advocate first; it did not know how many claims were involved. At 31 December 2001, 28 claims had been recalculated for additional payments totalling \$201,000. The YWCHSB believes that other workers may yet request a review of their benefits.

52. Quality assurance. We expected that the Yukon Workers' Compensation Health and Safety Board would exercise quality control over the adjudication process to ensure that sound decisions were made in accordance with legislation and established policies and procedures. However, we found that quality assurance is lacking.

53. The public inquiry of 1996 recommended that the YWCHSB establish a quality assurance program for claims management that included periodic review of claims files. The YWCHSB indicated that it would have a quality assurance program in place by 1999 that would include the periodic review of claims files. It also noted that it had staffed the position of claims manager whose duties included periodically reviewing claims files. However, it had been unable to staff the position with a person who had adjudication experience.

54. Except for Board policies, there are few directives or established procedures for investigating and adjudicating claims. We were advised that the Vice-President, Programs reviews all rejected claims and that all claims appealed successfully are also reviewed with the adjudicator. The YWCHSB requests the board of another jurisdiction to review decision letters periodically and has engaged contractors to conduct claims reviews from time to time. However, it does not have a systematic method for quality control of adjudicators' work. Identification and review of higher-risk claims could result in fewer decisions that are appealed. However, the YWCHSB notes that quality assurance alone will not ensure effective claims management: it must also be able to recruit and retain competent staff.

55. Management of the YWCHSB has advised us that it has had difficulty filling the quality assurance position. It also has problems retaining, training, and recruiting adjudicators and personnel with experience in claims management, a key area of the YWCHSB's operations. This is a critical situation. The YWCHSB feels that its remote location, the small pool of individuals with relevant experience, and the salary limitations of the Government's classification system make the human resource element of claims management an onerous task. To help offset this problem, the YWCHSB provides a broad range of training and educational opportunities to its claims staff.

56. Recommendation. The Yukon Workers' Compensation Health and Safety Board should adopt a quality assurance program for claims adjudication in order to minimize adjudication errors. Such a program would involve the review of higher-risk claims prior to a final adjudication decision as well as a random review of other claims.

Management's response. The Yukon Workers' Compensation Health and Safety Board acknowledges the need for a quality assurance program for claims adjudication and the overall management of claims. Claims processes are currently under review as part of the Achieving Better Customer Service project. Detailed procedures and guidelines will be generated as part of the project, supported by an updated system. Additional financial resources will be needed to implement a full quality assurance program, which will have an

impact on administration costs. Resources will be considered following the conclusion of the project.

Appeal process has been strengthened

57. Amendments to the Act to establish both the Appeal Tribunal and the Workers' Advocate as independent offices have enhanced the independence, objectivity, and rigour of the appeal process. In the past there was no time limit on making appeal decisions, whereas decisions by the Appeal Tribunal are required within 45 working days of the appeal hearing. The Appeal Tribunal appended a document to its 2001 Annual Report entitled "Hallmarks of Quality Decisions" that it uses to guide its writing of decisions. We found that decisions have been made within the required time limit and are usually written clearly and comprehensibly.

58. In the last two years under the new system of appeals, only a small number of claims were reviewed by the hearing officer or appealed to the Appeal Tribunal; many of them were older claims. The hearing officer reviewed 35 cases and confirmed the adjudicator's decision in only 16 of them, resulting in additional payments of nearly \$400,000 to the claimants in the rest of the cases. Four of the 16 cases were subsequently appealed to the Appeal Tribunal, which reversed or otherwise altered the hearing officer's decision. In fact, until December 2001, all of the Appeal Tribunal's 22 decisions were in the worker's favour. Including several recent appeal decisions by the Board, approximately \$1.7 million has been awarded to claimants.

59. Although appeals are few, each is frustrating for the worker and costs the Yukon Workers' Compensation Health and Safety Board both time and money. The system now has a comprehensive and independent appeal process that ensures that workers' claims are dealt with properly, but appeals remain inherently costly. The operating costs of the Appeal Tribunal totalled roughly \$340,000 in the last two years, and it heard 26 cases.

60. We found that some problems were encountered in the transition from the old appeal system. The Appeal Tribunal rendered decisions on 22 of the 26 cases referred to it; ruling on the four others was beyond its jurisdiction. In several cases, the YWCHSB has questioned whether the Appeal Tribunal's decisions complied with the Act and policies. Some decisions were sent back to the Appeal Tribunal for a second hearing, but only one was changed. Further, appeal decisions do not set precedents for other, similar cases; every case must be heard on its own merits. The Appeal Tribunal notes, however, that it does identify relevant prior decisions and brings them to the attention of members hearing an appeal.

61. While the Appeal Tribunal should be at arm's length from both the YWCHSB and the Yukon Government, it has raised some concerns about its independence. For example, it has not been provided with the legal authority to pay its own accounts; it must submit all of its costs to the YWCHSB for payment. The YWCHSB also allocates some of its own costs to the Appeal Tribunal's account, but there is no agreement on how this should be done. The YWCHSB has established policies that limit the costs the Appeal

Tribunal can incur and that limit payments to Appeal Tribunal members for hearing preparation. Finally, the Appeal Tribunal is concerned that it must submit contracts for legal services to the YWCHSB, which provides them in turn to the Yukon Government's Department of Justice for review and approval.

62. There is no time limit on appealing a decision. Over half the appeals in the last two years concerned claims filed before 1996, including one filed over 20 years ago. We believe that the system is hampered by the uncertainty that exists when claims decisions may be appealed at any time.

63. Recommendation. The Minister may wish to consider proposing a legislative amendment that would limit the period of time in which reviews and appeals of decisions may be filed, as certain other jurisdictions have done.

Management's response. The Yukon Workers' Compensation Health and Safety Board concurs with the recommendation, noting that it requires the support of the Minister and the Yukon Government. It is a widely acknowledged legal principle that the issues should be resolved at the earliest opportunity.

Rehabilitation services need to be evaluated

64. Workers' compensation boards across Canada are changing their focus from simply compensating workers to providing them with rehabilitation services. The goal is the worker's safe return to productive employment as soon as possible. Previous reviews of the Yukon Workers' Compensation Health and Safety Board have identified deficiencies in the managing of rehabilitation services. The YWCHSB has made some improvements but needs to evaluate the outcomes of rehabilitation.

65. In May 2000, the YWCHSB awarded a three-year contract to a new provider of rehabilitation services. The provider is required to develop and implement a quality assurance system for these services, in consultation with the YWCHSB's administration. At the end of our examination, the YWCHSB received a report on a quality assurance review that the provider had carried out on its own work-conditioning program. While the results are promising, we encourage the YWCHSB to monitor and evaluate the provider's performance independently.

66. The YWCHSB uses a service team approach to managing workers' cases. Each service team comprises an adjudicator, a rehabilitation counsellor, and an occupational health and safety officer. YWCHSB staff monitor the progress of a worker's rehabilitation and document it in an activity log. The staff told us that most workers return to work within 60 days of their injury. The YWCHSB makes an effort to provide any needed rehabilitation between 30 and 60 days after the injury. However, our review of 15 files for the period 1999 to 2001 found five claims for long-term rehabilitation, with no evidence of action by the rehabilitation counsellor until more than 100 days after the injury. While the files noted that the workers had been fit for work or retrained after rehabilitation, they contained no evaluation of the outcome of rehabilitation.

67. Recommendation. The Yukon Workers' Compensation Health and Safety Board should evaluate the results of rehabilitation services provided to workers to determine if improvements are necessary. It should also review the performance of rehabilitation service providers to satisfy itself that it receives appropriate value for the money spent under the contract.

Management's response. The Yukon Workers' Compensation Health and Safety Board acknowledges that it is essential to evaluate the results of rehabilitation services provided to injured workers. The resourcing for this effort will be sought in 2003. The YWCHSB also recognizes the value of independently evaluating the performance of its local rehabilitation service provider. Under its Achieving Better Customer Service (ABCS) project, the YWCHSB expects to review best practices in this area and to establish performance standards and targets for rehabilitation. The ABCS project is intended to provide the YWCHSB later with the ability to track outputs and outcomes, analyze the information, and report on its performance.

Lack of progress on prevention activities

68. Prevention is key to reducing the number of workplace accidents in the future. Over the years, the objective of prevention has not changed: to have employers and workers comply as far as possible with occupational health and safety regulations and the safety practices of an industry. In addition to enforcing regulations and standards, workers' compensation boards are attempting to work collaboratively with employers through education to help them develop safety awareness programs, policies, and procedures.

69. In 1999, the Yukon Workers' Compensation Health and Safety Board realigned itself toward prevention. It has made prevention a priority and increased its prevention efforts, but it lacks a formal prevention strategy. The YWCHSB notes that it has elements of a strategy in place but does not yet have an umbrella strategy. It also points out that developing an overall strategy for improving employers' safety practices and procedures is a key part of its strategic plan and its three-year business plan.

70. Under the *Occupational Health and Safety Act*, the YWCHSB carries out accident prevention activities, safety training and education, work-site inspections, and accident investigations. Five safety officers, three education and development staff, and a prevention consultant report to the Vice-President, Programs. In 2001, the occupational health and safety program spent about \$952,000, included in administration costs.

71. To date, the YWCHSB has not developed any performance targets and indicators for its prevention activities. The prevention consultant informed us that in the last three years, his work has focussed largely on drafting new occupational health and safety regulations.

72. The YWCHSB has held courses on safe workplace practices and in 2001 was part of a national safety effort aimed at young workers. However, it needs an operational plan for delivering its prevention strategy. At the time of our examination, it was developing one that would include an action plan, targets, and performance measures for activities that promote its safety and

prevention objectives. We noted that the YWCHSB provides little incentive for employers to encourage safety. As part of its assessment review, it is considering a pilot project to look into offering financial incentives for safety and for cultural change. We believe the YWCHSB needs to determine the level of prevention effort that it and employers realistically can afford.

Enforcement of the *Occupational Health and Safety Act* and regulations needs to be improved

73. Enforcement of safety regulations is a key element of a prevention strategy. The Yukon Workers' Compensation Health and Safety Board is responsible for enforcing the *Occupational Health and Safety Act* (OHSA) and regulations. Failure to comply with the Act can carry a fine of up to \$150,000, with further fines and potential imprisonment for continuing offences. Larger fines can be levied for failure to comply with orders made under the Act.

74. The YWCHSB can issue an order or levy a penalty if a company or individual violates the Act or regulations. In 2001 it issued 1,385 orders and eight warning letters. Anyone affected by an order may appeal to a panel comprising members of the Board. Between February and May 2001, this panel heard five appeals, three of them more than 100 days after the appeal had been filed. Written decisions on two of the five appeals were not issued until early 2002.

75. A key element of the OHSA is that employers who have 20 or more workers and who the YWCHSB considers present a higher risk of hazard must have an occupational health and safety program. While this is the responsibility of employers, it is imperative that the YWCHSB monitor compliance with the Act so that as far as possible, workplace injuries are prevented. We expected that the YWCHSB would have contacted all such employers and sought their compliance with the Act. However, we found that the YWCHSB has done little in this critical area. Based on cursory information, the YWCHSB estimates that there are 90 such employers in the Yukon and it is aware of only 15 that have an occupational health and safety program. It has issued one order to employers to establish a program, but no employers have been fined for non-compliance. Furthermore, it has developed no specific guidelines on how to establish a workplace safety program and has no plans to audit any safety programs.

76. The YWCHSB states that it has developed education programs about safety audits and it works with employer groups to help them develop safety programs. Management notes that its task is complicated by the Yukon's lack of industry-specific safety associations such as some larger jurisdictions have.

77. In 2001, the YWCHSB carried out nearly 475 worksite inspections and investigated 39 serious accidents and 49 other cases. Safety officers use different sources of information to target their inspections, including injury reports and an employer's previous record of complaints and compliance with orders. Without a proper risk assessment, it is not clear whether these activities represent adequate enforcement. The YWCHSB believes that its Achieving Better Customer Service project will ensure that best practices are

identified and that data can be collected and analyzed. Together with the systematic assessment of risk, these measures are intended to allow the YWCHSB to set appropriate performance targets and measure progress toward them.

78. The present OHS regulations are 16 years old and need to be updated to reflect technological advances and new areas of responsibility, such as resulted with the devolution of oil and gas from the federal government. The YWCHSB has been drafting new OHS regulations since 1998, but at the end of 2001 they were still not in place.

79. Recommendation. The Yukon Workers' Compensation Health and Safety Board should step up its efforts to ensure that employers who are required to have safety programs have them and operate them effectively. In light of its small jurisdiction and limited resources, it should conduct a risk assessment to determine the appropriate level of prevention effort and should develop targets for performance toward that level. It should finish updating the Occupational Health and Safety regulations and present its recommendations to the Commissioner in Executive Council.

Management's response. The Yukon Workers' Compensation Health and Safety Board agrees that employers who are required to have safety programs should have them and operate them effectively. However, it feels that the development of good safety programs is a long-term effort and recognizes that periodic audits can be an important tool for improving safety programs.

The YWCHSB agrees that the assessment of risk should form the basis of how prevention resources are allocated. It believes its Achieving Better Customer Service project will ensure that best practices are identified and that data can be collected and analyzed to permit the establishment of performance targets and the measurement of progress toward them.

The YWCHSB notes that close to 90 percent of the draft Occupational Health and Safety regulations are now being reviewed by the Board of Directors. A priority has been placed on updating the regulations and presenting the recommendations to Cabinet for their consideration.

Investment returns have been reasonable

80. The Yukon Workers' Compensation Health and Safety Board is required to make investments according to an investment policy that must be approved by the Commissioner in Executive Council, and its investments must not create a high-risk portfolio. We found that the YWCHSB has made prudent investments with favourable returns compared with those of other workers' compensation funds.

81. The YWCHSB has hired investment managers to manage its investment portfolio. The Compensation Fund's investments are mainly in bonds and so are not considered to be a high risk. At the end of 2001, the Fund had about \$136.9 million in investments (\$148.4 million net of \$11.5 million in deferred investment gains), comprising \$131.3 million in bonds, \$13.4 million in equities, and \$3.7 million in short-term investments. Consequently, the Fund

was only slightly affected by the recent downturn in the equity markets. The YWCHSB has noted the importance of continuing to provide Yukon employers and workers with a reasonable return on investment.

Current assessment and subsidy level may not be sustainable

82. In 1999, the Yukon Workers' Compensation Health and Safety Board decided to set assessment premiums that would remain unchanged until 2001 (the YWCHSB later extended the rate freeze to include 2002). The YWCHSB also increased the subsidy it was providing on the average assessment premium, which had an impact on the Fund's financial position. The annual assessments that the YWCHSB collects from employers amount to 45 percent less than the annual cost of benefits claimed; previously it was 35 percent less. This means that employers' assessments are subsidized substantially. Currently, employers are assessed an average of \$1.25 for every \$100 of their assessable payroll, the second-lowest average assessment premium in Canada.

83. Until 1999, the Fund enjoyed many years of operating surpluses and a sound financial position. In the last two years, however, it has operated at a deficit. It lost \$1.8 million in 2000 and had an operating deficit of \$7.9 million in 2001, before accounting for a change in assumptions in its actuarial valuation. Many factors are pressuring the Fund's financial position. The investment market is not as favourable as it was; furthermore, administration costs have been steadily increasing. As we have noted, recent review and appeal decisions resulted in payments of about \$2 million to workers. While the costs of claims and administration have continued to rise, investment income, though reasonable, has not been enough to keep the Fund out of deficit. Continuing the current assessment premiums and level of subsidy could erode the Fund's reserves significantly. The Board of Directors is reviewing assessment premiums publicly, the intent being to gradually reduce the level of subsidy to employers.

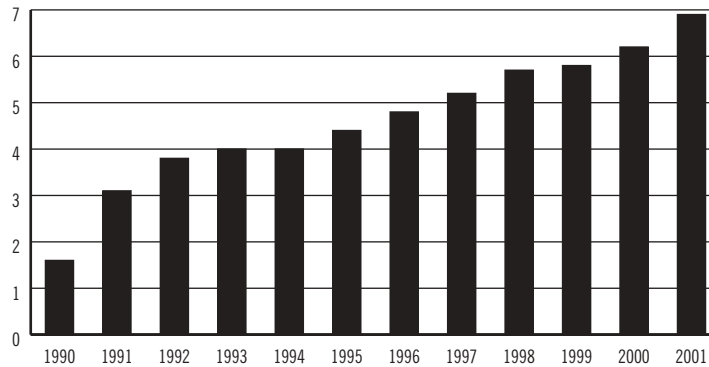
Administration costs have been steadily increasing

84. As a small organization, the YWCHSB does not enjoy the economies of scale that some larger boards do, and it operates in a remote northern environment where expenses are generally higher. By 2001, its administration costs had risen to almost \$6.9 million (see Exhibit 3). The challenge for the YWCHSB is to demonstrate to stakeholders that it is managing its operations economically, efficiently, and effectively.

85. In response to concerns about its steadily increasing administration costs, in 1998 the YWCHSB asked its consulting actuary to review them. The actuary concluded that the total costs of administration appeared to be consistent with those of other boards, given their relative sizes. The YWCHSB's administration costs for every \$100 of assessable payroll and each claim for lost work time are comparable with those in the other territories but higher than another small jurisdiction. The YWCHSB's service levels and other legislated obligations are similar to those of most other jurisdictions but are spread over a much smaller population base.

Exhibit 3 Administration Costs—1990–2001

\$ in millions



Source: Yukon Workers' Compensation Health and Safety Board

86. The YWCHSB notes that the work of compensation boards has changed over time. In the past, compensation payments were made and injuries may or may not have been subject to medical intervention. A case management approach is now used, with rehabilitation a key component of the compensation system as enshrined in legislation. This has increased the system's costs, as has the shift in focus from enforcement to prevention. The YWCHSB indicates that the requirement for public consultation also adds to the time, cost, and complexity of policy development.

87. Occupational health and safety and mine safety have been added to the YWCHSB's mandate. The recent creation of the Workers' Advocate and the Appeal Tribunal has also added to the YWCHSB's administration expenses.

88. Wage increases under collective bargaining agreements with its employees have also increased the YWCHSB's administrative costs without an increase in its level of activity. For example, the number of claims has not increased significantly and the occupational health and safety enforcement activities have remained around the same level in the last few years.

89. Salaries are the largest single cost of administration, and they grew from \$897,000 in 1990 to \$4,397,000 in 2001, an increase of 390 percent. The YWCHSB notes that 10 people were transferred from another department in 1991 with that department's occupational health and safety program. The establishment of rehabilitation services after 1992 also increased the number of staff. Of its 58 positions, 37 serve the public directly and the rest are management and support staff.

90. Administration costs include the cost of consultants and professional services in the legal, actuarial, and information technology fields, amounting in 2001 to \$523,000—roughly the same as in 2000 and significantly less than in 1999. The YWCHSB also contracts for medical and occupational rehabilitation services, which are not included in the costs of administration but charged to claims expenses.

91. The Yukon Government has issued general administrative policy directives to guide and control financial activities, including tendering for contracts. Under Board Policy FN-01, the YWCHSB is to adopt the Yukon Government's directives as guidelines where it has no policy or directives of its own. However, we found that it neither has its own policy or directives on contracting nor follows the Government's general administrative policy directive when it contracts for services.

92. The YWCHSB needs to adopt a contracting policy that provides for more transparency and competition in its operations. We noted that almost all of the contracts it awarded in the last two years were sole-source contracts. It did not open its larger contracts to competitive bidding. There is thus no assurance that it acquired the services at the lowest possible cost. It also signed some contracts retroactively, after the work had begun. In addition, we noted a few cases of payments made for services without a written contract.

93. The YWCHSB has indicated that it uses sole-source contracts in many cases when no other contractors can provide the services it needs. Even were it not to result in lower costs, the tendering of contracts would make the YWCHSB's contracting operations more open to competition and more transparent to stakeholders.

94. The YWCHSB is considering an upgrade of its information systems, which would entail significant costs. In 2001, it awarded eight sole-source contracts to a consulting firm for systems work totalling \$304,000. Given the relatively small scale of its operations, we encourage it to consider using off-the-shelf technology and systems where possible in order to minimize the impact on administrative costs.

95. The YWCHSB is also embarking on its Achieving Better Customer Service project, estimated to cost roughly \$4 million and expected to be completed over two years. The project's overall objectives are to improve customer service, improve reporting on corporate service measures, and improve its information for more effective and efficient management of YWCHSB programs. The YWCHSB has informed us that the project is more than an information technology project and comprises a series of subprojects.

96. The eight subprojects are customer care, organization change management and corporate service measures, business intelligence, case management, financial management, assessment integration, occupational health and safety, and self-service. The project is broken down into two phases and the first phase, involving six subprojects, is divided into two stages. Stage A will include discovery, analysis, and high-level design activities. Stage B will cover the detailed design, building, integration testing, and delivery of information systems. The YWCHSB issued a request for proposals for Stage A that closed on 30 April 2002. At the YWCHSB's discretion, the contractor may then be invited to complete Stage B of the Phase One subprojects and execute the Phase Two subprojects.

97. Its objectives are laudable and if it succeeds, the project will provide both the YWCHSB and stakeholders with valuable information. However, it is defined broadly at present and its scope, costs, and deadlines could be extended, causing an even greater burden on administration costs. To be successful, the project needs to be monitored rigorously at each stage and alternatives considered. Finally, at the end of the project the YWCHSB needs to report to stakeholders whether it was completed on time and within budget and whether the results made the effort worthwhile. The YWCHSB feels that the project proposal sets out the mechanisms by which the project will be monitored and risks managed throughout—including clearly delineated reporting mechanisms.

98. Recommendation. The Yukon Workers' Compensation Health and Safety Board should demonstrate to stakeholders that it is managing its operations economically, efficiently, and effectively. This will be particularly important in managing its Achieving Better Customer Service project. It should also adopt a contracting policy that provides for more transparency and competition and ensures best value.

Management's response. The Yukon Workers' Compensation Health and Safety Board accepts these recommendations. Through the implementation of the balanced scorecard and continued work on key statistical measures, the YWCHSB will undertake to report on the management of its operations through the Annual Information Meeting and other communication throughout the year. For the Achieving Better Customer Service (ABCS) project, the YWCHSB notes that stakeholders played an active role in the development of the strategic plan, which includes the ABCS. The Board of Directors, as stakeholder representatives, has approved the scope, budget, and project timeframes and has taken the approach that the ABCS will be instrumental in implementing the strategic plan. The YWCHSB also recognizes the need to both regularly involve and communicate with stakeholders on the status of the project. It feels that communication has been ongoing, and it is committed to continuing this effort.

This year, the YWCHSB will review its current procedures for contracting. Work on a formal contracting policy will be brought forward for consideration as part of the annual review of the three-year business plan for 2003.

Sound human resource planning is required

99. The Yukon Workers' Compensation Health and Safety Board is a small organization, with fewer than 60 employees. A recent YWCHSB survey of its staff found a high level of satisfaction with the work environment. However, sound human resource planning is important to ensure that it has the right number and mix of qualified and trained staff to meet current and future operational requirements.

100. Under the *Workers' Compensation Act*, staff of the YWCHSB are members of the Yukon Government's public service and therefore fall under the administration of the *Public Service Act*. This means that recruitment, salaries, and classification of YWCHSB staff are governed by the Yukon

Public Service Commission. Management of the YWCHSB has indicated that limits on classification and pay levels under the *Public Service Act* have made it difficult to recruit qualified people for key areas that require special expertise, such as claims, quality assurance, vocational rehabilitation, and safety officers.

101. As the only employer of its type in the Yukon, the YWCHSB needs to attract staff from similar employers in other areas of Canada. However, classification issues would need to be resolved to foster this recruitment.

102. We note that some workers' compensation boards are specifically exempted from public service staffing rules. The YWCHSB does not believe that changing the Yukon Government's classification system would be accepted as an option because any changes to the system would affect all other Yukon Government employees classified in the same categories. The YWCHSB feels that due to its small size compared with the Yukon Government, the most practical solution would be to have the YWCHSB treated as a separate employer. This would mean its staff would not be members of the Yukon public service and would therefore not come under the provisions of the *Public Service Act*.

103. This solution is not without its pitfalls. The staff of the YWCHSB may oppose being moved outside of the Yukon public service. If the Minister is amenable to this approach, the YWCHSB must take care to ensure that salaries increase only in the claims management positions where staffing has been a problem. Controls such as Board approval of management salaries and exceptions to existing collective bargaining agreements would be needed, to ensure that any salary increases were market-based. Total salary expenditures, the largest portion of administration costs, would also have to be monitored to ensure that they did not increase sharply. The disclosure of executive compensation in the annual financial statements would also provide some assurance to stakeholders that the exemption was being used only where necessary.

104. Small organizations often have positions that require highly specialized skills, and this makes them vulnerable when the incumbents leave. Positions at the YWCHSB that fall into this category and for which there are no obvious internal "feeder" groups include medical consultant, industrial/occupational hygienist, legal counsel, and claims manager. We believe the YWCHSB should maintain up-to-date job descriptions and selection profiles for these positions and have a strategy ready for recruiting replacements.

105. Recommendation. The Yukon Workers' Compensation Health and Safety Board should explore options with the Yukon Government for increased flexibility in classification and salary levels for certain positions that require special skills and that the YWCHSB can demonstrate are difficult to recruit for and staff. The YWCHSB should also ensure that it has a strategy for filling vacancies in key positions that require unique skills.

Strategic planning and performance measurement and reporting

Management's response. The Yukon Workers' Compensation Health and Safety Board will explore options with the Yukon Government to increase its flexibility in classification and salary levels. The YWCHSB will continue with the development of a strategy to address future vacancies in key positions.

Need to systematically identify and assess risks

106. A structured approach to managing risks would help the Yukon Workers' Compensation Health and Safety Board identify and respond to emerging issues, challenges, and opportunities. However, we found that it has not formally identified and assessed its operational, strategic, and external risks, among others. An assessment of all risks would help the YWCHSB address them formally and systematically in its strategic plan.

107. Throughout this report, we have identified a number of risks that the YWCHSB needs to manage in the areas of policy development, government relations, staffing of key positions, compliance with legislation and policies, claims management, and increasing costs of administration. We believe the YWCHSB needs to identify all areas that require attention so it can minimize the risks as much as possible and allocate its resources appropriately. Without a risk assessment, the strategic plan may not address all threats adequately and could leave the YWCHSB exposed to risk unnecessarily.

108. According to its 1999 strategic plan, the YWCHSB intended to establish a quality assurance risk management program. It would analyze its business operations for any potential weaknesses and put in place procedures to minimize any risks. At the time of our examination, no such program was in place. The YWCHSB notes that it has had difficulty recruiting someone to fill the quality assurance position.

109. **Recommendation.** The Yukon Workers' Compensation Health and Safety Board should put in place a risk management program to identify and assess the risks to its objectives so it can determine what areas require attention and allocate its resources appropriately.

Management's response. Agreed. However, the Yukon Workers' Compensation Health and Safety Board notes that models for a formal risk management program for workers' compensation boards across Canada are rare. A formal program will be considered in the future, depending on the experience of other boards and on financial resources.

Performance measurement and reporting are in their early stages

110. Results-based planning and reporting can help provide the basis for determining strategy and measuring performance. We found that the Yukon Workers' Compensation Health and Safety Board lacks measurable goals and objectives. Its annual report contains little information about its performance. It is difficult, therefore, to judge the degree to which the YWCHSB is achieving its objectives.

111. In 1999, the YWCHSB adopted its strategic plan, *Ideal Workplaces*, which outlines its future direction. Its core strategies are making prevention a priority, communicating better, managing information well, providing assured

quality, staying on top of emerging issues, working in a clear legislative framework, managing human resources, and ensuring sound financial management. We believe this plan is a good start.

112. In 2001, the YWCHSB revised its strategic plan for 2001 to 2003 and developed an operational plan for 2002. However, the 2002 plan lacks measurable goals and objectives. The YWCHSB is developing a balanced scorecard and key success factors with indicators of performance. The balanced scorecard is a reasonable approach, but the operational plan expresses success factors and indicators in only general terms. The YWCHSB has not yet established benchmarks for performance levels. Some other jurisdictions have established specific performance targets such as reducing workplace accidents and achieving a high level of client satisfaction.

113. A sound operational plan with measurable goals and objectives can help to ensure that an organization's strategy is guiding it toward fulfilling its mandate. It can help the organization answer the following questions:

- Has it interpreted its mandate correctly?
- Are its objectives, strategies, and targets appropriate, and do its performance indicators provide a strong basis for holding it to account?
- Are its performance targets challenging enough?
- Has it met its performance targets?
- Does it need to assess whether its mandate is still relevant?

114. The YWCHSB has not evaluated its programs and activities formally. While it plans to report on key statistical measures and indicator ratios adopted by other boards, its focus is mainly on the results of activities (outputs) and not the achievement of results (outcomes).

115. Performance measurement and reporting are in their early stages. For example, the YWCHSB has not established performance standards or targets for rehabilitation. It does not collect and report statistics such as the number of people returning to work, number of treatment days, average cost of treatment, rehabilitation costs, and number of workers getting the jobs they expected after vocational rehabilitation. Rehabilitation counsellors try to track this type of information manually, but in the absence of summary information or periodic reports it is difficult to judge the program's success.

116. The YWCHSB recognizes the importance of being able to report to its stakeholders on its performance, but it feels that it cannot do so with its current information system. It notes that it has yet to establish targets because this is its first year of developing performance indicators and it is still establishing the baseline information it needs to develop them. Annual reporting by indicator is also part of its strategic plan. The YWCHSB points out that the first part of its Achieving Better Client Service project will provide the analysis it needs to set performance targets and establish measures and standards based on best practices. Eventually, it expects that the ABCS project will enable it to develop a balanced scorecard with performance measures by unit and branch, or organization-wide.

117. There is little performance information available on prevention activities and only a few performance indicators, such as lowered injury rates. Nor is the impact of prevention activities measured. We note that the workers' compensation board for the other territories has set a target to reduce workplace accidents by five percent each year and is developing a program to measure accident statistics and monitor safety performance.

118. The Workers' Compensation Appeal Tribunal and the Workers' Advocate also need to develop performance measures and report on their performance. The Appeal Tribunal submits its annual report to the Minister responsible for the YWCHSB; the Workers' Advocate submits its own to the Minister of Justice. These reports are available to the public at the YWCHSB's public register, but there is no requirement for them to be tabled in the Legislative Assembly.

119. The Workers' Compensation Appeal Tribunal's annual reports for 2000 and 2001 contained information required by the Act. They included the number of appeals heard, resolved, and pending before the Appeal Tribunal and described the Tribunal's general activities. We encourage the Appeal Tribunal to establish measurable goals and objectives and to report on their achievement in its annual report. Examples could include the number of high-quality and consistent decisions issued and the cost effectiveness of operations. The Appeal Tribunal notes that it has established a subcommittee to address this issue.

120. The Workers' Advocate submitted his 2000 and 2001 reports to the Minister of Justice, who made the reports available to the YWCHSB and the public. We found that the reports contained little information on performance. They did not provide even basic workload information such as the number and nature of requests for advisory and representation services.

121. Meeting stakeholder expectations. In 2001, the Yukon Workers' Compensation Health and Safety Board surveyed employers, workers, and its own staff to determine their levels of satisfaction with the compensation system. The responses were generally positive, although each stakeholder group had pockets of dissatisfied respondents. The survey results suggest that the YWCHSB is satisfying its stakeholders but could be more effective if it identified their expectations more clearly, increased their awareness of its programs and services, and communicated with them more clearly.

122. Continuing requirement for special examination. The *Workers' Compensation Act* is not specific about the requirement for a special examination of the workers' compensation system in the future. We believe the next legislative review will need to consider whether and how often a periodic examination is advisable.

123. Recommendations. The Yukon Workers' Compensation Health and Safety Board should develop measurable goals and targets and report on the achievement of results. The Minister may wish to consider proposing legislative amendments to require that annual reports of the Workers' Compensation Appeal Tribunal and Workers' Advocate be tabled in the

Legislative Assembly. The Appeal Tribunal and the Workers' Advocate should also measure and report information that they could use to determine the effectiveness and efficiency of their operations.

Management's response. The Yukon Workers' Compensation Health and Safety Board welcomes the recommendation to continue its work on developing clear and measurable goals and targets and to report on the achievement of results. It participates with the Association of Canadian Workers' Compensation Boards in developing their key statistical measures, which are being expanded. The YWCHSB will develop Yukon-specific measures in future updates of the strategic plan, using key success indicators in that plan, in consultation with staff and stakeholders and in implementing the results of its Achieving Better Customer Service project.

Appeal Tribunal's response. The Workers' Compensation Appeal Tribunal agrees with the Auditor General that practical and appropriate performance reporting will enable the assessment of the Tribunal's effectiveness and efficiency. As noted in the report, a subcommittee of the Tribunal is currently developing performance measures.

Workers' Advocate's response. The Workers' Advocate concurs with the findings of the Auditor General in that it did not have performance measures in place nor a method of gathering related information. The Workers' Advocate placed a great deal of effort on creating a computer system in 2002 to provide that information and hopes to report on its performance for 2003.

Conclusion

124. Our first objective was to determine whether appropriate strategic management, accountability, and governance frameworks are in place and whether results are measured and reported to the Legislative Assembly and other stakeholders. The Board of Directors recently approved a Governance Handbook to oversee the work of the Yukon Workers' Compensation Health and Safety Board, but a number of issues that need to be addressed are beyond its control. In particular, we believe that the Minister may wish to propose legislative amendments that would provide for public interest representation on the Board of Directors, remove the Chair of the Appeal Tribunal from the Board of Directors, and require that the President report to the Board of Directors alone and not to the Minister. We emphasize that to make these structural changes work, the Government, the Minister, the Board, the President, and the staff of the YWCHSB would need to collaborate and put the interests of the system and of Yukon citizens above those of any one stakeholder group or individual.

125. Although the YWCHSB has updated its strategic plan and developed an operational plan for 2002, we found that it has not formally identified and assessed the risks to achieving its objectives. An assessment of all risks would allow the YWCHSB to address them formally and systematically in its strategic plan. While performance measurement and reporting are in their

early stages of development, we believe the YWCHSB should develop measurable goals and targets, recognizing that this will take some time. Progress toward those goals and targets should form the basis of reporting on achievement of results, both internally to management and externally to stakeholders. In our view, practical and appropriate reporting on performance would be of considerable use to the YWCHSB to satisfy itself and demonstrate to others that it operates efficiently and effectively. For similar reasons, we encourage the Appeal Tribunal and the Workers' Advocate to develop and carry out performance measurement and reporting as well.

126. Our second objective was to determine whether prevention activities and enforcement of occupational health and safety standards are efficient and in compliance with relevant legislation and regulations. The YWCHSB carries out a number of prevention and enforcement activities, but we believe it needs to do more. For example, although the YWCHSB has made accident prevention a priority, it has no formal strategy to support this priority. As an example, it is not ensuring that employers who are required to have safety programs have them and operate them effectively. We also believe that the YWCHSB should complete its update of occupational health and safety regulations and present its recommendations to the Commissioner in Executive Council. And, in light of its relatively small jurisdiction and limited resources, we think it prudent that the YWCHSB conduct a risk assessment to determine the appropriate level of prevention effort and that it develop performance targets toward that level.

127. Our third objective was to determine whether the system for resolving claims and rehabilitation is fair, equitable, and managed well and in compliance with relevant legislation. We found that the system for resolving claims and rehabilitation is generally fair and equitable and complies with relevant legislation. It is functioning better now than several years ago. However, there are still areas that need to improve. In particular, we encourage the YWCHSB to develop and implement a quality assurance program. It also needs to evaluate the outcomes of rehabilitation services. Although the appeal process has been strengthened with the addition of the independent Workers' Compensation Appeal Tribunal and Workers' Advocate, appeals remain inherently costly.

128. Our fourth objective was to determine whether assessments, investments, and financial risks are managed well and in compliance with relevant legislation. We found that the YWCHSB has invested the Compensation Fund's money prudently, and most employers in the territory enjoy a substantial subsidy of their assessments. However, the Fund has incurred deficits in the last two years and current assessment and subsidy levels may not be sustainable in the long term.

129. Our fifth objective was to determine whether the YWCHSB manages its operations efficiently in the areas of administrative expenditures, contracting, and human resources. We found that the YWCHSB's administration costs are high compared with those of other jurisdictions and are steadily increasing. While there are some valid reasons for this, when it considers increasing

assessment rates in the future it will need to demonstrate to stakeholders that administration costs are under control and are reasonable. This will be particularly important in managing its \$4 million Achieving Better Customer Service project.

130. We found that the YWCHSB relies on many sole-source contracts. In our view, it should have a policy for tendering contracts that would provide for more transparency and competition in the contracting process and help to ensure that best value is received.

131. Finally, recruiting and retaining staff with experience in claims management or other special expertise has been difficult within the salary constraints of the Government's classification system. The YWCHSB should explore options with the Yukon Government for more flexibility in classification and salary levels for certain positions that require special expertise and that the YWCHSB can show are difficult to recruit for and staff. The YWCHSB also needs to develop a strategy for filling key positions when they become vacant.

132. It may be impractical to believe that the YWCHSB can resolve these challenging issues quickly. While high salaries and benefits can attract the right people, money alone may not be enough. Across the country there are demands for the specialized staff that this organization needs; in the North, attracting them and keeping them are particularly difficult. Thus, the recommendations we have made need to be considered in the light of the skills that are available, those that can be developed, and those that must be attracted from elsewhere.

133. Making the system work better is the overall goal. Bringing about the needed improvements will be a tough challenge that will require all the parties involved to work together in the best interests of the system, recognizing the limitations on human and fiscal resources.

About the Examination

Objectives

The objectives of our examination were to determine whether

- appropriate strategic management, accountability, and governance frameworks are in place and whether results are measured and reported to the Legislative Assembly and other stakeholders;
- prevention activities and enforcement of occupational health and safety standards are efficient and in compliance with relevant legislation and regulations;
- the system for resolving claims and rehabilitation is fair, equitable, and managed well and in compliance with relevant legislation;
- assessments, investments, and financial risks are managed well and in compliance with relevant legislation; and
- the Yukon Workers' Compensation Health and Safety Board manages its operations efficiently in the areas of administrative expenditures, contracting, and human resources.

Criteria

We expected the following in the key areas indicated:

Strategic management

- A clear legislative mandate for all activities, with up-to-date legislation and regulations
- Identification of important internal and external factors and risks
- A clear strategy supported by a practicable corporate or business plan with measurable, results-oriented goals
- A well-performing governance framework that meets best-practice expectations for roles, competencies, relationships, timely decisions, and reporting
- A positive corporate culture with clear accountabilities
- Monitoring of stakeholder satisfaction levels to ensure that the YWCHSB is meeting stakeholder expectations
- Results-oriented reporting to assess performance

Prevention, claims resolution, and rehabilitation

- Clear policies and established plans and procedures for prevention activities
- Established procedures for the efficient enforcement of health and safety standards, in compliance with relevant legislation and regulations
- Clear policies for the adjudication of claims, consistent with the legislative and regulatory framework
- Established guidelines and procedures for making adjudication decisions that are sound, fair, and in compliance with relevant legislation and policies
- An adequate complement of adjudicators, maintained with appropriate knowledge, skills, and expertise
- A simple, fair, accessible, and efficient appeal process, in compliance with relevant legislation
- Established performance expectations for rehabilitation activities, including reintegrating workers into the workplace and monitoring performance
- Efficient handling of complaints

Assessments and investments

- A sound and fair employer classification and assessment rate structure, in compliance with legislation
- An assessment billing and collection system that ensures that employers are invoiced on the basis of assessable payroll costs and invoices are paid promptly
- Investments made in accordance with a sound approved investment policy, in compliance with legislation
- Assessment revenues and returns from investments that are sufficient to provide for the long-term requirements of the workers' compensation system
- Appropriate reserves established on the basis of sound assumptions and analyses

Operations

- Adequate systems, controls, and work methods to ensure that expenditures for goods and services are incurred economically and efficiently
- Sound established practices to manage human resources

Approach

Our examination included interviews with members and staff of the Yukon Workers' Compensation Health and Safety Board, members of the Workers' Compensation Appeal Tribunal, the Workers' Advocate, and selected stakeholders. The examination included a detailed review of a sample of claims and the rehabilitation activities associated with those claims. We also examined the work of the Workers' Advocate, recent appeal decisions, and the disposition of those decisions. We obtained information on other workers' compensation boards for comparison purposes. We also looked at relevant reviews, studies, and surveys undertaken by the Yukon Workers' Compensation Health and Safety Board and at other documentation.

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