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JUSTICE AND HEALTH - CENTRAL NOVA SCOTIA CORRECTIONAL FACILITY AND EAST COAST FORENSIC PSYCHIATRIC HOSPITAL

BACKGROUND

12.1 *The project* - In 1994 a government report noted that Nova Scotia had not made any significant investment in correctional facilities since 1975 and there was an overcrowding crisis in the Province's nine adult jails. It was subsequently determined that 14% of bed-space was double-bunked style (i.e., two offenders to a cell) and 58% was dormitory style (i.e., more than two offenders to a cell). Also, correctional facilities were generally very old, with two being over 100 years in age, and not designed for maximum safety.

12.2 The need for expanded forensic facilities in Nova Scotia has been recognized in a variety of reports since 1971. At the time of our audit, the Nova Scotia Hospital (now part of the Capital District Health Authority) was caring for more patients than its forensic unit was designed for, and female and male patients were being accommodated on the same floor. A number of patients were being treated outside of the Province.

12.3 In August 1995 government approved a process to replace the old, overcrowded jails. However, a directive from Executive Council stated that any new corrections facilities had to be built and operated within current budget limits, and no projects were to increase the debt of the Province. To accommodate this directive, any facilities planned had to be constructed and owned by a private sector entity, and leased back to the Province under terms that would permit the government to record the transaction as an operating lease. In effect, it would have to be done under the structure of a public-private partnership (P3).

12.4 In May 1997 a Custody Configuration Plan was completed that outlined a number of options, including locating a psychiatric forensic facility on the same site as a correctional facility. In December 1999 government signed agreements with a private consortium to design, build and own a correctional and forensic facility in the Burnside Industrial Park, Dartmouth, Nova Scotia. The Province agreed to lease the facility and also make payments based on the consortium's cost to maintain the facility. The lease has an initial term of 25 years, with an option to purchase the facility or renew the lease for an additional five years. The final agreement between the Province and the consortium put the cost of the facility at \$60 million. Construction was completed and the facility was occupied by the fall of 2001.

12.5 The two primary units of the new facility were named the Central Nova Scotia Correctional Facility and the East Coast Forensic Psychiatric Hospital. The facility is sited on 66 acres of land in the Burnside Industrial Park in Dartmouth. It has 272 beds for corrections use, including a separate unit to accommodate up to 48 female offenders. There are 92 beds for forensics use, including a mentally-ill offender unit which can accommodate up to 24 patients. The complex consists of a one-story 81,000 square-foot forensics building, joined by a 34,000 square-foot common services unit to a 138,000 square-foot corrections building. The facility will be the first of its kind in Canada, with corrections and forensics sharing rooms and services such as a chapel, hearing room, kitchen, laundry, gymnasium, heating and mechanical plants, pharmacy, as well as health and security services.

12.6 *Correctional centres* - Provincial correctional centres accommodate criminal offenders who have been sentenced to custody for a term of less than two years, as well as persons awaiting trial, sentencing or transfer to a Federal institution. Offenders to be incarcerated for longer terms go to a Federal institution.

12.7 In 1986 Nova Scotia was the last province in Canada to assume administration of its county jail system. The Province assumed responsibility for certain county jails and provided municipalities the right to purchase a facility if it was subsequently closed by the Province. When the Custody Configuration Plan was completed in 1997, there were nine Provincial jails (Exhibit 12.2). The Guysborough correctional centre was closed in 2000. During the following year, adult correctional centres in Lunenburg, Waterville, Truro and Halifax were closed and resident offenders were transferred to the new correctional facility in Burnside Industrial Park.

12.8 Adult correctional centres cost \$19.8 million to operate in 2000-01. \$14.7 million was recovered from municipalities, for a net operating cost to the Province of \$5.1 million. The 2001-02 budget for adult correction centres was \$20.6 million, with \$15.0 million recoverable and a net operating cost to the Province of \$5.6 million. This amount includes the amortization costs of the new adult correctional facility. The new facility will be staffed by 130 personnel and provide 272 beds. The facility will replace four correctional centres which were staffed by 212 personnel and provided 334 beds.

12.9 *Psychiatric forensic facility* - The only secure psychiatric forensic facility in Nova Scotia before the construction of the new forensic and correctional facility was located at the Nova Scotia Hospital in Dartmouth. The Nova Scotia Hospital is a part of the Capital District Health Authority. Forensic facilities treat patients who have a mental illness and are in conflict with the law.

12.10 Changes to the Criminal Code of Canada in 1992 increased demand for forensic services, and two renovations at the Nova Scotia Hospital increased the capacity of the forensic facility from 12 to 40 beds. In March 2001 the Nova Scotia Hospital had 94 forensic patients. Thirty-seven patients were resident at the Hospital and 12 patients found 'not criminally responsible' were under the care of a psychiatric forensic facility in Montreal because the Nova Scotia Hospital did not have the capacity to care for them. Two patients were under the care of a Halifax hospital and the remaining 43 patients were living in the community under out-patient care by psychiatric health care workers.

12.11 The new forensic facility will be staffed by approximately 130 personnel and will provide 92 beds, including a mentally ill offender unit and two transition houses. The facility will replace the existing forensic unit at the Nova Scotia Hospital which is staffed by 80 personnel and provides 48 beds. It will also provide treatment for patients found 'not criminally responsible,' which will allow for patients previously treated outside of the Province to be treated in Nova Scotia. The Nova Scotia Hospital forensic program cost \$6.4 million to operate in 2000-01. It is budgeted to cost \$8.2 million in 2001-02, which does not include approximately \$2.2 million of amortization costs.

RESULTS IN BRIEF

12.12 The following are the principal observations from this audit.

- We believe accountability for the project would have been improved if government had provided timely, comprehensive reporting of project status or other significant information to the House of Assembly. For example, there was no detailed reporting to the House on the \$22.0 million increase in the cost of the new facility.

- Project goals and processes were consistent with department and government goals and policies, and provided clear expectations for the project.
- Organizational structures and processes were established near the beginning of the project and were improved as the project progressed.
- Government chose a facility site in Bedford rather than a site recommended by staff, and the extra cost for the land is estimated at about \$1.0 million. The subsequent change in site location from Bedford to Burnside cost the Province at least an extra \$3.1 million.
- The Province did not compare the anticipated cost of the P3 project to the cost of undertaking the project conventionally. Draft Provincial guidelines for P3 projects recommended that public sector comparators be prepared when significant capital projects are being planned.
- The government structured the project as a P3. We did not see significant benefits being realized by government in structuring the project this way. The government did not transfer significant amounts of risk to the private sector that it would have borne if it had built and owned the facility itself. We also identified certain additional costs, risks and uncertainties incurred by government as a result of using the P3 process in place of a more traditional method.
- There should be a post-completion review to assess the project. The knowledge gained and observations made could benefit future government projects.
- The Province paid approximately \$350,000 to the developer to the end of September 2001 before the facility was fully occupied.
- The project was a cooperative effort of several government departments and related entities. Although numerous committees existed throughout the project and a project office was established, we could not determine the full financial cost of the project over the period from 1995 to 2001. We tabulated approximately \$5.5 million of project-related costs in addition to the cost of \$60 million to construct the facility (Exhibit 12.5), but we do not believe we have identified all such costs.
- In planning the correctional facility, the Department of Justice reserved surplus government equipment and thereby limited its cost of new furniture and equipment to approximately \$104,000.

AUDIT SCOPE

12.13 In the fall of 2001 we completed a broad scope audit of the correctional and forensic facility project in accordance with Section 8 of the Auditor General Act. The objectives of the assignment were to review and assess:

- the accountability structure and reporting practices established for the project, both internally within departments and externally to government and the House of Assembly;
- the adequacy of project planning; and
- the management and control processes established for the project.

12.14 Audit criteria were developed to assist us in the planning and conduct of the audit. We presented the criteria to various senior government officials who agreed that they were appropriate criteria for the audit. The criteria are described in Exhibit 12.1.

12.15 As part of this assignment, we interviewed staff of the Departments of Justice, Health, Finance, and Transportation and Public Works, and the Nova Scotia Hospital to gain an understanding of the construction project. We examined plans, minutes, contracts, invoices and numerous other documents relating to the project.

PRINCIPAL FINDINGS

Accountability

12.16 *Project authorization* - Government, through Executive Council, has authorized each major stage of the project. In July 1995 government gave approval to hire consultants to plan for a business solution to the problem of old, overcrowded jails. In June 1996 Executive Council approved contract negotiations with a private consortium to plan a new configuration of correctional institutions and services to replace the existing Provincial system of nine adult offender institutions (Exhibit 12.2). In December 1997 Executive Council directed that only one central collocated correctional and forensic facility would be pursued, rather than a complete Provincial system. In June 1998 Executive Council declined a request to purchase 60 acres of land at Rocky Lake (Exhibit 12.3). In July 1998 Executive Council approved the purchase of 960 acres at Jack Lake in Bedford. In April 1999 Executive Council approved agreements with a private consortium to design, construct and own a correctional and forensic facility at Jack Lake. In October 1999, after a Provincial election, a new Executive Council approved a land swap and changed the facility location to the Burnside Industrial Park (paragraphs 12.42 to 12.48 provide more discussion of site selection).

12.17 *Roles and responsibilities* - Key roles and responsibilities were defined and understood. From 1995 to April 1999, management of the Departments of Justice and Health and the Nova Scotia Hospital attended various project committee meetings and were assisted by other government staff when required. In April 1999, when the initial agreements were signed with the private consortium, a government project manager position was created to coordinate the design finalization and construction phases of the project. This position was superceded in December 1999 by an independent Project Office, under the direction of a Project Director who coordinated and oversaw construction and completion of the facility. The Project Director chaired a Leadership Committee which consisted of management personnel from Justice, Health and the Nova Scotia Hospital, as well as various experts when required. The Project Director reported to a Steering Committee of senior executives from the Departments of Justice and Health, and the Nova Scotia Hospital. The Steering Committee had final project authority. Several project teams and sub-committees were also established, with responsibility for different facets of the project (Exhibit 12.4).

12.18 *Project reporting* - Throughout the project, from 1995 to 2001, department managers provided over 50 presentations, submissions or memoranda to the government's Priorities and Planning Committee and Executive Council. We understand that department senior managers also advised their respective Ministers and Deputy Ministers on the project's status on a regular basis, but documentation from such briefings was not always retained. Although status and information was reported within departments and to Executive Council, there was no timely comprehensive reporting of project status or other significant information by government to the House of Assembly. In our opinion, a good system of accountability should provide the House of Assembly and public with information on the status of major government projects.

12.19 Although most construction costs were incurred by the private consortium, there were significant costs to the Province in addition to lease and other payments to the developer. For example, the cost of the project office, civil servant salaries, and moving costs were paid by the Province. We found there was no separate reporting of such costs within departments, to Executive Council, or to the House of Assembly. We believe that there should be systems and controls to ensure such information is reported completely and accurately. Throughout the audit, we enquired about such costs and tabulated approximately \$5.5 million of project-related costs over the 1995 to 2001 period (Exhibit 12.5). However, we do not believe our tabulation has captured all such costs and the total may be understated by a material amount.

Project Planning

12.20 *Background* - In July 1995 government gave approval to proceed with a process to develop a plan to address the Province's correctional centre problems. A consultant was hired to develop a Call for Proposals and to prepare evaluation criteria for bids received. In October 1996, after evaluation of bids received, the Province entered into an agreement with a private consortium to develop a plan for a new configuration of correctional institutions to replace the existing nine Provincial adult correctional facilities. In May 1997 a Custody Configuration Plan was completed. It outlined a number of options, including locating a psychiatric forensic facility on the same site as a correctional facility.

12.21 The government chose not to replace all existing corrections centres. Upon completion of a Request for Proposals (RFP) process to select a private partner to build just the central collocated forensic and corrections facility, the cost estimate increased from \$35.7 million noted in the Custody Configuration Plan to \$57.7 million (Exhibit 12.6).

12.22 *Project planning* - Throughout the planning process, project goals were consistent with both department and government goals and policies, and the project was included in planning documents such as *Government By Design* and annual government budgets. Finalized plans were reviewed and challenged by senior management from all departments participating in the project. Project goals, such as providing a safe, secure environment for offenders and patients and managing the cost of corrections programs, were specific and stated in a manner to enable measurement of success. Extensive research was conducted and the detailed Custody Configuration Plan provided several options to address the Province's adult custody and forensic needs. Consultations were held throughout the planning process with concerned government departments and agencies, as well as significant stakeholder groups. Life-cycle costs of the new facility were estimated and compared to the actual recent costs of existing facilities. Cost alternatives were evaluated and economies of scale were employed wherever possible.

12.23 Project plans were detailed and addressed factors such as goals and objectives, responsibilities for project leadership, technical specifications and standards, and time lines with specified milestones and deliverables. Technical specifications for the facility were designed to be in accordance with applicable requirements including the National Building Code, Nova Scotia Building Code, hospital standards of the Canadian Council of Health Services Accreditation, Canada Criminal Justice Association Manual of Prison Standards, American Correctional Association Standards for Local Detention Facilities and the National Fire Code of Canada.

12.24 Project plans were updated on a timely basis for significant changes. All major changes prior to December 1999 were formally approved by the departments involved and Executive Council. After December 1999, plan amendments received approval through a change order process which involved the Project Office, as well as staff of the various departments involved.

12.25 *Cost of facility* - Briefing documents for Executive Council dated December 16, 1997 stated that project costs totaled \$35.7 million, including all land, equipment, professional fees and other costs. The documents noted that the authors were “*highly confident in \$35.7 million estimates*” [sic]. On July 30, 1998 the Province issued a Request for Proposals for development of the facility. On September 9, 1998 the Department of Justice publically announced that Jack Lake would be the site for the correctional and forensic facility and construction was expected to cost the developer \$35.7 million. On November 26, 1998 three proposals with cost estimates ranging from \$56.0 million to \$58.5 million had been received in response to the Request for Proposals. On April 14, 1999 the Department of Justice publically announced that government had entered into a development agreement with a private consortium valued at \$57.7 million. We could find no reporting by government to the House of Assembly or the public at that time regarding the cost increase of \$22.0 million during the eight-month period. We believe that reporting would have been good accountability due to the significance of the change in commitment of public funds. In October 1999 the project site was changed from Jack Lake in Bedford to the Burnside Industrial Park and the December 1999 amended development agreement indicated the facility was then valued at \$60.0 million (Exhibit 12.6).

12.26 During our audit, we were provided with reasons for the cost increase. One reason was that the 1997 Custody Configuration Plan costs were based on ‘Class D estimates’ which were acknowledged to be only accurate to plus or minus 15%. A second reason was that the facility design was based on square footage which should have, but did not, appropriately allow for the geometry of wedge-shaped living units. The design parameters of the project could not be changed to allow for the error because specified clear sight-lines were integral to the safe operation of the facility. We understand this error in design accounted for an additional 35,000 square feet. Other design errors resulted in inadequate space for the boiler, laundry and mechanical rooms. The design errors were brought to the Province’s attention in a November 1998 letter from a developer. However, we did verify these explanations and do not express an opinion on their accuracy or completeness.

12.27 We enquired whether an accounting for the project cost increase of \$22.0 million had been prepared to quantify the explanations described above. Staff could present no information which specifically accounted for the \$22.0 million increase in project cost. We prepared an estimate based on interviews and other information we accumulated during the audit (Exhibit 12.6). We cannot be certain we have accounted for all relevant factors and costs.

12.28 *Public Private Partnership (P3) process* - Because the Department of Justice was required to construct the new correctional facility without spending more than had been provided in the budget, and without adding to the debt of the Province, government sought a private partner to design, build and own a facility that would be leased to the Province.

12.29 P3s are characterized by a formal relationship between government and a private sector partner which results in sharing of the costs, risks and rewards of a project. When the Province first explored the potential for P3s years ago, there were no policies or guidelines. A discussion paper titled *Transferring Risk in Public/Private Partnerships* was subsequently released by the Department of Finance in November 1997. Draft Provincial guidelines for managing P3 projects were later issued in February 2000. Earlier drafts of these guidelines were available when the final agreements for the forensic and correctional facility were being negotiated in 1999.

12.30 The Department of Finance’s 1997 discussion paper and 2000 guidelines outline three key components of a successful P3 project:

- *Business case* - A business case should be developed before a Request for Proposals is issued. The business case should address the need for the project in the context

of overall Provincial strategies. It should also provide a preliminary assessment as to whether value is likely to exceed cost.

- *Public sector comparators* - The value of a project should be measured against the net cost (on a net present value basis) of undertaking the project conventionally.
- *Valuing risk* - The Province should ensure that the value of the risk transferred to the private sector outweighs any extra costs to government under a P3 arrangement compared to the cost of undertaking the project conventionally. The Province should also be mindful of incremental risks it may have assumed by not using conventional means. If the benefits can be shown to exceed all incremental costs, the project should be considered.

12.31 We have a number of observations on the P3 arrangement for this project as they relate to the three key components described above.

12.32 Our review of planning and other documents led us to conclude that the business case was well established for the original plan to replace all correctional centres in the Province. A number of studies and reports were prepared and the May 1997 Custody Configuration Plan provided analysis and evaluation of various project options.

12.33 However, the plan did not provide public sector comparators. After government decided to build only one central facility, additional analysis was prepared comparing costs to the Province of building versus leasing. The analysis was not sufficiently detailed and complete. It assumed capital costs of \$35.7 million for the joint facility based on the original plan, although this came from an analysis assuming a configuration of four Provincial facilities and significant economies of scale. The analysis was also presented in terms of the impact on multi-year budget estimates rather than net costs on a net present value basis over the life of the project. We were informed that there was no formal analysis of the advantages of a P3 arrangement in comparison to Provincial financing and construction of the facility. Further, the cost and benefits of proceeding with the P3 approach were not reevaluated when, as a result of the Request for Proposals process, it was evident that the facility cost estimate had increased to \$57.7 million.

12.34 We noted the Province was not successful in transferring significant amounts of risk which normally would have been borne by the Province to the private consortium. The major risks transferred to the private consortium are the design, construction and residual value risks. Design risk is the danger that a construction project has major architectural, engineering or other design flaws. Construction risk supposes that a project may not be completed as designed, on target and on budget. Residual value risk addresses the chance that a property may have a market value at the end of a lease term which is different than that used in the calculation of lease payments.

12.35 In the case of the forensic and correctional facility project, the transfer of design and construction risk could have been accomplished without a P3 arrangement by tendering procurement of design and construction services from the private sector and requiring the vendors to guarantee their service. Although the 1997 Department of Finance discussion paper on transferring risk indicated P3 partners should have at least 15% residual risk. The residual value risk on this project is limited to 10.47% of the initial investment in the building, since the private consortium will have recovered 89.53% of their investment at the end of the 25-year lease term. The facility should have some value at the end of the lease term, but if the Province does not renew the lease and the building cannot be sold by the consortium or cost-effectively renovated for alternative use, the related risk would remain with the consortium. Furthermore, the Province assumed extra risk when it agreed to be the prime obligor to the private partner's lenders by making base lease payments directly to

the lender, and these payments must continue even if the facility becomes unusable to the Province during the lease term.

12.36 Because insufficient risk was transferred to the private sector partner, the government was not successful in preventing the project from adding to the debt of the Province. This could only be accomplished by having the facility owned by the private sector, leasing it back, and accounting for the lease as an operating lease (as defined by the Canadian Institute of Chartered Accountants in Section 3065 of the *CICA Handbook*). When the decision was made to proceed with the project in conjunction with a private partner, all subsequent considerations of the financial arrangements were made from that perspective. That is, financing arrangements were evaluated in terms of meeting the requirements for classification as an operating lease. The evaluation process was driven by accounting presentation rather than a thorough analysis of the costs and benefits of the project. However, the result was insufficient transfer of risk, and government appropriately classified the transaction as a capital lease.

12.37 The 1997 Finance discussion paper states “*The key (P3) objective is to enable Nova Scotia taxpayers to get better value for their tax dollars by shifting responsibility ... to the private sector.*” We do not believe significant benefit was realized in arranging a P3 relationship for the collocated forensic and correctional facility project. We have identified various costs, risks and uncertainties which resulted because of the way the project was structured.

- The consortium pays a \$25,000 annual fee to a local non-profit organization to provide tax-exempt status for the jail lease. This would not be a cost of the project if it had been undertaken by government. The net present value of the payments for the first lease term approximates \$310,000.
- We understand that the effect of the harmonized sales tax (HST) on the cost of the project is unknown to the government, but if the Province had conducted the project it is clear that there would have been no HST costs. Thus, the cost of the project may have been greater because HST may have been payable by the private partner.
- Time and effort were channeled into negotiating an arrangement that would allow the government to record its financial commitments as payments on an operating lease. The objective was to not have the debt of the Province increase on account of this project. The transaction was subsequently classified as a capital lease, causing an amount equal to the principal portion of all lease payments to be added to the Province’s debt. If the project had been conducted in a traditional manner, the cost of legal, accounting and other consulting services would likely have been less.
- A Memorandum to the Priorities and Planning Committee noted that financial markets price money (i.e., loans) guaranteed on a public project in the same way as a government loan. However, this does not appear to have been the case when the final agreements for the project were signed in December 1999. The private consortium arranged project financing and we understand that the interest rates exceeded those that could have been achieved if the Province had arranged similar financing. We calculated the net present value of the extra interest may have been in the range of \$2.0 million to \$3.0 million for the first 25-year lease term. However, we also understand that the Province’s borrowing rate increased between December 1999 and September 2001, the time when the interest rates for the project were set. We were informed that at the time of the interest rate adjustments, the rates achieved for the project by the consortium were essentially the same as the Province could have arranged.

- At the end of the 25-year facility lease term, the Province has the option to renew the lease for five more years, purchase the facility for approximately \$18 million, or surrender the facility to the lessor. The land is owned by the Province, but is leased to a private company for 50 years. If the Province does not buy the facility at the end of the 25 or 30-year period, it will lose the use of the land for an additional 20 or 25 years, but will receive monthly land rental payments of \$5,000. If the project had been conducted in a traditional manner, the Province would not have been exposed to a potential loss of use of its property.

12.38 However, we are unable to conclude whether the project cost more under this structure because a public sector comparator was not undertaken. We are aware of an instance where a comparator was done in another jurisdiction.

Project Management

12.39 Procurement - In 1995 the Department of Justice was given approval to begin a process to identify a private sector partner to develop a new configuration for adult offender institutions. In 1996 a Call for Proposals was issued and a partner was selected, with the final agreement signed in October. The resulting Custody Configuration Plan was completed in May 1997. It recommended four corrections facilities be built in various areas of the Province to replace all existing facilities. The government decided that the full extent of the plan could not be undertaken and began negotiations with the partner to design, build and own a central correctional and forensic facility; in effect implementing just a portion of the plan. According to the Custody Configuration Plan, the cost of the central facility was estimated to be \$35.7 million. Negotiations with the partner were unsuccessful. The partner estimated it would cost approximately \$50 million to build just the central facility. The business relationship was discontinued in December 1997 and the partner was paid \$345,000 for the work done in preparing the Custody Configuration Plan.

12.40 Due to the large increase in the estimated cost to construct the facility, a public Expression of Interest was issued in February 1998 to identify potential respondents to a Request for Proposals (RFP) to design, build and own a central correctional and forensic facility. The RFP was released in August 1998 to four pre-qualified consortiums. The group which had prepared the Custody Configuration Plan did not express interest in submitting a proposal. In January 1999, a consortium of private companies was selected and agreements for the project were signed in April. As a result of the RFP process, the cost of the facility was now estimated to be \$57.7 million. A subsequent change in the facility's location (see paragraph 12.46) was reflected in amended agreements signed in December 1999 which valued the facility at \$60.0 million. Construction of the facility began in early 2000. Substantial completion was reported by the contractors in June 2001 but the facility was not fully occupied until fall 2001.

12.41 We determined that the processes used to select consultants, private sector partners and other goods and services complied with established government policies and procedures. Project agreements included anticipated requirements, including costs and dates for completion. Except for certain aspects of the development and lease agreements discussed later in this report (paragraphs 12.64 and 12.65), the services and deliverables were received as specified.

12.42 Site selection - Our review of management's site selection process determined that the method used to evaluate and rank potential sites for the location of the facility was reasonable. However, due to a lack of documentation or other information, we cannot conclude whether Executive Council's decisions made based on the information from this process gave due regard to value for money.

12.43 Management developed criteria to evaluate potential sites for the facility. The criteria addressed:

- acquisition and development cost;
- amount of land available;
- proximity to the law courts, Nova Scotia Hospital and Dalhousie University;
- buffer zones and distances from communities;
- availability of fire, ambulance and other emergency services;
- access to water and sewer services;
- suitability of the site for construction; and
- operation and life-cycle costs.

12.44 Management determined that a minimum of 45 acres were needed to build such a facility, including area for the buildings, driveway, parking, and exercise fields. However, 100 acres would be optimal because it would provide space for a security/buffer zone and possible future expansion.

12.45 The arrangement made with the private partner was that the Province would purchase and own the land upon which the facility would be built. Fourteen potential sites were identified and evaluated by project staff. The sites were under either full or partial Provincial, Federal or municipal ownership or control. A 100-acre site located at Rocky Lake (Exhibit 12.3) received the highest ranking. A recommendation to purchase 60 acres (which was adjacent to 40 acres of land already owned by the Province) for \$450,000 was approved by government's Priorities and Planning Committee on April 28, 1998. However, the site was rejected by Executive Council on June 25, 1998. We did not see any documentation of reasons for rejecting the Rocky Lake site, and were informed by management that Executive Council did not provide any reasons. The fourth-ranked site located at Jack Lake in Bedford was subsequently recommended to and approved by Executive Council on July 16, 1998. The 960-acre site was acquired from a Federal government agency at a total cost of \$1,541,501, and partly paid by the transfer of a 900-acre parcel of land owned by the Province at Kidston Lake. The assessed value of the Jack Lake land was between \$1.3 million and \$2.4 million.

12.46 Site access and clearing began in early 1999. Following the July 1999 Provincial election, project staff were directed by Executive Council to seek an alternate location for the facility because of concerns about the proximity of the facility to residential areas. The Rocky Lake site was still available, but a new site (i.e., one that had not been available during the original site evaluation process) in Burnside Industrial Park was identified following consultation with Halifax Regional Municipality. After negotiating with Halifax Regional Municipality, the Province exchanged 910 acres of land from the Jack Lake site for approximately 66 acres of serviced land in the Burnside Industrial Park. The assessed value of the Burnside property was approximately \$1.2 million.

12.47 The Province incurred costs of \$821,000 relating to land clearance and stabilization at the Bedford site. In addition, the cost to build the facility increased by approximately \$2.3 million due to redesign and other costs related to the relocation. Further, the Bedford facility may have been completed at least four months earlier (March 2001), possibly resulting in cost savings.

12.48 The Province did not achieve its optimal 100-acre size for the site in acquiring the Burnside property. The Rocky Lake property was still available for development in 1999 and the Province could have owned 100 acres had the Rocky Lake site been reconsidered. We saw no documentation of why the Rocky Lake site was not reconsidered after the Bedford site was rejected.

12.49 *Management and control* - Review of committee minutes and other documentation, and discussion with project staff, led us to conclude that appropriate processes were established to ensure good management and control of the project. Committee structures were developed, responsibilities were assigned, objectives were defined, milestones and targets were established, and construction budgets were monitored to maintain control over the project.

12.50 Terms of reference were developed for the committees and various project positions. Minutes of committee meetings were kept from late 1999 until the completion of the project. Minutes were circulated among the various committees, as necessary, to keep all parties informed about activities and progress. Sophisticated project mapping techniques were used to track and coordinate project activities.

12.51 The establishment of the Project Office and the formalization of the Steering Committee (see paragraph 12.17) were considered essential to the project's management and control. We understand they enabled centralization of the project management process, accelerated decision making and facilitated the resolution of concerns and conflicts. The Project Office provided objectivity, leadership and project management expertise. The Office was a key factor in tracking project details and maintaining project-wide communications. The Steering Committee was informed of the project's progress on a regular basis through the Project Office, and was also provided timely, appropriate information when critical decisions were required.

12.52 Although participating government officials expressed general satisfaction with the overall management of the project, some areas for improvement were identified. Establishment of the Project Office at an earlier stage in the project to document decisions and track details would have been beneficial. Few, if any, minutes were kept of discussions and decisions made during the early stages of the design finalization process. A number of decisions on building design made after the initial agreements were signed, between April 1999 and July 1999, were not well documented. This resulted, in some cases, in uncertainty as to which changes had been agreed to, as well as other agreed upon changes being omitted from architectural drawings. For example, a small exercise yard was requested and agreed to, but the addition of the yard was not carried forward to the design. This omission was not realized until it was too late to correct the error without incurring additional costs.

12.53 Another weakness identified was the lack of a formal internal communication strategy and dispute resolution process at the outset of the project. Reaching consensus in areas that jointly affected corrections and forensics, such as the mentally-ill offender unit, was challenging and required reconciliation of the different objectives and philosophies of health and correctional programs. Consensus was achieved through considerable discussion and facilitation, but a successful process required time to evolve.

12.54 The approach the Province used to acquire the facilities placed total responsibility for construction with the private sector consortium. Project staff noted some difficulty in obtaining construction schedules on a regular and timely basis. Without such schedules, it was difficult for committee members to anticipate and plan for design and equipment decisions required as construction progressed. Lack of timely schedules did not prevent staff from fulfilling responsibilities or cause delays to the project, but it did hinder orderly decision making and put increased pressure on staff to meet deadlines.

12.55 *Expertise* - We noted that appropriate expertise was available to and accessed by government during each phase of the project, including development of the plan, development of the Request for Proposals, review of proposals received, negotiation of contracts, and assessment of the performance of contractors. As well, frequent inspections were carried out by building, plumbing and electrical inspectors and the Fire Marshal's Office during the construction period to ensure that building codes and standards were being met. The Construction Committee, as part of its overview responsibilities, was kept informed of the results of these inspections and was assured quality control standards were being met.

12.56 Project staff noted that, in hindsight, additional architectural expertise might have been beneficial. Obtaining expertise specific to the construction of a correctional facility may have improved the Request for Proposals document by providing additional clarity and detail, and would have benefitted the evaluation of the proposals received. We were informed that this type of expertise is not readily available and may have required hiring experts from outside the Province, and possibly outside the country. However, funds were not available for this.

12.57 *Change order process* - Prior to the establishment of the Project Office, there was no formal process for issuing design change orders. Change requests were made through meetings and individual contact with the project architects. A change order process was developed in early 2000 that required appropriate assessment of the cost and necessity of a change, and ensured proper approvals for changes. Under the new process, change requests were first reviewed by the Co-chairs of the Corrections and Forensics Transition Teams, and then brought before the Construction Committee for discussion and consultation with construction specialists. Requests were then brought to the Leadership Committee for approval in principle. If approval was given, the requests went back to the Construction Committee which asked the contractor to prepare formal cost estimates. When the cost estimates were received, they were brought back to the Leadership Committee for acceptance and then forwarded to the Steering Committee for final approval. Provision was made for acceleration of the decision-making process when circumstances warranted.

12.58 From the start of construction in early 2000, through to the fall of 2001, there were 58 change orders - 49 at a cost of \$770,050 and 9 credits totaling \$43,690 - for a net additional cost to the Province of \$726,360 (1.2% of the stated value of the facility). These costs were borne directly by the Province. There were additional change orders being considered at the time of our audit. The cost of these were not finalized and we were unable to estimate if the amounts could be significant.

12.59 Discussions with project staff and review of committee minutes and files indicated that the change order process was generally followed as described. The process was timely, considering the number of steps required to assess and approve a design change. We were informed there were only a few instances where a decision to proceed with a change was not timely and an opportunity was lost to make a change for cost reduction/credit or to make an improvement for no additional cost. One such instance was a request made to change the type of wiring installation. The cost estimate was not received before the work was carried out in the forensic facility based on the original specifications. The cost reduction/credit for the change, therefore, was only realized for the correctional facility.

12.60 *Progress reporting* - Project reporting systems provided timely, accurate information on project activities, progress, problems and change orders. However, there was no system to track, accumulate and report government project costs between the initiation of the project in 1995 and completion in 2001. Project costs were not incurred and accumulated by one entity or recorded in one cost centre. Costs were recorded separately by the Departments of Justice and Health, and the Nova Scotia Hospital for their proportionate shares. We tabulated \$5.5 million of costs attributable to the project for the years 1995 to 2001 (Exhibit 12.5). This does not include the cost of Provincial employees involved with the project, other than members of the Project Office, because they are not separately identified in any accounting for the project.

12.61 *Project completion* - The development agreement defined substantial completion as when the facility was 97.5% complete, except for any listed deficiencies, and ready to be occupied and operated. A Certificate of Substantial Completion signed by the developer and the developer's architect established June 25, 2001 as the date of substantial completion. However, the facility was not ready for occupation and operation at that time because there were significant deficiencies to be corrected. The main area of concern was the computerized security system which controls many operations of the facility. We were informed the system would be completely ready by mid-September, almost three months after substantial completion. However, as of mid-October there were still problems that had to be resolved. As the security system was not ready, staff training and offender occupancy dates were delayed.

12.62 As defined in the facility lease agreement, certain payments were due to start in July 2001. Under the terms of the lease, monthly payments of an operating component of approximately \$71,500 and capital repair sinking fund component of \$8,333 commenced in July. The first quarterly payment of the variable base rent component, approximately \$329,000, was due in September 2001. Thus, the Province expended approximately \$350,000 to the end of September 2001 before the facility was fully occupied.

12.63 The delay also required government to find alternative accommodations for some adult offenders because three other Provincial corrections centres were closed in anticipation of an earlier relocation to the new facility. The Province sent 20 offenders to Prince Edward Island at a cost of \$125 per day per offender, and also paid to have some inmates kept temporarily in Federal institutions at a cost of approximately \$45 per day per offender. None of the agreements provide a specific remedy if occupancy after substantial completion is delayed. However, we were informed that the government is going to accumulate these and other costs caused by the delay for possible settlement with the developer.

12.64 We also noted that the development agreement required the developer, approximately 90 days before the estimated date of substantial completion (June 25, 2001), to provide a facility commissioning schedule detailing the various tests to be undertaken and the procedures and standards to be used. We were informed that such a schedule was not provided, though the Province was informed when testing procedures were to be undertaken.

12.65 We also noted that the facility lease agreement requires the lessor, not less than 60 days prior to the rent commencement date (July 1, 2001), to provide a maintenance plan and manual, capital repair and replacement plan, technology plan, and a communication plan. We were informed that these plans were still not provided to the Province two months after the rent commencement date.

12.66 *Post-completion review* - There are no specific plans for a post-completion review of the project by government. Evaluation of the project's completion within budget and specified dates has been ongoing as part of the project management process. However, members of the Leadership and Steering committees have acknowledged the need for a formal review of the project, as well as ongoing monitoring of facility operations, to ensure they function as anticipated and to decide what improvements, if any, can be made. We believe a post-completion review of the project should be conducted to assess whether appropriate processes were used, the facility meets the needs originally identified and planned benefits were actually realized. Such a study, along with any resulting recommendations, should benefit future government capital projects.

12.67 *Cost of operations* - When government approved the project, it was with the proviso that the corrections portion of the new facility should be built and operated within current budget limits. The four correctional centres which will be closed as a result of the new facility cost \$12.2 million to operate in 2000-01, and the 2001-02 budget for the partial year operation of the new facility and the closure of the other four centres totals \$12.9 million. The budget amounts do not include any costs

associated with the subsequent delay in opening the new facility. Consequently, the cost of operating the Provincial corrections program with the new central facility is marginally higher than that spent in the prior year.

12.68 During the planning for the correctional facility in 1998, a furniture and equipment list was prepared which identified items required for the new facility. The Department of Justice requested that surplus government equipment be held until it could be determined whether it could be used in the new facility. As a result, the cost to the Province for furnishing and equipping the corrections and common services units was limited to approximately \$104,000.

12.69 The net operating cost of the Nova Scotia Hospital's forensic program was \$6.4 million in 2000-01, and was budgeted for \$8.2 million in 2001-02. The budget does not include approximately \$2.2 million of annual amortization and other costs for the new forensic facility. The leasing costs are to be absorbed by the Department of Health. We understand the increase in forensic cost is primarily due to expanded operations and programs, including 20 new in-patient beds and a new 24-bed mentally-ill offender unit. The forensic staff complement is planned to increase by about 50, at an additional cost of about \$1.8 million for salary and benefits. The forensic budget also does not include any costs associated with the subsequent delay in opening the new facility. Consequently, the cost of operating the forensic program will be substantially greater than in previous years, but this is primarily due to an expansion of its treatment programs.

12.70 We understand that subsequent to the approval of the 2001-02 budget, the Department of Finance agreed to absorb all interest costs attributable to the lease payments for the new facility. Consequently, for the correctional operations, costs will be recorded in both the Department of Justice and the Department of Finance. For the forensic operations, various costs will be recorded in each of the Departments of Finance and Health and the Capital District Health Authority. We recommend that, if decisions are to be made based on the cost of the facilities (e.g., determining per diem rates to charge to other jurisdictions), costs recorded in other departments be determined and factored into such decisions.

CONCLUDING REMARKS

12.71 Internal accountability for the corrections and forensic facility project was generally good. Appropriate authorizations occurred at each significant stage of the project. Roles and responsibilities were defined and understood. Internal progress reporting was good, except for the accumulation and reporting of project costs borne by the Province. However, there was little formal reporting on the project by government to the House of Assembly or public.

12.72 Initial planning for the project was satisfactory. There was a thorough examination of alternatives, appropriate involvement from each government department and agency affected by the project, and consultation with other significant stakeholders. Project plans were detailed and thorough, and updated on a timely basis for changes. However, when government proceeded to implement only part of the plan to replace all correctional centres in Nova Scotia, deficiencies in the original plan became apparent and there were subsequent inadequacies in the government's analysis of the costs and benefits of proceeding with a public-private partnership arrangement. Also, the use of a P3 structure does not appear to have added significant benefits to the project. We observed areas where costs, risk and uncertainty may have been higher because a P3 approach was used.

12.73 Management and control of the project were sufficient. Government policies on procurement were followed, except for some guidelines pertaining to risk transfer and cost-benefit analysis for P3 projects. The process to evaluate potential sites was good, but there was insufficient

documentation provided to determine whether the decisions made with respect to the site of the facility gave due regard to value-for-money. Good processes were implemented to monitor and control the project, especially once the Project Office was in place. Government obtained appropriate expertise to plan and monitor the project. However, government was a few months late occupying the facility, and it is unclear whether additional costs incurred due to the delay can be recovered.

*Exhibit 12.1***AUDIT CRITERIA**

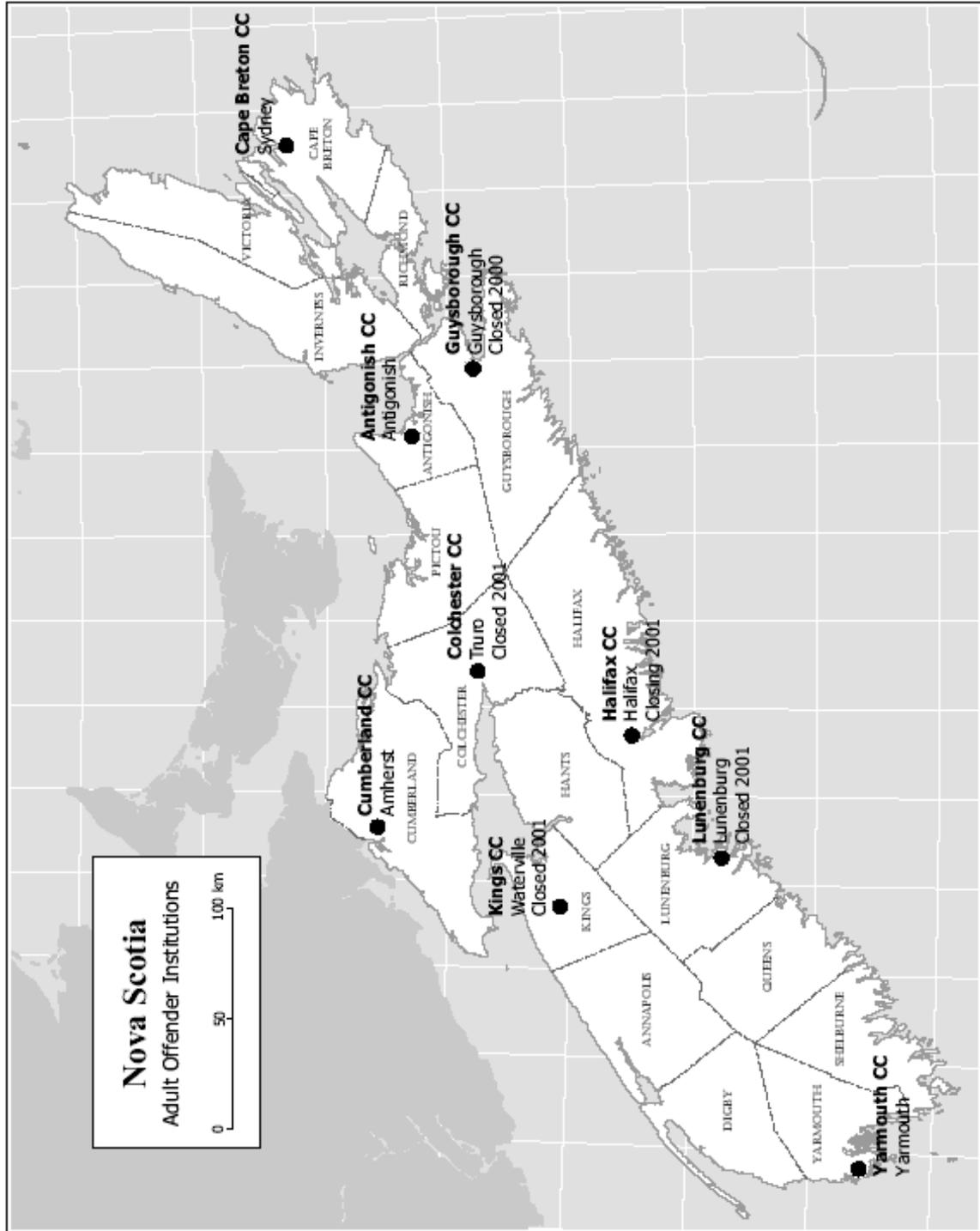
Audit criteria are reasonable and attainable standards of performance and control, against which the adequacy of systems and practices can be assessed. They relate to the audit objectives developed for an assignment and are used to design detailed audit tests and procedures.

The following criteria were used in our audit of the correctional and forensic facility project.

- There should be clear responsibility and accountability for the various phases of the project. There should be adequate systems and controls to ensure information reported is accurate and complete. Appropriate, timely information on the project should be reported internally within departments and externally to the government and to the Legislature.
- Project goals and processes should be consistent with department and government goals and policies, and provide clear expectations for the project. Project planning should consider needs, available resources, risk, physical capacities and capabilities, and alternative means of addressing needs. Planning should include input from departments and other significant stakeholders, and finalized plans should be challenged by senior management.
- Project processes should comply with established Provincial policies and procedures. Processes should be established to ensure the management and control of the project. Due regard for economy and efficiency should be demonstrated in the conduct of the project including calling tenders, awarding work, monitoring progress, and controlling design changes and total project cost. Project processes should include a post-completion review.

Exhibit 12.2

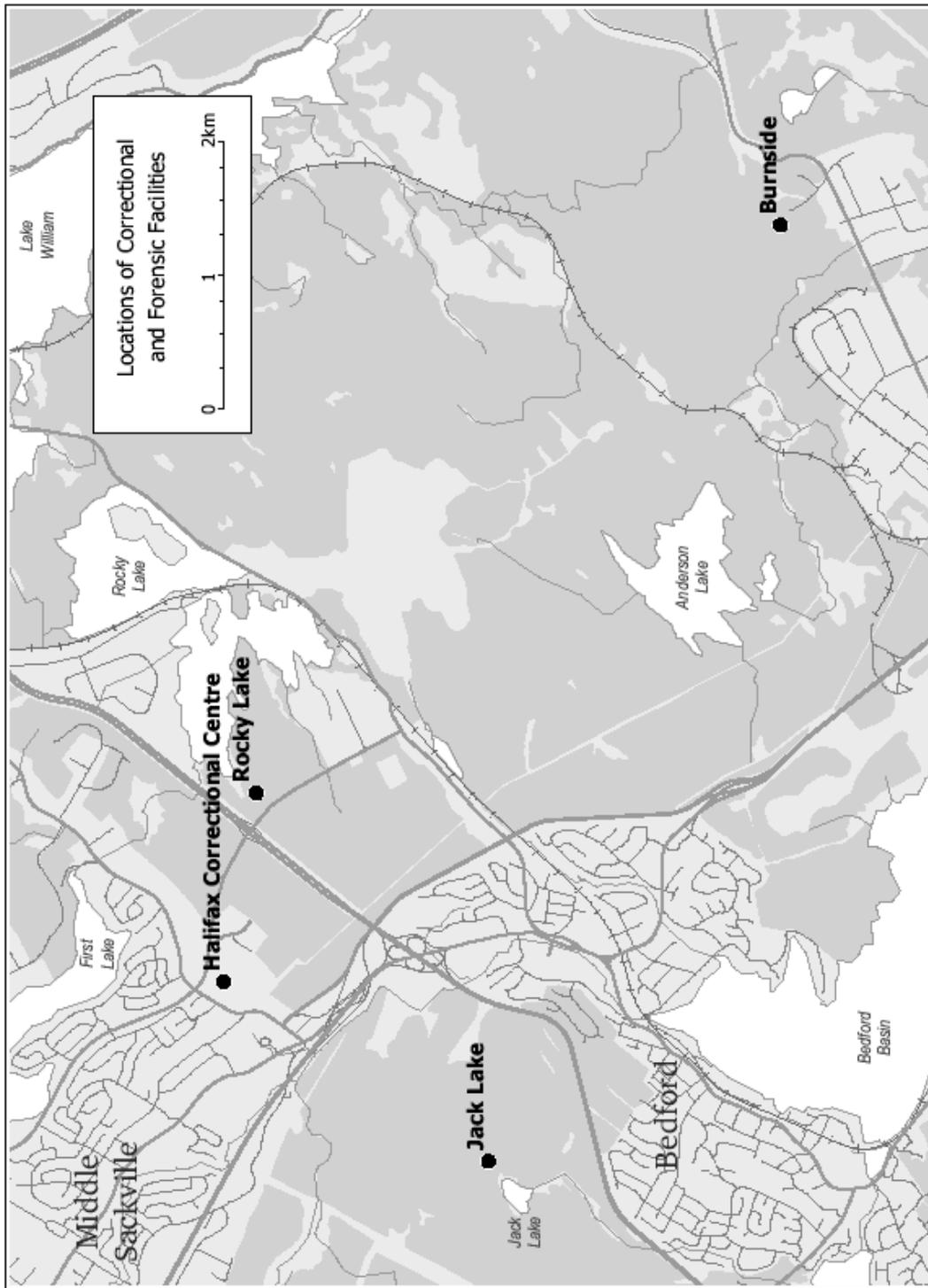
PROVINCIAL ADULT OFFENDER INSTITUTIONS (1997)



Produced by Services Nova Scotia & Municipal Relations - NS Geomatics Centre - Oct. 2001

Exhibit 12.3

PROPOSED LOCATIONS OF CORRECTIONAL AND FORENSIC FACILITY



Produced by Services Nova Scotia & Municipal Relations - NS Geomatics Centre - Oct. 2006

Exhibit 12.4

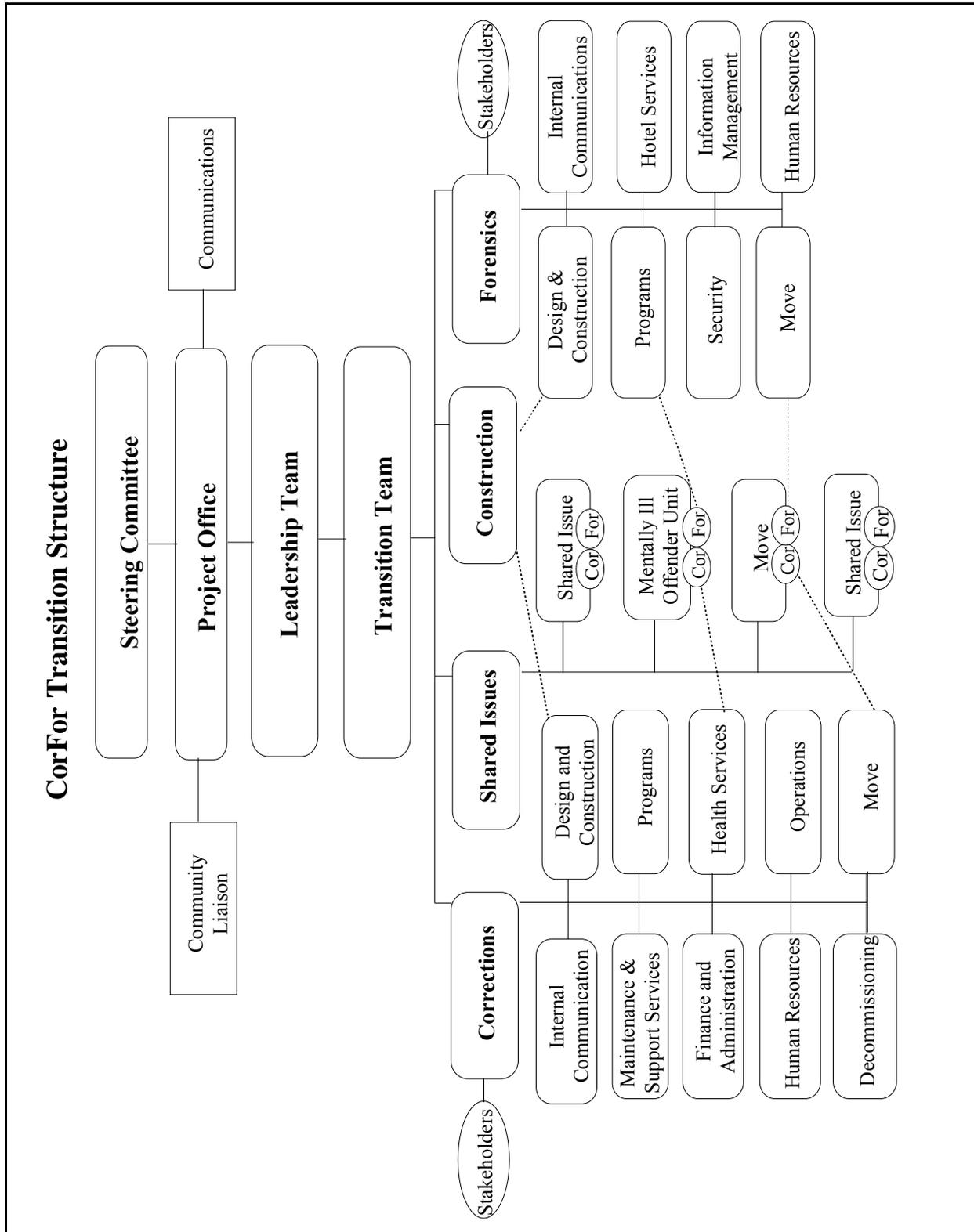


Exhibit 12.5

COSTS INCURRED BY PROVINCE OF NOVA SCOTIA (EXCLUDING LEASE COSTS) CENTRAL NOVA SCOTIA CORRECTIONAL FACILITY AND EAST COAST FORENSIC PSYCHIATRIC HOSPITAL								
	1995-96	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02 (Partial Year)	Total
Consultants	\$ 180,000	\$ 345,000						\$ 525,000
Land Purchase - Jack Lake				\$1,541,501				1,541,501
Site Costs - Jack Lake				\$ 820,733				820,733
Project Office				143,022	\$ 301,376	\$ 156,399		600,797
Nova Scotia Hospital				111,369	221,579			332,948
Construction Change Orders					307,771	418,589		726,360
Equipment DOH/NSH					700,000		150,000	850,000
Equipment - DOJ							104,000	104,000
Other							40,000	40,000
Department of Finance							Information not available	
Late Opening Costs							Information not available	
Government Salary and Other Costs							Information not available	
	\$ 180,000	\$ 345,000	\$ -	\$ 1,541,501	\$ 1,775,124	\$ 830,726	\$ 868,988	\$ 5,541,339

Exhibit 12.6

**ESTIMATES OF CHANGE IN FACILITY COST
(\$ Millions)**

September 1998 estimate of facility cost	\$ 35.7
Class D cost estimates only accurate to +/-15%	5.4
Estimated design error of 35,000 square feet	7.0
Underestimate of facility building cost	7.5
Other factors (see below)	<u>2.1</u>
April 1999 Development Agreement project cost	\$ 57.7
Cost of relocating facility from Bedford to Burnside	<u>2.3</u>
December 1999 Development Agreement project cost	<u>\$ 60.0</u>

The above estimates are based on information derived during the course of the audit. We understand other factors which may have impacted on the project cost include:

- the collocated central facility plan was extracted from a larger Province-wide plan and some economies of scale may have been foregone;
- the original project proponent prepared the plans anticipating the project would be built, financed, owned and operated by the successful bidder with certainty that the project costs, recoveries and profits would be realized by operating the facility;
- the original project plans assumed a level site and services “to the curb”; and
- inflation may have increased construction costs in the time between the original May 1997 plan and 18 months later in November 1998 when three proposals were received.

DEPARTMENT OF JUSTICE'S RESPONSE

General Comments:

This project involved staff from the departments of Justice, Health, Transportation & Public Works, Finance, the former Department of Housing and Municipal Affairs, the Nova Scotia Hospital and the Capital District Health Authority. This initiative also involved first a partnership with the a private sector consortium in the preparation of the Custody Configuration Plan, and then a public-private partnership with the developer who built and leased back the facilities to government. In addition, the CorFor Project required staff to develop the program plan and operational approach needed to operate the facilities separately, and jointly. The sheer number of partners, as well as the complexity of the issues involved, made this initiative worthy of review.

Paragraphs 18 and 25

Regular press releases were made by government to mark milestones in this project. The initiative was the subject on numerous media reports from 1995 to 2001. The Ministers of Justice and Health throughout this period have responded to questions in the House of Assembly relating to various aspects of this project, including changes in costs. In addition to the information available through the media, regular updates were provided directly to the public through public meetings, first in Bedford and Sackville, and then in Dartmouth and through the distribution of the Project Update which went directly to homes in the surrounding areas and through three websites.

Paragraph 19 and 60

With relation to the lack of separate accounting of ongoing costs associated with the administration of this project, it should be noted that with the exception of the Project Office costs from late 1999 to 2001, there was no dedicated office in place to manage this project. Rather, staff assumed responsibility for this initiative in addition to their other duties. They were not required to provide separate time sheets that account for the time devoted to project tasks. Executive Council did not seek information on staff time required for the project nor were questions on this topic raised in the House of Assembly.

With respect to reporting on other costs, e.g., moving costs, et cetera, these items were included in annual operating budgets and therefore were subject to existing government budget review and approval processes.

Processes do not exist to combine the accounting for costs incurred by the departments of Justice, Health, Transportation & Public Works, Finance and Housing and Municipal Affairs, as well as the Nova Scotia Hospital and the Capital District Health Authority. Each entity is responsible separately for its budget.

Paragraph 27

The increases in costs from \$35.7 million to \$57.7 million was subject to the government's public bid process through the Public Tenders Office. The bids received ranged from \$56 to \$58.5 million. Since the public bids were based on the information in the Custody

Configuration Plan, the “market test” provided by the public tender process indicates the facilities, when removed from the large configuration of four to six facilities, were undervalued at \$35.7 million.

Paragraph 33

Public sector comparators were not provided as the instructions to staff at the time were to proceed using a public-private partnership.

Paragraph 53

While some aspects of the project were “challenging and required reconciliation of different objectives and philosophies” consensus decision-making was the desired approach rather than the use of a dispute resolution process.

Final Comments

As the result of this initiative the Department of Justice and the Capital District Health Authority has negotiated agreements for shared services, e.g., health services and security services. The Office of the Auditor General has been asked to review these shared service agreements to determine the extent of cost savings and other benefits at such future time as may be appropriate.

CROWN AGENCIES AND CORPORATIONS