

# Crown Agencies and Corporations

# 10 RESOURCE RECOVERY FUND BOARD INCORPORATED

## BACKGROUND

- 10.1** Resource Recovery Fund Board Incorporated (RRFB) was established by the Province of Nova Scotia on January 5, 1996. It was created as a not-for-profit corporation under the Companies Act of Nova Scotia for the purpose of administering the Resource Recovery Fund.
- 10.2** The Resource Recovery Fund is to be administered in accordance with an agreement between RRFB and the Province. The current agreement is dated June 21, 2001 and is for a period of ten years, with an option to renew for an additional ten years. The agreement requires RRFB to administer the Resource Recovery Fund to achieve the goals of the Fund as defined in Section 4(1) of the Solid Waste Resource Management Regulations.
- 10.3** The goals of the Fund are to:
- develop and implement industry stewardship programs;
  - fund municipal or regional diversion programs;
  - develop and operate a deposit-refund system for beverage containers;
  - develop education and awareness of source reduction, reuse, recycling and composting; and
  - promote the development of value-added manufacturing in the Province.
- 10.4** The Resource Recovery Fund Board describes its mission as:
- “to ensure that the people of Nova Scotia receive the maximum environmental and economic benefits associated with responsible solid waste management by developing and administering sustainable industry stewardship programs that increase diversion, assist in the establishment of new industries based on the processing of materials diverted from the waste stream, and provide incentives to residents to reduce, reuse, recycle and compost.”*
- 10.5** RRFB’s operations are overseen by a Board of Directors which currently consists of twelve directors. RRFB may have between seven and fifteen members on its Board of Directors. Regulations empower the Minister of Environment and Labour to appoint three members, one of whom is the Chair. RRFB appoints a nominee from the Union of Nova Scotia Municipalities as a director. The remaining members are appointed by decision of the Board.

- 10.6** RRFB is accountable to the Minister of Environment and Labour and must follow an annual action plan approved by the Minister. The Minister has the authority to define RRFB priorities and directions. RRFB must also submit an annual report to the Minister.
- 10.7** RRFB is located in Truro and has a staff complement of 25. For the year ended March 31, 2004 it had revenues of \$37.3 million, expenses of \$27.4 million and a surplus of \$9.9 million. The surplus was used, in part, to fund solid waste diversion in municipalities, education and awareness initiatives, regional waste coordinators and other approved programs.
- 10.8** Our Office previously conducted an audit of RRFB in 1997. Most, but not all, matters reported upon in our 1997 Report have been addressed by RRFB, or through government initiatives. Matters not fully addressed have been reconsidered and, if appropriate, included in this Report.

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## RESULTS IN BRIEF

- 10.9** The following are our principal observations from this audit.
- There is adequate and timely performance reporting within Resource Recovery Fund Board. RRFB has clearly defined goals and objectives, and has developed performance indicators and set targets to help it assess its performance. However, RRFB's external reporting does not include reporting of performance with respect to these indicators and targets.
  - The Resource Recovery Fund Board was created to administer the Resource Recovery Fund. The administration agreement with the Province states that RRFB has no right, claim or title to the property of the Fund. However RRFB's financial statements report that RRFB owns the Fund assets, and there is no separate financial reporting by the Fund.
  - Our audit of information technology controls at Resource Recovery Fund Board concluded that the organization's general computer environment and application controls are adequate.
  - Resource Recovery Fund Board does not follow the Provincial Procurement Policy. We believe procurement practices at RRFB are contrary to the Provincial policy's objective of ensuring all public sector procurement is completed in an open, fair and competitive manner.
  - RRFB undertook to sell its expertise and technology to various other countries, focusing primarily on the Caribbean. The initiative was undertaken without completing a detailed business plan. RRFB did not prepare an analysis of the costs, benefits or risks of the initiative, nor has it tracked expenses for the project or monitored its progress against any identified goals or targets.

- The Resource Recovery Fund Board has incurred expenses for Board of Director and other liability insurance. However, it appears that the Environment Act protects the organization from liability. Based on our advice, RRFB is reviewing the matter to determine the degree of protection provided by legislation.

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## AUDIT SCOPE

- 10.10** We completed a broad scope audit of Resource Recovery Fund Board Incorporated in October 2004. The audit was conducted in accordance with Sections 8 and 17 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants, and included such tests and procedures as we considered necessary in the circumstances.
- 10.11** The objectives of the audit were to assess:
- the adequacy and timeliness of performance reporting;
  - control over computer processing and the general computer environment;
  - control over revenue and expenses;
  - systems and control over the provision of financial assistance and whether the objectives of approved projects are consistent with RRFB's objectives;
  - policies and procedures for monitoring funded projects; and
  - management's progress in addressing the issues identified in the 1997 Auditor General's Report.
- 10.12** Audit criteria were developed to assist in the planning and performance of the audit. The criteria were discussed with and accepted as appropriate by senior management of RRFB.
- 10.13** Our audit included an examination of relevant legislation, regulations, policies and procedures; a review of Board and Executive Committee minutes; detailed transaction testing; a review of other relevant documentation; and interviews with staff, as well as the current and past Chairs of the Board.

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## PRINCIPAL FINDINGS

### Performance Reporting

- 10.14** The results of our audit indicate that RRFB has appropriate and timely performance reporting within the organization. There are clearly defined and communicated

goals and objectives. Performance indicators and quantified targets have been developed. Performance is regularly assessed against the organization's goals, objectives and performance targets. There are adequate systems to collect and support performance information.

- 10.15** External performance reporting by RRFB is limited to its annual report. The annual report does not include information on RRFB's performance indicators and success in meeting targets. We concluded that performance information included in the annual report is not fully supported and is insufficient to adequately assess performance.

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### **Recommendation 10.1**

**We recommend that Resource Recovery Fund Board improve its external reporting of performance. Including information such as performance against quantified targets in the organization's annual report would improve its usefulness as an accountability document.**

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- 10.16** We also reviewed RRFB's financial reporting. We noted that the Solid Waste Resource Management Regulations require all funds from the beverage container deposit-refund system to be deposited to the Resource Recovery Fund, which was established as a *special fund* under the Provincial Finance Act in January 1997. The Regulations and the agreement between the Province and RRFB establish RRFB as the administrator of the Fund. The agreement also states that RRFB has no right, claim or title to the property of the Fund.
- 10.17** However, the financial statements of RRFB report all assets as being the property of RRFB, and there is no separate reporting for the Fund. We concluded that the financial statements of RRFB are inconsistent with the agreement with the Province and the Solid Waste Resource Management Regulations. In addition, the financial statements are not in compliance with generally accepted accounting principles which require the reporting entity to own or have a right to the assets reported in its financial statements.
- 10.18** Our review of the financial statements also noted that certain expenses, such as payments to the Province for expenses incurred on behalf of RRFB, are reported in the statement of changes in net assets. Generally accepted accounting principles require all current year expenses to be recorded in an organization's statement of operations. Otherwise, the net income of an entity will be overstated.
- 10.19** We also found that RRFB recognizes financial assistance as a liability once a project has been approved for funding, and not when eligibility requirements have been met by the organization requesting assistance. In accordance with generally accepted accounting principles, approved funding should be recorded as commitments until all eligibility requirements are satisfied. Once eligibility requirements are met, a liability should be recognized.

- 10.20** In addition, the financial statements of RRFB do not fully comply with all disclosure requirements of generally accepted accounting principles, such as requirements for providing descriptions of restricted funds.

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**Recommendation 10.2**

**We recommend that Resource Recovery Fund Board review its financial reporting policies to ensure its annual financial statements are fairly presented in accordance with associated agreements, regulations and generally accepted accounting principles.**

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## **Internal Control**

- 10.21** **Information technology** - Our examination of information technology controls at Resource Recovery Fund Board concluded that the organization's general computer environment and application controls are adequate. However, we observed some matters which should be addressed.
- 10.22** RRFB's mission critical system (ROCAPS) is dependent on two file servers. The servers are not housed in an industry-standard computer room with appropriate environmental controls such as dedicated air conditioning and rigorous physical access control. We observed some risks to the equipment in its current setting.
- 10.23** RRFB performs full system and data back-ups each day. They are stored off-site, but they are not stored in an appropriately controlled environment. We believe backup media should be stored in a secure, fireproof and temperature/humidity controlled off-site environment.
- 10.24** There are formal security policies and practices in place at RRFB. There are also guidelines to instruct staff in the acceptable use of information technology resources. These policies and guidelines are communicated to staff, but staff are not required to document that they have read, understood and agree to abide by the policies and guidelines.

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**Recommendation 10.3**

**We recommend that initiatives be taken to strengthen control over information technology, including an industry-standard computer room, more secure off-site storage of file back-ups, and documentation of staff agreement to follow the organization's security policies and acceptable use guidelines.**

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- 10.25** **Revenues and expenses** - The results of our audit indicate that generally there is adequate control over the revenues and expenses of Resource Recovery Fund Board. However, we observed instances where control could be improved.

- 10.26** Recyclables collected by Enviro-Depots are transported to regional processing centres for packaging and shipment to markets for solid waste resources. RRFB does not own or operate these entities, but pays fees based on the volume of product processed. Control over the reporting of goods sent from an Enviro-Depot to a regional processing centre includes reporting by truckers and audit checks involving the trucking of materials. However, there are two locations in the Province where both an Enviro-Depot and regional processing centre are operated in the same building. In these two situations, recyclables are not trucked and there is no audit function.
- 10.27** RRFB management is aware of the issue and attempts to mitigate the risk through additional analysis of the information reported by these two Enviro-Depots and regional processing centres. However, we believe current controls are insufficient to compensate for the increased risk in these situations.

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#### **Recommendation 10.4**

**We recommend that Resource Recovery Fund Board strengthen controls to reduce the risk associated with the two co-located Enviro-Depots/regional processing centres.**

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- 10.28** Our audit of internal control over revenue and expenses included an examination of a sample of transactions. We observed a lack of documentation to indicate that certain controls over revenues were functioning as intended. We also found that purchase orders were sometimes approved subsequent to the actual purchase.
- 10.29** RRFB's 2001 agreement with the Province requires it to "reimburse the Department of Environment and Labour for all reasonable services performed and expenses incurred by the department in furtherance of the achievement of the goals, objectives and the mandate of the Board or the Fund to a maximum of 10% of net revenues." Payments from RRFB to the Department between the date of the agreement and March 31, 2004 total \$2.9 million. We reviewed documentation provided to RRFB by the Department to support the payments and concluded it was insufficient. It was based on estimated, not actual, expenses and there was no clear indication of how such expenses furthered the achievement of the goals, objectives and mandate of RRFB or the Fund. We also noted that the Department directed RRFB to pay \$535,000 a few months before the 2001 agreement was signed. Similarly, there was insufficient support for the amount requested. Based on discussions with RRFB management, there are no agreements on formula, listing of eligible costs or cost allocation method to determine which costs of the Department are reimbursable. Accordingly, RRFB has no means of reviewing the reasonableness of payments requested by the Department.

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### **Recommendation 10.5**

**We recommend that Department of Environment and Labour requests for payment for reimbursable expenses be supported by an analysis of actual expenses made by the Department, and an indication of how such expenses further the achievement of the goals, objectives and mandate of RRFB or the Fund.**

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- 10.30** We found that RRFB does not apply the Provincial government's Procurement Policy. The Policy indicates that it is applicable to all government agencies, boards and commissions, as well as organizations that are Provincially funded, such as school boards and crown corporations. In our opinion, the Provincial Procurement Policy applies to RRFB.
- 10.31** We tested some procurement transactions and found several purchases were made without a sufficiently rigorous competitive process. We also noted the existence of long-term relationships with multiple suppliers which resulted in untendered procurements without a contract or standing agreement. An objective of the Provincial Procurement Policy is to ensure all public sector procurement is completed in an open, fair and competitive manner. We believe that current procurement practices at RRFB are contrary to this objective.
- 10.32** During the course of the audit, RRFB management presented a draft procurement policy for our review. The draft policy does not comply with the Provincial Procurement Policy in all areas.

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### **Recommendation 10.6**

**We recommend that Resource Recovery Fund Board adhere to the spirit and detailed requirements of the Nova Scotia Procurement Policy.**

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- 10.33** The agreement between the Province and RRFB entitles members of the Board of Directors to a per-diem payment of \$150 for each meeting attended. We observed payments for non-meeting events such as award ceremonies, and payments for attending Board meetings of a subsidiary company which are not provided for under the agreement. We believe all RRFB expenses should be in compliance with the agreement.
- 10.34** In response to an unsolicited proposal in the spring of 2003, RRFB contracted with an external consultant to assist RRFB in its attempt to sell its expertise and technology to various other countries, focusing primarily on the Caribbean. This initiative was undertaken without preparing a detailed business plan. RRFB did not analyze the costs, benefits and risks of the initiative, nor has it tracked its expenses for the project or monitored its progress against any identified goals or targets.

**10.35** Based on our review of expense files, RRFB has paid approximately \$38,000 to the consultant and incurred approximately \$10,000 for travel to the Caribbean. Additional amounts have been spent preparing marketing materials for this venture, but these amounts could not be easily identified. RRFB hosted two groups from the Caribbean in September 2004. No contracts have been signed as of the date of drafting this Report.

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### **Recommendation 10.7**

**We recommend that new business initiatives be adequately supported by a comprehensive analysis of the costs, benefits and risks. Costs and progress against identified goals and targets should be monitored throughout the life of the project.**

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## **Grants and Contributions**

**10.36** RRFB's mandate and its agreement with the Province permit it to provide financial assistance and incentives for environmental programs. Our examination of RRFB's financial assistance programs concluded that there are adequate policies and procedures to assess and approve grant applications and to monitor funded projects. Roles and responsibilities for the provision of financial assistance are clearly established and communicated. However, we observed a need for more formal documentation of these items.

**10.37** For the years ended March 31, 2002 and 2003, financial assistance totaled \$2,246,207. We selected 20 projects for examination, which accounted for \$1,437,930 (64%) of total assistance awarded during these periods. We found that the objectives of approved projects are consistent with the objectives of RRFB and that applications for financial assistance are reviewed and approved in accordance with established criteria and program guidelines. Approved projects are monitored for compliance with the terms of the letter of offer from RRFB, and payments are made in accordance with these terms.

**10.38** We also noted the following from our tests.

- One project was approved before the program guidelines were met.
- In two cases, there was no documentation to support compliance with the terms of reference prior to payment.
- There was no formal application for one project. It was approved based on a proposal submitted by the applicant.
- Documents were missing in four cases.

**10.39** We identified a need for RRFB to establish file documentation standards for its financial assistance programs. We also found that RRFB does not have a process

to formally rescind previously approved financial assistance which is no longer required by the applicant.

## Other Observations

- 10.40** **Governance** - RRFB does not have bylaws. The organization's articles of association serve as its bylaws. The articles were prepared in 1996 and have not been updated. There have been developments in the areas of corporate governance, management and accountability, as well as statutory changes affecting the operations of RRFB which should be reflected in the articles or in a set of bylaws.

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### Recommendation 10.8

**We recommend Resource Recovery Fund Board update its articles of incorporation or prepare a set of comprehensive corporate bylaws.**

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- 10.41** On July 21, 2004, the Board of Directors of RRFB appointed its Chair to be the organization's chief operating officer on a temporary basis until a vacancy in the position could be permanently filled. Although it was understood that this individual would be compensated upon assuming responsibility, a remuneration package was not approved until September 14, 2004. The remuneration and expectations for the temporary position were not formalized in a contract. We advised that such arrangements be handled by way of contract.
- 10.42** We also noted that the Chair of the Board was present at the Executive Committee and Board of Directors meetings in which the remuneration package was discussed and voted upon. We were informed that the Chair did not vote on the matter. However, there is no indication in the minutes of this. We suggested that more care be taken to document all measures taken to avoid conflicts of interest among members of the Board of Directors.
- 10.43** **Planning and reporting** - RRFB does not have a long-term strategic plan. Management indicated that they have begun the process of developing one.
- 10.44** The annual business plan of RRFB is not published with the business plans of other agencies of the Province and its annual report is not tabled in the House of Assembly. We believe these documents should be treated similarly to those of other government agencies so that RRFB is held to the same level of accountability.
- 10.45** **Compliance** - RRFB has acquired a 60.8% subsidiary interest in Novapet, a company which processes waste plastic. RRFB's memorandum and articles of association provide the authority for such an acquisition. Provincial legislation does not address the authority by which government entities create, acquire or dispose of other government entities. We believe that a government entity's ability to create, acquire and/or dispose of another entity should be subject to the review and approval of a central government agency.

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## Recommendation 10.9

**We recommend that all government entities be required to obtain formal approval before they create, acquire or dispose of another government entity.**

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- 10.46** The audited financial statements of Novapet indicate that it has bank loans. The Provincial Finance Act requires funded obligations of a government entity to receive Governor-in-Council approval. Approval was not obtained in this case. RRFB management stated they were unaware of this legislative requirement. We believe there is a need for better communication of legislative requirements to government entities.

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## Recommendation 10.10

**We recommend government establish a communication process to ensure relevant statutory, policy or other requirements are effectively communicated to the governing bodies and senior management of all government entities. We also recommend Resource Recovery Fund Board put in place a process to ensure it is aware of, and in compliance with, all statutory or other requirements affecting its operations.**

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- 10.47** **Insurance** - Section 143 of the Environment Act provides protection from liability for certain individuals and agencies of government. The Solid Waste Resource Management Regulations and RRFB's agreement with the Province state that Section 143 of the Environment Act applies to RRFB. However, RRFB has purchased Board of Director and other liability insurance. Based on our advice, RRFB is reviewing the matter to determine the degree of protection provided by legislation.
- 10.48** Our review of the RRFB liability issue also identified that the Province does not have a government-wide policy to address liability issues. We believe that such a policy would provide the Province with an opportunity to fully assess and manage risk on a corporate-wide basis and avoid duplication of insurance coverage.
- 10.49** **Taxation** - We observed the payment of certain municipal taxes by RRFB related to real property. Based on our research, RRFB is exempt from such taxes. RRFB has initiated steps to recover the taxes.
- 10.50** RRFB has been advised by the Canada Revenue Agency that it will be required to charge the Province HST on the amount charged by RRFB for administrative services rendered for the used tire program. This appears to be inappropriate because RRFB is itself a government entity, and Provincial government entities do not charge each other HST. We believe the tax status of RRFB needs to be reviewed and clarified.

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## CONCLUDING REMARKS

- 10.51** Overall, Resource Recovery Fund Board has adequate internal performance reporting and adequate internal controls. RRFB also has reasonable policies and processes related to the provision of financial assistance. However, we have made recommendations for improvements regarding external performance reporting, compliance with generally accepted accounting principles in financial reporting, internal controls, as well as in other areas.
- 10.52** The Resource Recovery Fund Board is an agency of government and, as such, needs to ensure it is in compliance with Provincial legislation, regulations and policies which will further its accountability and ensure appropriate stewardship of public funds.
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