



Office of the Auditor General

Our Vision

A relevant, valued, and independent audit office serving the public interest as the Legislature's primary source of assurance on government performance.

Our Mission

To serve the people of Nova Scotia and the House of Assembly by making a significant contribution to enhanced public sector accountability and performance.

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Honourable Charlie Parker
Speaker
House of Assembly
Province of Nova Scotia

Dear Sir:

I have the honour to submit herewith my Report to the House of Assembly under Section 9A(1) of the Auditor General Act, to be laid before the House in accordance with Section 9A(2) of the Auditor General Act.

Respectfully submitted

A handwritten signature in black ink, appearing to read "J.R. Lapointe".

JACQUES R. LAPOINTE, CA

Auditor General

Halifax, Nova Scotia

January 19, 2009



Table of Contents

Introduction

1 Message from the Auditor General.....	3
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Performance Audits

2 Health: Electronic Health Records.....	9
3 Education: Contract Management of Public-Private Partnership Schools	27
4 Office of the Speaker: Members' Constituency and Other Expenses	51

Financial Reporting

5 Government Financial Reporting	75
6 Indicators of Financial Condition	109
7 Review of Agency Financial Statements and Management Letters	117

Appendix

I Auditor General Act.....	133
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Introduction





1 Message from the Auditor General

Introduction

- 1.1 I am pleased to present my February 2010 Report to the House of Assembly on work completed by my Office in the summer and fall of 2009.
- 1.2 During 2009, I submitted the following reports.
- My Report to the House of Assembly on work completed in the winter of 2009, dated April 2, 2009, was tabled on April 22, 2009.
 - My first Report on the Estimates of Revenue for the fiscal year ending March 31, 2010, dated May 1, 2009, was included with the budget address prepared by the Minister of Finance and dated May 4, 2009. This budget address was not tabled in the House of Assembly.
 - My Business Plan for 2009-10 and my Report on Performance for 2008-09 were provided to the Members of Legislative Assembly on July 15, 2009.
 - My Special Report on Pandemic Preparedness, dated July 28, 2009, was tabled on July 30, 2009.
 - My Report on the Province's March 31, 2009 consolidated financial statements, dated July 15, 2009, was tabled with the Public Accounts by the Minister of Finance on September 10, 2009.
 - My second Report on the Estimates of Revenue for the fiscal year ending March 31, 2010, dated September 21, 2009, issued subsequent to the election, was included with the budget address tabled by the Minister of Finance on September 24, 2009.
- 1.3 As the Province's Auditor General, my goal is to work towards better government for the people of Nova Scotia. As an independent, nonpartisan officer of the House, I and my Office help to hold the government to account for its management of public funds and contribute to a well-performing public sector. I consider the needs of the public and the House, as well as the realities facing management, in providing sound, practical recommendations to improve the management of public sector programs.
- 1.4 My priorities, during my term of office, are: to focus audit efforts on areas of high risk that impact on the lives of Nova Scotians; to contribute to a more efficient, effective, and better performing public service for Nova Scotia; and to foster better financial and performance reporting to the

MESSAGE FROM THE
AUDITOR GENERAL



House of Assembly and the people; all while promoting excellence and a professional and supportive workplace at the Office of the Auditor General. This Report reflects this service approach.

- 1.5 I wish to acknowledge the valuable efforts of my staff who deserve the credit for the work reported here. As well, I wish to acknowledge the cooperation and courtesy we received from staff in departments, and board members and staff in agencies, during the course of our work.

MESSAGE FROM THE AUDITOR GENERAL

Who We Are and What We Do

- 1.6 The Auditor General is an officer of the Legislature, appointed by the House of Assembly for a ten-year term. He or she is responsible to the House and to the people of Nova Scotia for providing independent and objective assessments of the operations of government, the use of public funds and the integrity of financial and performance reports.
- 1.7 The Auditor General's mandate, responsibilities and powers are established by the Auditor General Act. The Act provides the Auditor General with the authority to require the provision of any documents needed in the performance of his or her duties. Additionally, public servants must provide free access to all information which the Auditor General requires.
- 1.8 The Auditor General Act stipulates that the Auditor General shall provide an annual report and opinion on the government's financial statements; provide an opinion on the revenue estimates in the government's annual budget address; examine the management, use and control of public funds; and report to the House at least once, and up to three times annually, on the work of the Office.
- 1.9 The Office has a mandate under the Act to audit all parts of the provincial public sector including government departments and all agencies, boards, commissions or other bodies responsible to the crown, such as regional school boards and district health authorities, as well as transfer payment recipients external to the provincial public sector.
- 1.10 In its work, the Office of the Auditor General is guided by, and complies with, the professional standards established by the Canadian Institute of Chartered Accountants, otherwise known as generally accepted auditing standards (GAAS). We also seek guidance from other professional bodies and audit-related best practices in other jurisdictions.



NOVA SCOTIA

Chapter Highlights

- 1.11 This Report presents the results of audits and reviews completed in the summer and fall of 2009 at a number of departments and agencies. Where appropriate, we make recommendations for improvements to government operations, processes and controls. Department or agency responses have been included in the appropriate chapter. We will follow up on the implementation of our recommendations in two years, with the expectation that significant progress will be made.

MESSAGE FROM THE
AUDITOR GENERAL

Performance Audits

Chapter 2 – Electronic Health Records

- 1.12 Nova Scotia is working towards the development of a provincial electronic health record (EHR) system known as SHARE. We found the SHARE project was well planned and managed. While the system is intended to be operational in March 2010, additional health information systems will need to be developed and existing systems upgraded before all aspects of Nova Scotians' health information will be available in a province-wide EHR. We recommended the Department of Health develop a formal IT strategic plan for electronic health records and determine funding for implementation of remaining EHR initiatives.

Chapter 3 – Contract Management of Public-Private Partnership Schools

- 1.13 Our audit identified significant weaknesses in both the contracts for management of P3 schools, and the processes and procedures which ensure services paid for are received. We could not determine whether key calculations supporting contract payments are correct or whether many services paid for are received. Two developers subcontracted their responsibilities under their service contracts for certain schools back to regional school boards, effectively transferring the risks for the operation and maintenance of the schools from the developers back to government.

Chapter 4 – Members' Constituency and Other Expenses

- 1.14 We found serious weaknesses in the funding system for Members' constituency and other expenses which increase the risk of excessive and inappropriate expenditures by Members. Inappropriate claims were made by some Members which were not in accordance with the regulations. We also found expenditures which, although not in violation of regulations, we believe were excessive and may not be reasonable for constituency work. We recommended a comprehensive examination of the funding system for constituency and other expenses.



Financial Reporting

Chapter 5 – Government Financial Reporting

- 1.15 The review opinion on the 2009-10 Revenue Estimates was again qualified because third party revenues were not estimated or included in the revenue estimates. The Auditor General's opinion on the March 31, 2009 consolidated financial statements was unqualified. We also commented on other financial reporting matters including the amount and approval of additional appropriations. We believe the existing process to approve additional appropriations reduces accountability to and control by the House of Assembly.

Chapter 6 – Indicators of Financial Condition

- 1.16 For the first time, our Report includes a Chapter on indicators of financial condition. We believe information on financial condition is of value to users of financial statements in demonstrating how the government may be able to respond to changes in the economic climate. The indicators we considered each demonstrate the improved financial condition of the Province from 2002 to 2008.

Chapter 7 – Review of Agency Financial Statements and Management Letters

- 1.17 We found auditors identified numerous internal control and information technology deficiencies, many of which existed in prior years and have not been corrected. Management of the various agencies should address the deficiencies identified by their auditors to ensure the integrity of their financial statements and financial reporting processes.

Performance Audits





2 Health: Electronic Health Records

Summary

Nova Scotia is working towards the development of a provincial electronic health record system known as SHARE. The province is participating in and has received funding from a federal program through Canada Health Infoway designed to further the development of EHRs in Canada.

While the SHARE system is expected to be operational by March 2010, additional health information systems will need to be developed and existing systems upgraded to achieve a province-wide EHR.

The Department of Health does not have an overall information technology strategic plan. IT projects may be undertaken because there is funding available rather than because the project has been ranked as the highest priority. Department management should identify those EHR initiatives which must be undertaken in the next three to five years and determine how these initiatives will be funded. We recommended the Department develop a formal IT strategic plan for EHR and determine funding for implementation of remaining EHR initiatives.

We examined overall project management of the SHARE system. We found the project was well-planned and well-managed. Planning documents and processes were consistent with established best practices for project management.

At the time of our audit, certain of the identified privacy and security issues related to the SHARE project had not been addressed. We recommended the Department ensure these issues are dealt with before the SHARE system is operational.

We examined a sample of SHARE project procurements. We found the Department complied with the Province of Nova Scotia Policy on Government Procurement and considered value for money when making these purchases.



2 Health: Electronic Health Records

Background

- 2.1 An electronic health record (EHR) is defined as “a secure and private lifetime record of an individual’s health and care history.” It pulls selected information from a number of different health information systems to provide an overall summary of the patient’s medical history, including lab and diagnostic test results; previous treatments and surgeries; and prescription and immunization details. Authorized health care professionals can access this information.
- 2.2 An electronic health record is different than an electronic medical record. Whereas an EHR stores information from many systems based on care received from a number of providers, an electronic medical record typically contains a patient’s file from a single physician’s office. Primary care providers may utilize electronic medical records to store patient information, including test results, which were previously stored in a paper file in the physician’s office.
- 2.3 In 2001, Canada Health Infoway (Infoway) was created to work with the provinces and territories to implement health information systems, including an interoperable electronic health record. Infoway is an independent not-for-profit organization funded by the Federal Government. Its members are Canada’s 14 Deputy Ministers of Health.
- 2.4 Infoway provides funding for provincial and territorial electronic health record projects in areas such as interoperable EHR systems, client and provider registries, IT infrastructure, diagnostic imaging, drug information systems, laboratory information systems, public health surveillance and telehealth. The Federal government has provided approximately \$2 billion in funding to Infoway for health information systems.
- 2.5 In Nova Scotia, the health care system includes a number of electronic systems as well as traditional paper files in a variety of health care settings such as acute care, physician offices and others. Over the years electronic systems have been developed in specific program areas such as diagnostic imaging and hospital records. Additionally, a recent provincial initiative is intended to assist primary health care physicians in adopting electronic medical records.
- 2.6 The electronic health record project in Nova Scotia is known as SHARE – Secure Health Access Record. The SHARE system is intended to provide



NOVA SCOTIA

an interoperable electronic health record in Nova Scotia which can be accessed by health care providers and provides a patient's medical history over time and across the continuum of care.

- 2.7 EHR projects may be cost shared between Infoway and each province or territory. Infoway has funded a number of projects in Nova Scotia, including the SHARE project.
- 2.8 During 2009, legislative auditors in six provinces in Canada, including this Office, decided to undertake audits of electronic health record projects in their jurisdictions. In addition, the Office of the Auditor General of Canada undertook an audit of Infoway. The seven individual reports will be issued between fall 2009 and spring 2010. The Office of the Auditor General of Canada will issue a joint summary report on all audits in spring 2010.

HEALTH:
ELECTRONIC
HEALTH RECORDS

Audit Objectives and Scope

- 2.9 In fall 2009, we completed a performance audit of the electronic health record project (SHARE) at the Department of Health. The audit was conducted in accordance with Section 8 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants.
- 2.10 The objectives of our audit were to determine whether the Department of Health:
- information technology plans guide and direct the implementation of the Nova Scotia component of a Canada-wide compatible (interoperable Pan-Canadian) electronic health record;
 - has a process in place to meet the requirements of any signed master and funding agreements with Canada Health Infoway;
 - monitors progress in achieving the goal(s) identified in its EHR strategy;
 - manages the SHARE project based on recognized project management methodology to achieve expected results; and
 - can demonstrate that privacy and security concerns related to the collection, storage and distribution of personal health information are being considered.
- 2.11 After concerns were identified with electronic health records procurement transactions in other provinces, we decided to examine SHARE project procurements. Our objective was to determine whether the Department of



Health complied with the Province of Nova Scotia Policy on Government Procurement for purchases related to the SHARE project, and whether value for money was considered when purchases were made for the SHARE project.

- 2.12 Our procurement testing included the current SHARE project only. Systems which will provide information to SHARE such as hospital information systems, PACS, and others were excluded. In June 2005 (Chapter 6), this Office completed a review engagement of the Nova Scotia hospital Information System. This engagement included examining procurement transactions. No significant concerns were identified.
- 2.13 We used criteria from recognized sources including the IT Governance Institute’s *Control Objectives for Information and Related Technology (COBIT 4.1)* and the Project Management Institute’s *A Guide to the Project Management Body of Knowledge (PMBOK Guide, 2008 Edition)*. Other criteria were specifically developed for this audit. These criteria were discussed with and accepted as appropriate by senior management of the Department.
- 2.14 Our audit approach included a review of documents and reports, interviews with management and staff within the Department and testing of certain processes and procedures. Since the SHARE system is not yet operational, our audit did not include an assessment of whether the system will operate as described and whether appropriate controls have been implemented.

Significant Audit Observations

National and Provincial Electronic Health Records

Conclusions and summary of observations

The SHARE project goal is to provide a provincial electronic health record. Canada Health Infoway provides funding and guidelines to provinces and territories to develop and implement health information systems, including electronic health records. The SHARE system is being developed using Canada Health Infoway’s standards for electronic health records. Nova Scotia complies with the terms of its funding agreements with Infoway. This will help position Nova Scotia to participate in the future if a national EHR is developed.

- 2.15 *National electronic health record* – Canada Health Infoway was created to work with the provinces and territories to implement health information systems, including electronic health records. Infoway’s mission is “...to foster and accelerate the development and adoption of electronic health



NOVA SCOTIA

information systems...on a pan-Canadian basis.” One of Infoway’s goals is that by 2010, 50 percent of Canadians will have their electronic health record available to authorized professionals who provide their health care services. Infoway cost shares provincial projects to further the development of EHRs in Canada.

- 2.16 *Provincial electronic health record* – In Nova Scotia, the electronic health record project is known as SHARE – Secure Health Access Record. This project is being cost shared between the Province (\$9.1 million) and Infoway (\$19.2 million). The vision for the SHARE system is an electronic health record which can be accessed by health care providers and provides a patient’s medical history over time and across the continuum of care. Development and implementation of the SHARE project are discussed later in this Chapter.
- 2.17 *Master Agreement with Infoway* – The Department of Health (DOH) has a formal master agreement with Infoway which outlines the terms and conditions for undertaking electronic health record projects which are of interest to Infoway and the Department. DOH is adhering to the terms and conditions of the master agreement by providing progress reports to Infoway, complying with project timetables, and conducting privacy impact assessments.
- 2.18 When Infoway provides funding for health information systems, it requires those systems to be compatible with Infoway’s standards for EHR systems. When systems are compatible, information can be more easily shared between systems and jurisdictions. When this Report was written, there was no formal plan to develop a national electronic health record system in Canada. However Nova Scotia is using Infoway’s national standards in developing the SHARE system. If a national EHR is developed in the future, this will put Nova Scotia in a good position to participate.
- 2.19 In order to move to a national electronic health record system which includes information from all jurisdictions, and which providers can access regardless of where they or their patients are located, various provincial health information systems will need to share patient information. Some of these systems may already exist while others may need to be developed.

HEALTH:
ELECTRONIC
HEALTH RECORDS

Department of Health IT Strategic Planning

Conclusions and summary of observations

The Department of Health does not have an overall information technology strategic plan. Department IT management informed us IT projects may be undertaken because funding is available rather than because the project has been



ranked as the highest priority. When decisions are largely based on available funding, there is a risk that IT initiatives will not be aligned with the goals and priorities of the Department of Health and government. There are no long-term plans to implement all EHR projects and Department management do not know when or how these projects will be funded. Although there is a plan for the current SHARE project, this is just one component of an overall electronic health record in Nova Scotia. The IT systems which will communicate with the SHARE system are using various IT standards and data descriptions, which results in a complex environment. This increases the likelihood that these systems will not be able to communicate with each other and so may not be able to share information with a provincial or Canada-wide electronic health record system.

- 2.20 *IT Strategic Plan* – The Department of Health does not have a comprehensive IT strategic plan. This is consistent with our findings in Chapter 5 of the February 2008 Report of the Auditor General – Governance of Information Technology Operations in which we noted there are no departmental IT strategic plans in government.
- 2.21 An IT strategic plan should include longer term information technology goals, anticipated new systems, and upgrades to existing systems. Currently, DOH uses an informal process to identify high priority strategic initiatives on an annual basis. There is no documented process to determine which IT initiatives should be undertaken and no indication of whether projects are consistent with the goals of the Department and government. DOH IT management informed us they may choose certain projects to undertake because funding is available. As a result, lower-priority projects may move forward because there is funding available while high-priority projects are not implemented. This poses the risk that scarce human and financial resources will be expended on projects which do not support long-term DOH goals or that projects will not be implemented on a priority basis.
- 2.22 There is no documented overall vision for the EHR initiative. A number of systems need to be developed or upgraded as part of an overall EHR for Nova Scotians. This information could be contained in a long-range IT strategic plan which would detail IT projects for the upcoming three to five years. An IT strategic plan should describe the various initiatives to be undertaken to achieve the plan.
- 2.23 Although there is a plan for the SHARE project, this is only one component of an electronic health record. Without a long-range IT strategic plan, it is not clear when remaining EHR systems will be developed, which systems should be upgraded and when, whether the SHARE system will be compatible with a possible Canada-wide electronic health record system, and estimated cost of all EHR systems including SHARE.



2.24 The IT systems which communicate with SHARE are using various IT standards and data descriptions. This increases the complexity of the electronic health record system and increases the risk that these systems will not be able to communicate and exchange information.

2.25 DOH IT management informed us they believe a multi-year financial plan is needed to support IT strategies. At this time, there is no IT strategic plan because IT management do not know when or how IT projects will be funded. Although we understand the Department's perspective on this matter we believe it is important to identify key IT projects through a strategic planning process.

Recommendation 2.1

The Department of Health should develop a formal IT strategic plan for electronic health records. This plan should detail how and when the remaining EHR initiatives will be implemented and funded.

SHARE System

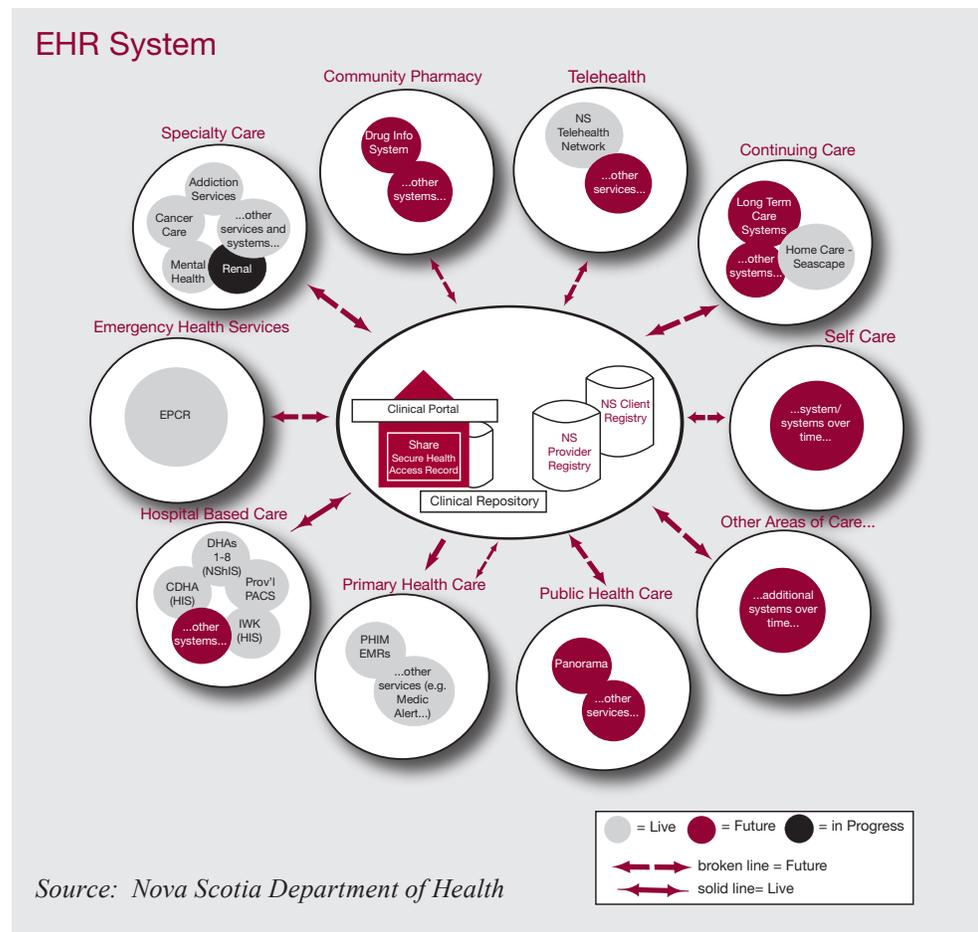
Conclusions and summary of observations

Although the SHARE system is expected to be operational in March 2010, additional EHR systems will need to be developed and existing systems upgraded in order to be compatible with Canada Health Infoway's standards for an electronic health record. We also noted primary care physician records will not be part of the initial SHARE system. When significant health information systems need to be developed, or require additional work, the resulting systems may not be able to communicate and share information with an electronic health record.

2.26 *Components of an electronic health record* – Canada Health Infoway has identified certain core systems which must be in place for an electronic health record.

- Client registry (uniquely identifies each individual in the system)
- Provider registry (uniquely identifies each service provider in the system)
- Diagnostic imaging system (x-ray, MRI, other)
- Drug information system
- Laboratory system
- Interoperable electronic health record (allows health care providers to view an integrated patient's health care record that includes demographic, diagnostic imaging, drug, laboratory, hospital clinical reports, infectious disease, immunization and other health information anywhere)

2.27 In Nova Scotia, the SHARE system will provide the interoperable electronic health record. The current phase of the SHARE project will result in the implementation of most of the core components of an EHR system. Subsequent phases will allow additional systems to transfer information to SHARE. The following diagram illustrates the various systems which DOH expects will form part of an electronic health record.



2.28 DOH expects the SHARE system to be operational by March 2010. At that time, this system will include a provider registry (clinicians such as physicians, nurses and pharmacists), client registry (patients), and other systems such as the hospital information systems in use in various district health authorities throughout Nova Scotia, and the PACS system, which stores diagnostic images electronically. Once operational, this phase of the SHARE project will provide information including patient-specific admission and discharge information; laboratory orders, status and results; clinical reports; diagnostic imaging orders and results; and a link to patients' diagnostic images such as x-rays and MRIs.

2.29 Many of the remaining systems have not been developed and others may require upgrades in order to be compatible with Canada Health Infoway's

standards for an electronic health record. Our concerns with the lack of long-range planning to develop and upgrade these systems were detailed earlier in this Chapter.

- 2.30 For example, when the SHARE system becomes operational in 2010, it will not include a drug information system – one of the systems identified by Infoway as a key component of an EHR. We were informed that preliminary planning is complete and this system will be developed in the future when funding becomes available; however there is no formal plan in place to move this system forward.
- 2.31 Additionally, primary care physician records will not be part of the SHARE system when it becomes operational. Although Infoway does not consider these medical records part of an electronic health record, we believe an individual's record of care from their family physician may include important health information for an electronic health record.
- 2.32 In Nova Scotia, DOH has a separate initiative, outside the SHARE project, to move physicians to electronic medical records for their patients. At the time of our audit, 27% of the primary health care physicians and 1% of specialists were using this medical records information system. We were informed that the vendor of the electronic medical records system is working with DOH to determine how the system can be integrated with the SHARE system. We are concerned that the development of such systems outside the EHR project and without an IT strategic plan could lead to these systems not being able to communicate with each other.

Recommendation 2.2

The Department of Health should determine all systems necessary to an EHR in Nova Scotia. Further, the Department should ensure these systems are able to communicate and share information.

SHARE Objectives and Performance Indicators

Conclusions and summary of observations

The SHARE project objectives are not specific or measurable and there were no performance indicators at the time of our audit. While Nova Scotia is participating in a joint initiative with two other provinces to develop indicators, DOH management are not certain when this will be complete. The lack of performance indicators and measurable objectives will make it difficult to determine if the resulting EHR system fully meets expectations at the end of the project.



2.33 *Performance indicators* – At the time of our audit, there were no established performance indicators for the SHARE project. Three Atlantic provinces – Nova Scotia, New Brunswick, and Newfoundland and Labrador – agreed to participate in a joint evaluation of two aspects of the EHR systems being implemented: lab systems and the overall EHR project. This evaluation is based on a framework established by Infoway and is led by the Newfoundland Centre for Health Information. We were informed that performance indicators will be developed as part of this evaluation. When this Chapter was written, the evaluation was not complete and there was no timeline to establish and implement performance indicators.

2.34 *Evaluation of documented objectives* – We also examined the documented objectives for the SHARE project.

- *“Deliver the project in a well-planned, cost effective and efficient manner.*
- *Fully meet or exceed the agreed to expectations of shareholders, including Canada Health Infoway.*
- *Build on the Province’s history of successful projects and become another “showcase” Nova Scotia project for the rest of Canada.*
- *Identify and address critical issues related to the sharing of patient information, including necessary policy and/ or legislation, access guidelines, standards and privacy concerns.*
- *Deliver measurable value to its main, primary stakeholders, the care providers of Nova Scotia.*
- *Build resources for sustainability in conjunction with HITS-NS through involvement in project delivery.”*

2.35 These objectives are not specific or measurable, and do not include timelines or deadlines.

2.36 The lack of performance indicators and measurable objectives will make it difficult to determine if the resulting EHR system fully meets the expectations at the end of the project. The Department should ensure clearly defined project objectives and performance indicators are established at the start of subsequent projects.

Recommendation 2.3

The Department should develop a detailed timeline to obtain baseline data and implement a performance indicator system.

SHARE Project Approval

Conclusions and summary of observations

Although the SHARE project agreement was formally approved by the Department, DOH management were uncertain whether central government approval was required because the project is cost shared with an external entity. We recommended the Department clarify and formally document the approval process for large IT projects.

2.37 *SHARE Project Agreement* – The Department has a formal approved project agreement with Infoway for the SHARE project. The agreement details funding requirements, describes the results and benefits of the electronic health records initiative, and identifies deliverables.

2.38 *Project approval* – The SHARE project was approved by Department of Health management and by Canada Health Infoway. However, in Nova Scotia, significant government IT projects must generally be vetted by two committees – the Business Technology Advisory Committee (BTAC) and the Tangible Capital Asset (TCA) Committee.

2.39 Although DOH IT staff provided presentations to BTAC regarding the SHARE project, DOH management informed us they were not certain whether the project required BTAC approval because it is cost shared with Infoway. We believe significant IT projects should be assessed using similar processes, regardless of whether the projects are fully funded by the Province or cost shared with another entity.

2.40 The Department was required to obtain funding approval from the TCA Committee for the SHARE project. A funding submission was prepared and submitted and the Committee approved departmental capital spending.

Recommendation 2.4

The Department of Health should formally document the process to approve significant IT initiatives, including determining what central government approvals may be required.

Project Management

Conclusions and summary of observations

Overall, the SHARE project was well-planned and well-managed. We found initial planning documents were consistent with project management best practices and



covered areas such as scope statement, project schedule, milestones, resource requirements, and risks. Processes to monitor and control work and approve changes were also documented. We found evidence of regular monitoring by project management. While the project plans detailed processes to approve project changes, we found these processes were not always followed. We recommended the Department adhere to its established project management processes.

2.41 *Project management methodology* – In order to manage large projects efficiently and help ensure budgets and deadlines are achieved, project management plans are necessary to coordinate implementation of multiple deliverables with multiple stakeholders. These plans should include a project schedule, milestones, resource requirements including cost estimates, staffing plans, and progress reporting requirements.

2.42 The Project Management Institute’s *A Guide to the Project Management Body of Knowledge (PMBOK Guide, 2008 Edition)* is a widely used source for best practices in project management. We examined the SHARE project management methodology and compared it to the *PMBOK Guide*. We concluded the project management methodology used for the SHARE project is consistent with PMBOK; however as discussed below, we found the processes for project changes were not always followed.

2.43 *SHARE project planning* – The initial SHARE project planning documents included a project charter, scope statement, project schedule, project management plan, a statement of roles and responsibilities, and cost estimates. We found these documents were well-prepared and considered key areas as required by project management best practices. Key risks were identified, documented and prioritized. Individual plans were also prepared to manage the project scope, schedule, costs, risk, quality and communications. Again we found these plans were well-developed and complete.

2.44 *Change control process* – We tested five approved change requests for the SHARE project and found one instance in which supporting documentation was inadequate.

2.45 Inadequate documentation increases the risk of unforeseen project delays, budget overages, and systems not meeting the needs of users.

Recommendation 2.5

The Department of Health should adhere to the documented SHARE project change control process.

2.46 *Monitoring* – We found SHARE project management are actively monitoring the project on an ongoing basis. Regular monitoring reduces



the risk that projects will get off track and fail to achieve time and budget deadlines. We found project status meetings are held regularly and status reports are prepared indicating whether the project is on track in accordance with the project plan. Key risks are actively monitored and updated by project management.

- 2.47 The initial \$28.3 million SHARE project budget was approved by DOH and Infoway. Costs are monitored and formal forecasts prepared. Any changes to project costs are authorized through the change request process. Although there have been some changes in the project, the budget did not need to be increased as a result. DOH management informed us they expected the SHARE project to be completed within its original budget.

Privacy and Security

Conclusions and summary of observations

At the time of our audit, certain of the identified privacy and security issues related to the SHARE project had not been addressed. DOH IT management informed us that remaining issues will be addressed in the coming months. We recommended the Department ensure these matters are addressed before the SHARE system is operational.

-
- 2.48 *Scope of audit work* – As the SHARE system was not operational at the time of our audit, we were unable to test actual controls in place to safeguard information. We discussed planned processes with DOH management to determine whether privacy and security concerns are being addressed and include the results of this work here. However, we express no opinion on the operation of the SHARE system. Our work was limited to an examination and discussion of proposed approaches.
- 2.49 *Existing and proposed privacy legislation* – Legislation helps protect personal information held by public bodies, including an individual's personal health information. Some provinces have specific legislation addressing the privacy of health information. In Nova Scotia, there are several pieces of legislation which impact the storage and sharing of an individual's health information including Freedom of Information and Protection of Privacy Act, the Health Authorities Act and others.
- 2.50 DOH management informed us they have concerns with inconsistencies in existing legislation. For example, the rules for providers, records and facilities are not always consistent. Additionally, current legislation was developed for a paper-based record keeping system.



2.51 The Department of Health developed a discussion paper on personal health information in Nova Scotia to assist DOH in obtaining public input to create a single piece of legislation that deals with protection and privacy of health information.

Recommendation 2.6

The Department of Health should address inconsistencies in current legislation either by amending the legislation or creating a single piece of legislation to address personal health information. Furthermore, the Department should ensure the resulting legislation adequately addresses concerns expected in an electronic system.

2.52 *Privacy impact assessment* – Statistics Canada defines a privacy impact assessment as “a comprehensive process for determining the privacy, confidentiality and security risks associated with the collection, use and disclosure of personal information. It also defines the measures used to mitigate and, wherever possible, eliminate the identified risks.”

2.53 At the time of our audit, two privacy impact assessments were completed and a third was ongoing for the SHARE project. These examine privacy concerns related to the collection, use and disclosure of personal information and consider ways to mitigate identified risks. We found a number of areas were assessed as high risk with an indication this risk could be reduced to a low level if mitigating factors were put in place.

2.54 *Threat risk assessment* – The Province’s agreement with Infoway requires completion of a threat risk assessment which is intended to identify and analyze threats and risks to information technology assets and take appropriate steps to safeguard these assets. The assessment was completed and improvements were identified for particular areas.

2.55 We were informed certain privacy impact and threat risk assessment recommendations were incorporated into the SHARE project implementation plans while other recommendations are to be addressed before the SHARE system is operational. At the time of our audit the outstanding recommendations included:

- determining access for new user groups;
- policy, procedures and agreement related to SHARE remote access; and
- a formal retention policy for electronic health record systems.

2.56 We understand from DOH IT management that these outstanding recommendations will be addressed in the coming months.

Recommendation 2.7

The Department of Health should take appropriate action to address remaining risks identified in the privacy impact assessments and threat risk assessments before the SHARE system is operational.

- 2.57 *Other privacy and security issues* – During our audit we noted a privacy and security concern with existing SHARE systems. We informed DOH management of our concern and recommended it be addressed before the SHARE system is operational. Due to the nature of this issue, our finding is not detailed in this Chapter.
- 2.58 Once the SHARE system is operational, the Department will rely on HITS-NS (the operational support service for the district health authorities) to manage certain services for SHARE and other health information system applications in the Province. Department management informed us they do not intend to obtain an audit of controls at HITS-NS. A section 5970 audit report would provide independent assurance that this support service has adequate controls in place.

HEALTH:
ELECTRONIC
HEALTH RECORDS

Recommendation 2.8

The Department of Health should require an annual section 5970 audit report if HITS-NS manages services related to the SHARE system.

Procurement

Conclusions and summary of observations

We tested a sample of purchases related to the SHARE project and concluded the Department of Health complied with the Province of Nova Scotia Policy on Government Procurement and considered value for money when making these purchases.

- 2.59 *Procurement sample testing* – We selected a sample of four procurement transactions and concluded the transactions were in accordance with the Province of Nova Scotia Policy on Government Procurement (Procurement Policy). Requests for proposals were issued and venter bids submitted, scored, ranked and selected based on criteria specified in the requests for proposals.
- 2.60 *Alternative procurement testing* – The Procurement Policy allows for alternative procurement practices, such as sole sourcing, in certain circumstances if Deputy Minister approval is obtained. We selected a sample of three alternative procurement transactions and concluded



approval of the Deputy Minister of Health was obtained and there was appropriate documentation supporting why the alternate procurement practice was required. This documentation often described value for money considerations.

HEALTH:
ELECTRONIC
HEALTH RECORDS

Response: Department of Health

Recommendation 2.1

The Department of Health should develop a formal IT strategic plan for electronic health records. This plan should detail how and when the remaining EHR initiatives will be implemented and funded.

2.1 Response

We agree with this recommendation. The Department of Health will develop an Electronic Health Record (EHR) strategic plan for the advancement of electronic health records to support better patient care. In order for this strategic plan to be realized it will require a commitment to an Electronic Health Record Financial Investment Strategy which will be built through the annual business planning process.

Recommendation 2.2

The Department of Health should determine all systems necessary to an EHR in Nova Scotia. Further, the Department should ensure these systems are able to communicate and share information.

2.2 Response

We agree with this recommendation. The Department of Health will clarify and formally document, through the EHR strategic planning process, the key systems that are core to electronic health records of Nova Scotians. We will ensure that the systems are aligned with key Department of Health and Department of Health Promotion and Protection strategic directions, and the systems will be able to communicate and share key patient information.

Recommendation 2.3

The Department should develop a detailed timeline to obtain baseline data and implement a performance indicator system.

2.3 Response

We agree with this recommendation. The Department of Health is currently participating in an iEHR Benefits Evaluation Project with New Brunswick and Newfoundland & Labrador, with funding investment from Infoway. This project will develop a detailed timeline to obtain baseline data and identify how to monitor performance.

Recommendation 2.4

The Department of Health should formally document the process to approve significant IT initiatives, including determining what central government approvals may be required.

RESPONSE:
DEPARTMENT OF
HEALTH

2.4 Response

We agree with this recommendation. The Department of Health will work with other departments in government to clarify existing processes, outline, formalize and clearly document the process for project approval of significant initiatives.

Recommendation 2.5

The Department of Health should adhere to the documented SHARE project change control process.

2.5 Response

We agree with this recommendation. Processes have already been put in the place to ensure the change management process is followed, as documented.

Recommendation 2.6

The Department of Health should address inconsistencies in current legislation either by amending the legislation or creating a single piece of legislation to address personal health information. Furthermore, the Department should ensure the resulting legislation adequately addresses concerns expected in an electronic system.

2.6 Response

We agree with this recommendation. New legislation called Personal Health Information Protection Act was tabled for first reading in Fall 2009.

Recommendation 2.7

The Department of Health should take appropriate action to address remaining risks identified in the privacy impact assessments and threat risk assessments before the SHARE system is operational.

2.7 Response

We agree with this recommendation. The Privacy Impact Assessment and Threat Risk Assessment documents were developed when the SHARE system was in the planning phase. The current plan ensures that appropriate actions are taken for the identified risks as the project progresses to implementation. All of the privacy risks will be addressed with the appropriate technology and process solutions and will be tracked as the application evolves.

Recommendation 2.8

The Department of Health should require an annual section 5970 audit report if HITS-NS manages services related to the SHARE system.

2.8 Response

We agree with this recommendation. The 5970 process is already under consideration for HITS-NS as a result of other applications that HITS-NS currently supports.

3 Education: Contract Management of Public-Private Partnership Schools

Summary

The school public-private partnership contracts examined during this audit represent a significant financial obligation to the province totaling approximately \$830 million over their 20 year life. The magnitude of such contracts requires a very high duty of care which has not been adequately met by the Department of Education. Comprehensive contract terms and management processes and procedures which ensure services paid for are received are essential to protecting the public interest. Our audit identified significant weaknesses in both of these areas. As a result we cannot conclude on whether key calculations supporting contract payments are correct or whether many services paid for are received. The findings in our report should be carefully evaluated by government prior to entering into complex long-term contracts in the future.

Our audit identified instances in which child abuse registry and criminal record checks, fire safety inspections, and emergency first aid and CPR training were not completed by the developers as required under the service contracts. Contract terms do not address significant areas such as audit access for the Province; measurable levels for all services; monitoring compliance with contract terms including required documentation; and an adequate payment adjustment system when contract terms are not complied with. The Department's reliance on negative feedback to monitor contract compliance is not sufficient to ensure services are received.

Two developers subcontracted their responsibilities under their service contracts for certain schools to the regional school boards. These subcontracts effectively transfer the risks for the operation and maintenance of the schools assumed by the developers in the service contracts back to government. Regional school boards are delivering contracted services at a lower cost than that paid to the developers. Over the 20 year life of the contracts the estimated difference in payments between the developers and regional school boards is approximately \$52 million. In addition, regional school boards need to do a better job ensuring that all money owed to them by the developers is received. We noted instances in which amounts received by the regional school boards did not comply with contract terms; these will result in significant financial recoveries for the Boards.



3 Education: Contract Management of Public-Private Partnership Schools

Background

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS

- 3.1 The Province of Nova Scotia constructed 39 public-private partnership (P3) schools. The last 31 were bundled and awarded to three private sector consortia, or groups of companies. For these last schools, development contracts to design, finance and build the schools were signed effective between February 1998 and June 1999. Through service contracts signed effective between May and July 1999, the Province agreed to lease the schools for approximately 20 years and the companies, which we will refer to as developers, agreed to manage, operate, and maintain the schools. The service contracts also define contract payments. Two of the developers signed contracts for each school. Our audit scope includes the service contracts for the last 31 schools. The developers involved are Ashford Investments Inc., Nova Learning Inc., and Scotia Learning Centres Inc.
- 3.2 The Province makes payments related to the capital lease; maintenance and operations; technology refresh; and capital repair and replacement over the term of the contracts. As of March 31, 2009, the Province had paid the following: \$224.7 million for capital leases; \$128.6 million for maintenance and operations; \$14.4 million for technology refresh; and \$6.8 million for capital repair and replacement. As of March 31, 2009, the Province is committed to paying approximately \$210.0 million for capital lease obligations, and has an estimated commitment of \$218.9 million for maintenance and operations; \$18.1 million for technology refresh; and \$9.9 million for capital repair and replacement to the end of the service contracts.
- 3.3 The operating payments made to the developer are based on a combination of utility rates and utility usage volumes plus inflation adjustments. Other payments are made to separate sinking funds and are to be used for technology refresh and capital repair and replacement. These payments are based on a rate per square foot. For March 31, 2009, the following approximate payments were made: capital leases - \$26.1 million; maintenance and operations - \$17.6 million; technology refresh sinking funds - \$1.7 million; and capital repair and replacement sinking funds - \$0.8 million.
- 3.4 The service contracts allow the developers to use subcontracts to fulfill their responsibilities but the developers are not relieved of their obligations to the Province under the contracts. Two developers entered into subcontracts



with the Strait Regional School Board (SRSB), Cape Breton-Victoria Regional School Board (CBVRSB) and Chignecto-Central Regional School Board (CCRSB) for the Boards to fulfill the developer's operating and maintenance responsibilities for 15 schools. The developers remain responsible for capital repair and replacement costs for all three Boards and, in one Board, insurance coverage. The Department of Education continues to pay the developers for their responsibilities under the service contracts and the developers pay the regional school boards for services provided.

Audit Objectives and Scope

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS

- 3.5 In Spring 2009, we completed a performance audit of the Department of Education's management of school public-private partnership service contracts. The audit was conducted in accordance with Section 8 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants.
- 3.6 The objectives for this assignment were to determine whether:
- the Department of Education's contract management processes and procedures are adequate to ensure services detailed in the service contracts are received and payments for services are made in accordance with the contracts;
 - the developers are complying with significant terms of the service contracts focusing primarily on those terms related to student health and safety;
 - service contract terms are adequate to ensure the public interest is being protected; and
 - subcontracts between developers and regional school boards result in government getting value for money.
- 3.7 The objectives of this assignment did not include assessing whether using public-private partnerships for acquiring and operating the 31 schools included in the audit was appropriate at the time.
- 3.8 Generally accepted criteria consistent with the objectives of this audit do not exist. Audit criteria were developed specifically for the engagement using both internal and external sources. Criteria were accepted as appropriate by senior management of the Department.
- 3.9 Our audit approach included interviews with management and staff of the Department, developers, and regional school boards; examination of



contracts, subcontracts and other documentation; and testing compliance with service contract terms. Payment testing covered periods ranging from September 2005 to March 2008 as detailed in the report. Service level testing covered the period from April 2007 to March 2008.

- 3.10 Our audit objectives required that we obtain access to documentation of the developers. We would like to acknowledge that management and staff of all the developers were cooperative and provided us with information in a timely manner.

Significant Audit Observations

Contract Management and Compliance

Conclusions and summary of observations

The Department of Education's contract management processes and procedures are not adequate. Important services are not being received and payment errors were made. For example, significant service contract requirements which impact student health and safety are not being completed such as child abuse registry and criminal record checks, and fire safety inspections. We also identified a number of instances in which we could not conclude whether payments were made or services were provided in compliance with contract terms due to a lack of adequate documentation. The absence of an appropriate system to manage and monitor large complex contracts significantly increases the possibility that services paid for are not received and important contract terms are not complied with.

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- 3.11 *Compliance testing for services* – We tested certain service level requirements, focusing on student health and safety for compliance with contract terms. We found the developers were not providing many of the contracted service levels tested and for some services there was no evidence the required service levels were being provided. We are concerned there may be an increased risk to student health and safety due to the lack of compliance with certain contract terms as detailed below.
- 3.12 *Child abuse registry checks* – Developers are required to obtain child abuse registry checks on all contracted staff prior to working in schools. We found 20 of the 40 contracted staff we tested did not have a child abuse registry check completed. For an additional five individuals, there was no evidence to support the completion of a check. For the 15 record checks initially examined nine were not done prior to hire, as required. The time period after hire ranged from six days to 254 days. Subsequent to our audit,

clean record checks were obtained for 14 of the 20 individuals who did not have record checks. Record checks were not obtained for the remaining six individuals. As well, clean record checks were obtained for three of the five individuals for which there had been no evidence to support completion of the checks. Record checks were not obtained for the remaining two individuals. We believe the Department of Education needs to address this issue immediately. Individuals working in schools who have not been appropriately screened pose an unacceptable risk to students.

Recommendation 3.1

The Department should ensure child abuse registry checks are completed prior to hire for all employees working in schools.

3.13 *Criminal record checks* – One of 40 individuals tested did not have a criminal record check completed. For an additional two individuals, there was no evidence that criminal record checks were completed. For the 37 record checks examined, 19 were not done prior to hire as required. The time period after hire ranged from one day to 303 days.

Recommendation 3.2

The Department of Education should ensure criminal record checks are completed prior to hire for all employees working in schools.

3.14 *Emergency first aid and CPR training* – 14 of 40 individuals tested did not have the required emergency first aid and CPR training. For one other individual, there was no evidence to support the training was completed.

Recommendation 3.3

The Department of Education should ensure all employees working in schools have required emergency first aid and CPR training.

3.15 *Fire Safety Act* – Nine of 13 schools examined did not have all fire safety inspections completed as required by the Fire Safety Act. For the four remaining schools, there was no evidence to support completion of all required inspections. The contracts require compliance with the Fire Safety Act.

Recommendation 3.4

The Department of Education should ensure the developers are completing and documenting the results of all fire safety inspections required under the Fire Safety Act.

3.16 *Preventive maintenance* – The contracts require maintenance be completed in accordance with manufacturer's requirements where applicable. The



maintenance work on four of 56 pieces of equipment tested did not meet manufacturers' requirements. For an additional 30 pieces of equipment, there was no evidence that all required work was completed.

Recommendation 3.5

The Department of Education should ensure all preventive maintenance is completed in accordance with manufacturers' requirements.

- 3.17 *Cleaning services* – The contracts for two developers define detailed cleaning requirements including frequency. No documentation, such as checklists signed by staff, was maintained to support the completion of required cleaning procedures. For three of the seven schools examined, cleaning staff indicated there were a few cleaning procedures not completed at the frequency required by contracts.

Recommendation 3.6

The Department of Education should ensure adequate documentation is maintained to support the provision of required cleaning services under the contracts. The Department should review documentation to ensure cleaning is completed.

- 3.18 *Hazardous cleaning materials* – We found all 13 schools tested stored hazardous cleaning materials in a secured area.
- 3.19 *Regular maintenance work* – The contracts do not define the timing of maintenance work to be completed other than noting it must be done promptly. For two developers, we found inadequate documentation to support when maintenance work was completed. As a result we were not able to assess timeliness.

Recommendation 3.7

The Department of Education should ensure the developers maintain adequate documentation to show maintenance work is completed on a timely basis. The Department should review this documentation to ensure maintenance work is completed on a timely basis.

- 3.20 *Contract monitoring by Department of Education* – The Department of Education carries out limited monitoring of compliance with the service level requirements of contracts such as completion of child abuse and criminal record checks, emergency first aid and CPR training, cleaning services, preventive maintenance, and compliance with the Fire Safety Act. An appropriate monitoring system is essential to help ensure services paid for are received and that all possible value to the Department of entering the P3 contracts is realized. The Department's failure to adequately monitor



these contracts has resulted in a number of non-compliance issues, some of which unnecessarily increase the risk to student health and safety.

- 3.21 The Department relies primarily on informal feedback received from school board staff working at the schools to monitor whether contracted services are received. If there are no complaints, Department staff assume adequate services are provided. However, school board staff we interviewed were not aware of the detailed service level requirements of the contracts and therefore are not an effective control to ensure services paid for are received.
- 3.22 Department management informed us that they also receive information on services provided by attending Facilities Management Team meetings where school operational issues are discussed. However these meetings are only held for 18 of the 31 schools and are not held regularly in those 18 schools. These meetings may provide some information relevant to contract monitoring but are not effective in ensuring all services are provided as required.
- 3.23 We interviewed the principals at 13 schools. Overall, they were satisfied with the level of services provided. However, the principals were not aware of the required contract service levels and therefore could not comment on whether all contracted services were received, or whether services delivered met contract requirements. There were some concerns expressed regarding the timeliness of completing larger repairs in one developer's schools.

Recommendation 3.8
The Department of Education should establish adequate contract management processes to ensure contracted services are received. These processes should be followed for the remainder of the contracts.

- 3.24 *Contract monitoring for operating payments* – The Department pays the developers for operating and maintenance costs, in addition to technology refresh and capital repair and replacement. Operating payments are made monthly based on estimates. After year end, the developers calculate the actual operating payments due based on changes in the utility rates and usage volumes for utilities, and inflation rates. This is compared to the payments received to determine a balance due to or from the Department of Education. The Department has not attempted to obtain documentation from the developers to support the utility rates and usage volumes. One developer voluntarily provides this support. Another developer informed us they use an estimate for electricity rates and not actual rates in their submissions. Department staff informed us they check the mathematical accuracy of the calculations, verify the inflation rates used, and where applicable, ensure the information is the same as the prior year. However, without adequate



verifiable documentation, there may be over or underpayments to the developers which are not detected.

Recommendation 3.9

The Department of Education should obtain appropriate supporting documentation from the developers for amounts used in calculating operating payments.

- 3.25 *Contract monitoring for capital payments* – The Department makes monthly or semi-annual capital lease payments for each school. Staff ensure the amount paid is the same as the prior period as required by the contracts.
- 3.26 *Compliance testing for operating payments* – We selected a sample of operating payments made between September 2005 and December 2007 and found payment errors based on contract terms. These errors would likely not have occurred if there was adequate monitoring to ensure payments comply with contract terms. Our testing results are detailed in the following paragraphs.
- 3.27 The contracts indicate operating payments will be increased approximately five years from the beginning of the contracts depending on the contract terms. We found this payment adjustment was made prior to, or after, the required time period for 8 of the 11 schools examined. In this instance, the net impact on payments is not significant but without proper monitoring, significant incorrect payments may be made.
- 3.28 The payment increase is subject to an annual inflation adjustment. We found one of the developers has never claimed or received this adjustment. At the time of this report, the developer had not claimed, and the Department had not paid, amounts owing as a result of this error. As of December 2008 the amount owing was approximately \$61,000.
- 3.29 We examined the calculations for operating payments made for a sample of 12 schools where actual utility costs were used. We found the utility costs were adequately supported. We also tested the inflation rates used and did not identify any problems.

Recommendation 3.10

The Department of Education should establish adequate contract management processes to ensure payments made under the P3 contracts comply with contract terms. These processes should be followed for the remainder of the contracts.

- 3.30 *Ability to conclude on certain compliance testing for payments* – During our compliance testing for payments, we found no documentation to support



compliance with contract terms for certain aspects of the payments. As a result, there may be over or under payments which are not detected. These situations are detailed in the following paragraphs.

- 3.31 Annual operating payments are determined using base rates for utilities and salaries, from the start of the contracts. For all but one utility rate for one developer, the Department had no documentation to support whether the proper base rates were used. Since the contracts began approximately ten years ago, staff did not know if support was ever received for the base rates. A copy of information supporting payments made over the life of the contracts was not maintained.
- 3.32 Based on contract requirements, the Department should pay salary increases up to the inflation rate for the year, for non-school board staff, and actual salary increases for school board staff. The Department is paying the base salary costs increased by inflation. Staff did not attempt to obtain information on actual salary costs to determine if payments made comply with the contract terms. Without information on actual salary costs, we cannot conclude whether payments were made in accordance with the contracts and if not, how much of an error was made.
- 3.33 According to the contracts for one developer, an increase in operating payments will be paid five years from the date of substantial completion of the schools. The Department had no documentation to support the date of substantial completion for all schools. As a result, we could not conclude on whether payments were made in accordance with the contracts.
- 3.34 Operating payments are made based on a rate per square foot. For five of the 15 schools tested, staff could not provide support for the square footage used in the calculation. According to the relevant contracts, the square footage used to determine operating payments is to be based on a "...confirmation of as built Gross Square Footage." For three of the schools, staff could not provide a confirmation or other support for the square footage used. For the other two schools, the architect had provided an area certification. However, the certificate does not support the square footage used. The initial contracts have been amended but the Department has not kept a consolidated control copy of all changes. As a result we could not conclude whether payments were made in accordance with the contracts.
- 3.35 Similarly, Department staff could not provide support for capital lease payments for 13 schools of one developer. Therefore, we cannot conclude whether these payments were correct.

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS



Recommendation 3.11

The Department of Education should maintain a control copy of all significant contracts, which includes all approved changes and supporting documentation.

3.36 *Contract monitoring for technology refresh, and capital repair and replacement funds* – In addition to operating payments to developers, monthly payments are made to six sinking funds for either technology refresh or capital repair and replacement. Three of the sinking funds established are managed by the Department and three are managed by the developers. For those sinking funds managed by the developers, the Department is not currently monitoring to ensure all amounts received from the Department are deposited, interest is earned and reinvested, and only eligible funds are withdrawn in accordance with contract terms. If these sinking funds are not properly monitored, funds may not be spent on intended purposes and value for money may not be achieved. We were unable to determine whether these funds were monitored prior to March 2008 as Department of Education staff had retired and there was no documentation such as a contract management manual detailing processes followed.

Recommendation 3.12

The Department of Education should monitor transactions processed through the sinking funds administered by the developers.

3.37 *Contract monitoring related to changes in responsibilities* – Initial service contracts were amended making the Department of Education responsible for technology refresh and furniture, fixtures, and equipment (FF&E) instead of the developers. FF&E funds are part of the capital repair and replacement payments. Since the contract amendments, the Department continues to send payments to the developers in accordance with the original contracts and the developers return a portion of the funds to the Department or to the school board. The Department is not monitoring funds to ensure the correct amount is returned by the developers.

Recommendation 3.13

The Department of Education should monitor funds received from the developers concerning technology refresh and furniture, fixtures and equipment.

3.38 *Compliance testing for technology refresh, capital repair and replacement, and FF&E funds* – We examined the transactions processed through the three sinking funds administered by the developers between April 2006 and March 2008 to determine whether funds were properly accounted for in accordance with contract terms. As well, we tested the reimbursement of funds to the Department, for the same period, where changes in



responsibilities resulted in the developers reimbursing the Department for funds received. The results of our testing follow.

- For the three sinking funds administered by the developers, we found the funds provided by the Department were deposited into the accounts except for one account which the developers overpaid by \$1,000 for the period tested. We found interest was earned on the accounts and reinvested. As well, we tested a sample of 26 disbursements from the capital accounts and found all items met the contract definition of capital.
- We tested the reimbursement of funds to the Department in two of the three instances in which contract amendments resulted in the developers returning funds to the Department. We found the correct amounts were returned to the Department.

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS

3.39 *Contract management manual* – The Department does not have a comprehensive P3 school contract management manual. Two staff responsible for managing the P3 school contracts retired in March 2008. Their positions were not filled until December 2008. Staff responsible for contract management during the interim period, and new staff hired, lacked detailed knowledge of contract terms, were not aware of contract management processes which may have been followed in the past, or what should be done to adequately manage the contracts. A contract management manual would provide guidance to current and new staff helping to ensure there are adequate and consistent contract management processes followed when staff responsibilities change or new staff are hired. Department of Education staff indicated they are in the process of developing a manual.

Recommendation 3.14

The Department of Education should develop a contract management manual for use by staff.

Contract Terms

Conclusions and summary of observations

The terms of the service contracts are not adequate to ensure public interest is protected. The contracts do not address significant areas such as adequate audit access for the Province; measurable service levels for all services; monitoring compliance with contract terms, including documentation requirements; and an adequate payment adjustment system to be used for non-compliance. The lack of these significant contract terms impairs the Department's ability to hold the developers accountable and effectively manage the contracts. In addition, contract terms which are vague may result in negotiated value not being realized.



3.40 *Lack of audit provisions* – The contracts do not include a specific audit provision for provincial internal audit or departmental staff. Without audit provisions, the Department may not have access to important information it requires to ensure compliance with contract terms. As a result, incorrect payments could be made or services not provided.

Recommendation 3.15

All significant new contracts between the Department of Education and service providers should include audit provisions for the Province.

3.41 *Measurable service levels* – The service contracts require the developer to manage, operate, and maintain the schools in accordance with an operating and maintenance plan and manual. These manuals define certain measurable service levels required. They were approved after the service contracts were signed. Agreeing on the cost of services before determining service levels does not help achieve value for money in a contract.

3.42 Measurable service levels were not defined for all services required under the contracts. It is not possible to demonstrate that value for money is being achieved if measurable service levels are not defined for monitoring developer performance. The following are some services for which measurable service levels were not defined.

- Cleaning standards were not defined in the contract with one developer.
- The contracts require all maintenance be addressed promptly and for two developers there is a requirement that operational issues concerning health and safety be a priority. However, promptly and priority are not defined.
- Two of the developers have contracts that define maintenance requirements but do not specify the frequency for all of the requirements, such as monthly or annually.
- The contracts require the submission of a capital repair and replacement plan. However the level of detail required and time period to be covered by the plan are not included.
- The contracts define the type of insurance required but not the amount. Department staff indicated an amount for comprehensive general liability insurance was subsequently determined but could not provide a documented contract change to support this comment.

Recommendation 3.16

The Department of Education should define measurable service levels for all services in future contracts and these should be included in the contracts prior to signing.



NOVA SCOTIA

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS

3.43 *Monitoring and payment adjustments* – The contracts do not describe the process to monitor performance, including supporting documentation requirements. As well, the contracts do not address what mechanisms the Department can use when developers are not meeting defined service levels in the contracts, other than mandatory mediation and arbitration. The contracts contain a payment reduction for defaults but the developer is only in default if the school cannot be used as a school. A clearly defined monitoring system, including documentation requirements and sanctions such as payment adjustments for non-compliance, reduces the risk of non-compliance with contract requirements. It also ensures the service provider is aware the Department plans to monitor compliance with contract terms, knows what documentation is required to demonstrate compliance, and is aware of possible sanctions for non-compliance.

Recommendation 3.17

The Department of Education should ensure future contracts describe the contract monitoring process, including documentation requirements and sanctions for instances of non-compliance.

3.44 *Child abuse registry and criminal record checks* – The service contracts require completion of child abuse registry and criminal record checks for staff working in schools, prior to hiring. However there is no requirement to update those record checks periodically subsequent to hiring. The objective of a screening process is to identify individuals who may not be suitable to work in a school environment as they may pose an unacceptable risk to student safety. We are concerned there may be employees working in schools whose record checks are outdated.

Recommendation 3.18

The Department of Education should work with the developers to assess the risk of not completing periodic record checks subsequent to hiring, determine the appropriate frequency of rechecks, and amend contract terms accordingly.

3.45 *Clarity of payment terms* – We identified three payment terms in the contracts which were not clear. As a result, we could not conclude whether payments were made, or would be made, as intended when the contracts were negotiated. Unclear contract terms increase the likelihood that disagreements will arise and could result in costly mediation, arbitration, litigation or negotiated amendments which reduce the value the Province would have received from the contract had the terms been clear. When developing payment terms in future service contracts, the Department should ensure all terms are clear. The details of the three contract terms are discussed in the following paragraphs.



- 3.46 The contracts define how the developers' annual operating payment is determined. The contracts with two developers include a clause which states that operating payments will only be adjusted for increases or decreases in heating fuel costs if the change is greater than 5% as determined annually by rolling averages. The time period for the rolling averages has not been defined in the contracts. According to Department of Education staff, the Department agreed to pay the actual cost of heating fuel each year as it was not clear what the payment calculation should be.
- 3.47 The contracts stipulate withdrawals from the capital repair and replacement funds should relate to capital repairs. The original contracts for two developers define capital repair and replacement costs as “...any expense or expenditure that is reasonably necessary to maintain, repair, rehabilitate and replace the Learning Centre in accordance with the terms of this Agreement, whether expensed or capitalized under GAAP and is not an operating cost.” The contracts do not define operating costs. Effective November 2000, the contracts for one developer were amended to more clearly define capital repairs. According to the other developer they follow the definition of capital in the amended contract noted above but there was no evidence of an amendment to their own contracts. The original definition is incomplete, which increases the risk for disputes over the contract term.
- 3.48 Under all of the service contracts, at the end of the initial contract term, the province has the option to purchase the schools, extend the contracts, or terminate and vacate. For the contracts with one developer, the purchase price is determined based on 50% of the fair market value of the properties at a point in time. However, the contracts do not define the appraisal method which can have a significant impact on the purchase price. If the appraisal method that is used results in a high purchase price, the province may not realistically have one of its options available (to purchase the properties) at the end of the initial contact terms.
- 3.49 *Inflation on technology payments* – The contracts define how payments for technology refresh are determined. The contracts of two developers require that the total base operating payment be increased annually for inflation. The developers are required to deposit a fixed amount into a technology refresh sinking fund from the total base operating amount received. However, the amount deposited by the developer does not include the inflation adjustment. There may have been an argument that the developers earned some, if not all, of the inflation adjustment when they were managing technology refresh. However, there have been contract changes which shift responsibility for technology refresh to the Department. We do not know what value, if any, is being received by the Province for allowing the developers to keep the inflation adjustment for technology refresh. Since contract changes, the developers have received \$174,100 for the inflation adjustment up to December 2007. Over the term of the contracts, they



could potentially receive another \$394,000, assuming a 2% inflation rate, for a total of \$568,100.

Subcontracts with Regional School Boards

Conclusions and summary of observations

Regional school boards, under subcontract arrangements, are delivering contracted services at a lower cost than that paid by the Department to the developers. Over the 20 year life of the contracts the estimated difference in payments between the developers and regional school boards would be approximately \$52 million. In addition, any value government achieved through the transfer of risks for the operation and maintenance of the schools by signing the service contracts, was not realized because those risks were transferred back to the government. Cape Breton-Victoria Regional School Board's subcontract arrangements with one of the developers resulted in the Board incurring a deficit of approximately \$21,000 under the subcontracts for the two years covered by our audit. This is equivalent to government paying the \$21,000 twice, as the developer has already been paid by the Department to provide this service, and CBVRSB is required to fully fund the deficit from funds available for other services. Regional school boards need to do a better job of ensuring they are receiving all amounts to which they are entitled under their subcontracts with the developers. At the end of the service contracts, the Province has the option to purchase the schools, renew the contracts, or terminate and vacate. A decision must be made four years (three years for one contract) before the end of the contract. The Province should carefully consider the information highlighted in this Report when considering which course of action is appropriate.

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS

- 3.50 *Background* – After the original service contracts between the developers and the Department were signed, two developers negotiated contracts with some regional school boards (RSBs) to deliver the services outlined in the original service contracts. One developer subcontracted all of their P3 schools back to the RSBs. We were informed that the RSBs were interested in such arrangements for several reasons including possible significant negative impact on RSB budgets and workforce by having schools maintained by a third party.
- 3.51 We acknowledge that under the Education Act the RSBs have the legal authority to enter such contracts, but we are concerned with the unusual nature of these arrangements. The Department of Education entered into significant 20 year contracts with third parties to provide a service. Those third parties subsequently contracted with government-funded entities (RSBs) to deliver these services. Under these arrangements RSBs may



NOVA SCOTIA

potentially incur deficits to fulfill their contract obligations, while the Department has already paid the developer to deliver those services. These deficits could reduce the funds school boards have available for other areas such as classroom educational services and transportation services. In addition, any value government achieved by transferring operation and maintenance services risks to the developer through signing the initial contracts, was not realized because those risks were transferred back to government through the subcontracts.

3.52 *Regional school board surplus/deficits* – We examined P3 school financial data to assess whether deficits related to the subcontracts were incurred. Any deficits realized by the RSBs equate to government paying the deficit amount to operate and maintain the schools twice and clearly does not represent value for money. The developers have already been paid to provide these services and RSBs have to take money from funds available to provide other services to cover the deficits. The financial data provided by the RSBs was reviewed for reasonableness but was not audited by our office. The results of our analysis are summarized below.

- Cape Breton-Victoria Regional School Board operated at a total deficit of \$251,000 for the 2006 and 2007 calendar years. This deficit was fully funded by the Board during those years. Contract payment errors discovered reduced the total deficit to \$20,745. CBVRSB’s subcontracts do not represent value for money to government.
- Strait Regional School Board and Chignecto-Central Regional School Board were able to operate at a total surplus of \$183,000 for the 2006 and 2007 calendar years, and 2007 and 2008 school years respectively. Contract payment errors discovered will increase the total surplus but at the time this Report was written the amount of the increase was not known.

3.53 *Comparison of contract terms and payments* – We examined payments made under both the original service contracts and the RSB subcontracts. For the 2006 and 2007 calendar years for one developer and the 2007 and 2008 school years for the other. Based on our discussions with management of the developers and our review of the contracts, the services to be delivered by the RSBs under the subcontracts mirror those detailed in the developers’ service contracts with the Department. The substance of this arrangement is that the operation and maintenance risks assumed by the developers in their contracts with the Department have now been assumed by the RSBs. The exception is that the developers are required to provide for capital repair and replacement costs. However, a separate capital refresh fund has been created and funded by the Department, limiting their risk in this area.

3.54 Our analysis for the two year period indicates that the two developers who subcontracted services to the RSBs will receive approximately \$5.2 million



NOVA SCOTIA

EDUCATION:
CONTRACT
MANAGEMENT OF
PUBLIC-PRIVATE
PARTNERSHIP
SCHOOLS

more from the Department than they will pay the RSBs for providing the same services during that period. This represents a gross profit margin to developers of approximately 34%. The significant difference in the payments is due to the negotiated contract terms. There are differences in the initial base rates negotiated; subcontracts do not include a clause which requires an increase to the base rate after five years similar to the developers' contracts with the Department; and inflation adjustments received by the developers are either not required to be passed on to the RSB or are passed on based on a lower rate per square foot. Using \$5.2 million as an average for the two years, over the 20 year life of the service contracts, the estimated difference between payments made to the developers and the RSBs under the subcontracts is approximately \$52 million.

- 3.55 Department of Education management advised us they believe this difference includes a significant capital lease payment component. They feel this occurred because a portion of capital lease payments were allocated to the operating lease payments at the time the initial contracts were signed, in order to reduce the capital lease costs.
- 3.56 *Cost of living adjustment for Strait Regional School Board*—When examining operating payments to the Strait Regional School Board (SRSB), we found that the Board was not receiving cost of living adjustments required under the subcontracts. The developer is entitled to a cost of living adjustment under its service agreement with Education and the subcontract states “...*the Developer agrees to pay any adjustment it so receives to the Board for the term of this Agreement.*” The developer received \$864,000 in cost of living adjustments from Education for the two year period we examined. Prior to this audit the Board had not enquired about or received any cost of living adjustments from the developer since the beginning of the subcontracts.
- 3.57 The terms of the subcontracts requiring cost of living adjustments to be paid to the SRSB are vague. The subcontracts do not clearly stipulate how the adjustment amount is to be determined. As a result, we could not precisely determine the amount of the recovery due to the SRSB although we believe that the recovery will be significant. We tested two years of the nine years elapsed to date. The maximum amount that the Board could receive for the two year period we tested is \$864,000. This is another example of lack of clarity in a contract term which could have significant financial consequences depending on interpretation.
- 3.58 When this report was written the SRSB was engaged in negotiations with the developer as to the cost of living adjustment which is payable to the Board. SRSB was also consulting with legal counsel to determine whether the developer was in breach of its contracts for not paying the Board when an adjustment had been received by the developer. Such a breach would require that the developer pay interest on past due amounts and could



further increase the amount recovered by the Board. It should be noted that this error would have continued to increase annually to the end of the contract if not detected.

- 3.59 Management and staff involved in the management of these subcontracts should have a detailed knowledge of the contract terms to ensure all money due under the contract is received.

Recommendation 3.19

Strait Regional School Board should ensure all money due under its contracts with the developer is received.

- 3.60 *Cape Breton-Victoria Regional School Board contract payment errors* – While completing our audit work, we noted two calculation errors in determining the year end settlement amount due to Cape Breton-Victoria Regional School Board (CBVRSB). These errors related to electricity and salary costs and had been occurring since the beginning of the subcontracts. However, settlements were not calculated and claimed until 2009. CBVRSB staff informed us they were aware of these errors prior to our fieldwork. The Board claimed an additional amount of approximately \$403,000 under the terms of the subcontracts. The following paragraphs provide further details of these errors.
- 3.61 The developer and the Board are entitled to actual electricity rate increases from base rates based on the terms of the contracts. The Board has been claiming and receiving an estimate for rate changes as opposed to actual rate changes. The Board claimed an underpayment of approximately \$52,000 for the error.
- 3.62 The developer and the Board are entitled to actual salary cost increases from the base salaries based on the terms of the service contract and subcontracts. The Board has been claiming and receiving actual salary cost increases from the developer but only the increases from the prior year as opposed to increases from the base salaries. As a result, in 2009, CBVRSB submitted a claim to the developer totaling approximately \$351,000.
- 3.63 The developer's management acknowledged that the amount claimed by CBVRSB as electricity and salary cost increases as part of year end settlements should be the same amount the developer claims from the Department according to the terms of the contracts. The developer indicated it identified the payment discrepancies and notified the Board. We believe the Board should explore whether the developer should pay interest on the differences noted.

- 3.64 Management and staff involved in the management of these subcontracts should have a detailed knowledge of the contract terms to ensure all money due under the contract is received.

Recommendation 3.20

Cape Breton-Victoria Regional School Board should ensure all money due under its contracts with the developer is received.

Options at the End of the Service Contracts

- 3.65 At the end of the contracts, the Province has the option to purchase the schools, renew the service contract for a term not less than 10 years at fair market rent, or terminate and vacate. The contracts require that the Province give four years notice (three years for one contract) of the option selected before the end of the initial contract term. The first deadline will occur in 2016. The Department of Education should consider the information highlighted as a result of our audit when determining which option to accept and what terms should be negotiated if the contracts are renewed. Considerations should include:

- the likelihood deficits could be incurred by RSBs through subcontracts;
- whether there is an appropriate allocation of risks between the province and the developers under subcontracts;
- whether contracting with developers for services traditionally provided by RSBs represents value for money to the province; and
- if service contracts are renewed, how weaknesses in current contract terms and management processes and procedures will be addressed.

Recommendation 3.21

The Department of Education should consider the information highlighted in this Report when assessing its options at the end of the service contracts.

- 3.66 The Department of Education's response to our audit report follows this Chapter. In its response the Department disagrees with a number of the findings detailed in the Report. The Department has declined, upon request from our office, to indicate whether or not it agrees with our recommendations and what, if any, action it plans to take to address them.

Response: Department of Education

The Department of Education appreciates the opportunity to respond to the Auditor General's review of the contract management of public-private partnership schools.

Subcontracts with Regional School Boards

In this Report, the Auditor General suggests that two private developers will profit from their agreements to enter into service contracts with regional school boards by an estimated at \$52 million over a 20-year period.

The Department asserts that this conclusion is based on a fundamentally different interpretation of the lease arrangements than was originally intended. Compensation to the developers for the construction and operation of the schools in question is provided for through two lease payments: the first being an operations/maintenance component and the second a capital component.

The objective of the day was to negotiate agreements with private developers that would enable Government to build needed school structures while minimizing the effect of significant, one-time capital expenditures on the Province's financial statements. Thus, the original arrangement was structured to meet the requirements of an operating lease, which enabled expenditures to be spread out over a 20-year period.

This approach placed limitations on the portion of lease payments that could be designated as capital. At the same time, Government recognized the need to compensate developers for their risk in undertaking these projects, as well as a profit on the building structures themselves and costs associated with potential abandonment of the buildings at lease-end. As a result, the developer compensation package for the entirety of the project was set up to be delivered through the operating portion of the lease.

The reality is that there was a shared understanding at the time the agreements were signed that the operating portion of the lease would cover both operating and capital repayment components. The Department maintains, therefore, that it is not appropriate to isolate the operating component of the total lease agreement, and use it as the basis for calculating gross profit on the developers' service agreements with the Boards.

In its review of these private-public partnership agreements in 1998, the Auditor General's office ruled that – irrespective of how the documents were structured – they jointly comprised what was in substance a capital lease arrangement. Following standard audit protocols, the test of a capital lease is whether the risks and rewards of ownership have been effectively transferred to the contracting party, in this case the Province of Nova Scotia.

The Auditor General's judgment at the time was that this in fact had occurred, and the agreements were recognized as capital leases on the Province's financial statements.

The Department would also like to note that the Auditor General's calculation of gross profit on the service agreements with the Boards is based on an extrapolation of maintenance costs associated with the first half of the contracts. As the schools age, there is an increasingly high likelihood that major repairs and replacements – such as a new roofs – will be required. And while there is a small fund set aside in anticipation of these costs, it does not fully protect the developer's risk in this regard.

Risk Transfer

In addition, the Department has a different understanding than the Auditor General of the notion of risk transfer as it relates to the developers' service contracts with school boards. The significant risk variables of the operating lease agreements – fuel and salary costs – are covered by escalator provisions built into the contracts so developers are fully compensated for any rise in prices. In effect, there is no significant risk associated with the caretaking and day-to-day maintenance of the schools, and there was no substantial risk transfer element contemplated in those areas as a component of the lease agreements.

In fact, given that the Auditor General concluded in his 1998 review that the Province had not successfully transferred the risks of ownership to the public-private operator, it does not follow that the public-private operator could at any point thereafter transfer the risk on to the school boards.

Contract Management and Compliance

The Auditor General has identified service contract standards in the areas of criminal record checks and first aid training of school employees that, despite reasonable efforts, have not been met in all cases. The Department acknowledges these gaps and will work with the relevant school boards to ensure that all checks and training are done in advance of employment within school facilities.

The Auditor General also suggests that the Department of Education's contract management processes and procedures as they relate to cleaning and maintenance services are inadequate. The Department maintains that, in fact, it simply employs an alternate and equally effective method of ensuring that standards are met.

The Department believes that service in these areas is best assured through awareness of school-based staff and oversight by Board-based property service divisions. This is the approach taken for all publicly-owned and managed schools. It relies on regular inspections and clearly identified steps for escalating issues identified by on-site staff.

RESPONSE:
DEPARTMENT
OF EDUCATION

This is a system that we believe works. When interviewed by Auditor General's Office staff, school principals stated that, "Overall, they were satisfied with the level of services provided."

The Department is committed to ensuring a high level of cleaning and maintenance services at all its schools. Current practice identifies issues on a timely basis and provides a clearly understood and efficient path for remediation with the developer. Furthermore, there are costs associated with the development and management of documentation and monitoring protocols as suggested by the Auditor General. The Department believes that its current practice strikes the appropriate balance between cost and benefit, representing good value for the Province of Nova Scotia.

Contract Terms

The Department acknowledges that the Auditor General's suggestions re contract terms can be considered as a part of any future public-private partnership agreements.

Response: Strait Regional School Board

Recommendation 3.19

Strait Regional School Board should ensure all money due under its contracts with the developer is received.

The SRSB agrees to implement the recommendation. In relation to the expected time frame for implementation, we are now in the process of collecting monies due under our subcontract with the developer.

Response: Cape Breton-Victoria Regional School Board

Recommendation 3.20

Cape Breton-Victoria Regional School Board should ensure all money due under its contracts with the developer is received.

Management is in agreement with the recommendation. Invoices for the incremental amounts owed from the developer have been issued and are being followed up on regular basis. Per discussions with developer staff, payment should be received by the end of the 2009 fiscal year. Management will continue to monitor these receivables and have discussions with the developer until payment is received. The possibility of charging the developer interest on the outstanding receivables will be brought to the CBVRSB Senior Staff for consideration.

RESPONSE:
STRAIT REGIONAL
SCHOOL BOARD
AND
CAPE BRETON-
VICTORIA
REGIONAL
SCHOOL BOARD

4 Office of the Speaker: Members' Constituency and Other Expenses

Summary

Members of the House of Assembly receive allowances and other payments to carry out their responsibilities as constituency representatives. We found serious weaknesses in the funding system for Members' constituency and other expenses which increase the risk of excessive and inappropriate expenditures by Members. Members receive significant funding for which they are not accountable; regulations and guidelines do not clearly outline the purpose of funds provided; and guidance on how funds should be spent is vague or does not exist. We have recommended that a comprehensive examination of the funding system for constituency and other expenses be conducted.

Inappropriate claims were made by some Members for personal items, expenses already covered by an allowance, items and services from ineligible relatives, and items previously claimed. These types of claims are not in accordance with the regulations.

The lack of clear and comprehensive regulations and guidelines has allowed a wide range in spending on the amount and types of advertising, furniture and equipment. Although not in violation of the regulations, we believe many of these expenditures were excessive and may not be reasonable for constituency work purposes.

Inadequate documentation, such as photocopies of invoices or no evidence of payment, hinders Office of the Speaker's staff's ability to ensure only appropriate expenses are processed for payment.

The Legislature Internal Economy Board (LIEB) regulates services and payments to Members. The LIEB established a payroll service through the Office of the Speaker for Members' staff but also allows Members to pay additional salary amounts through their constituency expenditures allotments. The current system has unclear lines of responsibility resulting in incorrect treatment of some salary payments. Some Members made additional salary payments to their staff in which required payroll remittances and federal legislative reporting requirements were not made. We are concerned there may be significant financial implications to the Province, the Members and the Members' staff related to these extra payments.



4 Office of the Speaker: Members' Constituency and Other Expenses

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

Background

- 4.1 The Legislature Internal Economy Board (LIEB) is responsible for regulating services to Members and general expenditures of the House of Assembly. The Board is comprised of Members representing all parties in the House and is chaired by the Speaker. In addition to other responsibilities, the Office of the Speaker provides administrative services for the processing of payments to the Members.
- 4.2 The Public Service Act establishes the Legislature Internal Economy Board and its powers and duties in relation to the House of Assembly. The House of Assembly Act sets out the powers and privileges of the House and its members.
- 4.3 The LIEB regulations, under the House of Assembly Act, set out the rules regarding payments to Members. Members of the House of Assembly, in addition to their salary, are entitled to receive various allowances and other payments as outlined in the table below.

Allowances and other payments	2008	2009
Standard allowance (no receipts required)	\$1,019/month	\$1,050/month
Constituency expenditures allotment (with receipts)*	maximum \$4,076/month	maximum \$4,198/month
Franking and travel (within constituency, based on size, no receipts required)	\$13,382/year to \$17,664/year	\$13,783/year to \$18,194/year
Living allowance (outside members only, no receipts required)	\$1,427/month	\$1,470/month
Living allowance (outside Executive Council members and party leaders, no receipts required)	\$1,700/month	\$1,700/month
Electronic technology fund (with receipts)*	maximum \$2,500/year	maximum \$2,500/year
Non-government party leaders expenses (with receipts)	maximum \$40,000/year	maximum \$41,200/year
Speaker's travel expenses (with receipts)	\$ not specified	\$ not specified
Transition allowance (former members, maximum 3 months – no receipts required)*	\$15,000/month	\$15,000/month
Per diems (within province, no receipts required)	\$81.50/day	\$84/day
Mileage (matches government rate)	\$0.4051/km	\$0.4092/km

* see comments in paragraph 4.5

- 4.4 Allowances and other expense allotments are paid to Members based on the calendar year. Amounts claimable by receipts are calculated net of HST. Members are reimbursed for the full amount of claimed expenditures



NOVA SCOTIA

but only the non-tax portion reduces the amount available. The Province spent \$5 million on Members' allowances and other expenses in 2008-09. Appendix 1, Table 1 at the end of this Chapter shows receiptable constituency expenditures by Member from July 2008 to June 2009.

- 4.5 In September 2009 and subsequent months the Government announced the following changes to the LIEB regulations:
- office assets purchased by Members after October 27, 2009 will remain the property of the Province;
 - the transition allowance of \$15,000 a month has been eliminated;
 - the \$2,500 per year electronic technology fund is cancelled; and
 - maximum claimable constituency amounts are to be reduced by \$865 a month from January 2010 to March 2010.
- 4.6 These changes were not in effect during our audit period and we cannot comment on their impact on Members' expenditures.
- 4.7 We were informed by management that certain Members have reimbursed the Office of the Speaker for some of the amounts discussed later in this Chapter.

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

Audit Objective and Scope

- 4.8 In November 2009 we completed a performance audit of constituency and other expenses of Members of the House of Assembly. Our audit included all claims from July 2008 to June 2009 and constituency and electronic technology fund claims only from July 2006 to June 2009. We had not examined payments to Members in over fifteen years.
- 4.9 We focused on allowances and other payments to Members as representatives in the House of Assembly and administered through the Office of the Speaker. We did not audit Members' salaries as these are reviewed and determined periodically through an independent commission. We also did not include allowances and payments administered through the departments to Members for carrying out ministerial or other responsibilities.
- 4.10 Our audit was conducted in accordance with Section 8 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants.
- 4.11 The objective for this engagement was to determine whether payments to Members of the House of Assembly for constituency and other expenses



were reasonable, adequately supported, and in accordance with the Acts, regulations and guidelines.

- 4.12 Criteria were developed specifically for the engagement using both internal and external sources, and were discussed with and accepted as appropriate by management of the Office of the Speaker.
- 4.13 We conducted audit fieldwork at the Office of the Speaker from August to November 2009. We interviewed management and staff; examined policies, files and other documentation; reviewed systems; and examined expense claims of 51 Members during our audit period.

Significant Audit Observations

Funding for Expenditures

Conclusions and summary of observations

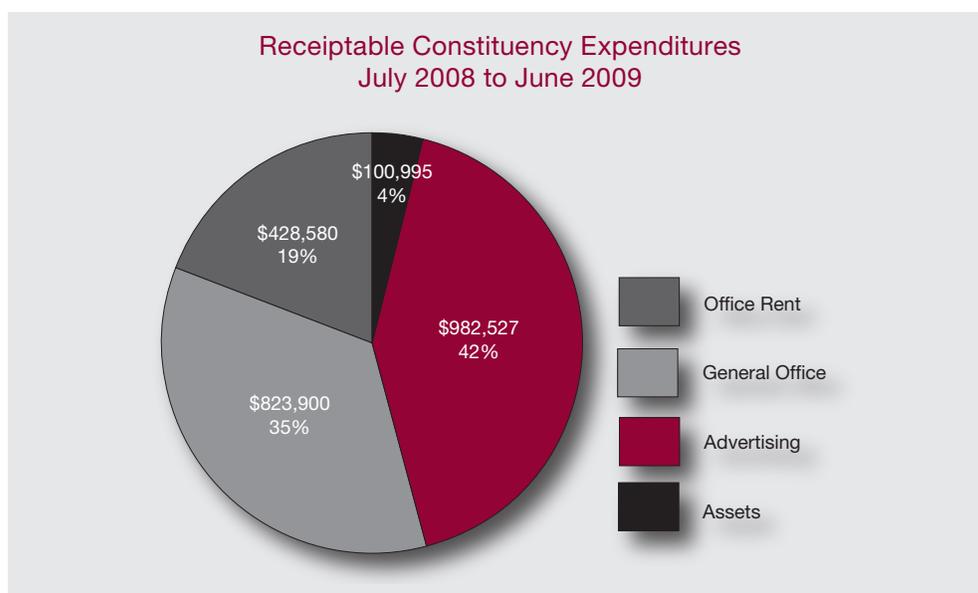
Members receive significant funding for expenditures for which they are not accountable because receipts or other support are not required. Written rules and guidelines do not clearly outline the purpose of funds provided to Members or provide guidance on how they should be spent. Where receipts are required, there is a wide range in how monies are spent. We were unable to conclude on what basis the various allowances and claim limits were determined. Weaknesses in the funding system for constituency and other expenses are pervasive and we recommended a comprehensive examination of the system be carried out to clearly address which expenditures should be funded, why, and to what extent they should be funded.

- 4.14 *Funding* – Members receive funding to carry out their responsibilities as constituency representatives through allowances and other payments. Members are not accountable for how the money is spent for a significant portion of these monies including:
- standard allowance of \$1,050 per month (\$12,600 for 2009);
 - franking and travel from \$13,783 to \$18,194 per year (2009); and
 - living allowance of \$1,470 per month (\$17,640 for 2009).
- 4.15 Payments for which receipts are not required are unauditible. These payments could range from \$44,023 to \$48,434 depending on the size and location of the Member's constituency.

4.16 *Regulations and guidelines* – To assess the appropriateness of expenditures by Members of the House of Assembly, we referred to the existing regulations and guidelines governing allowances and other payments. We found the written rules and guidelines often did not clearly outline the purpose of these monies or provide guidance on how they should be spent. For example, the regulations state each Member is entitled to receive a standard monthly allowance (\$1,050 in 2009) “*in lieu of expenses incurred on account of services*” to the constituency. There are no other rules or guidelines to indicate the purpose of this allowance.

4.17 The monthly constituency allotment for expenses, accounted for by proper receipt, is for the “*provision of office space, meeting places, equipment, telephone, telephone answering services, advertising and secretarial services.*” The regulations provide no further definition or clarification of these terms, such as what is included under equipment. The regulations have not been updated to reflect a contemporary office or working environment, especially in regard to electronic technology. As discussed later in this Chapter, the lack of clear and adequate rules and guidelines have contributed to Member mistakes and fostered irresponsible practices by some Members, resulting in a number of questionable expenditures.

4.18 *Spending levels* – Given the limited guidance provided, we found a wide range in how Members spent monies for their constituencies, especially in discretionary areas such as advertising. The following chart shows a breakdown of constituency expenditures during the twelve months from July 2008 to June 2009.





- 4.19 We were unable to determine under what basis constituency expenditure limits and other allowances were determined. We noted most of the allowances and expenditure limits were increased over the last two years by the Nova Scotia consumer price index (1.9% in 2008 and 3% in 2009).
- 4.20 Given the significant amount of funding for which Members are not accountable, the lack of rules and guidelines or unclear purpose for allowances, the unclear basis for the funding, and the wide range in spending, the risk of excessive and inappropriate expenditures by Members is high. We believe a comprehensive examination of the entire funding system for constituency and other expenses is needed. Such an examination should address which expenditures should be funded, why, and to what extent. As well, clear and adequate guidance on expenditures should be developed and communicated to Members. Changes to the system should be closely monitored to ensure they are implemented effectively. We believe the funding system should demonstrate accountability, transparency and appropriate use of public monies; reflect what is a reasonable amount to support a constituency office; and bring clarity to the entire process.

Recommendation 4.1

A comprehensive examination of the funding system for Members' constituency and other expenses should be carried out. The examination should address which expenditures should be funded, why, and to what extent, and should take into account *consider points* provided in this Chapter. Clear and appropriate guidance on expenditures should be developed and communicated to Members. Implementation of any changes should be effectively monitored.

- 4.21 *System weaknesses* – The following sections outline how weaknesses in the system have enabled irresponsible spending by some Members, some of whom may have received inappropriate personal benefits. They also illustrate the need for clearer, more comprehensive regulations and guidelines. In addition to our recommendations, we also provide *consider points* which should be taken into account when addressing the funding system weaknesses.
- 4.22 This Chapter includes a number of examples of inappropriate and questionable expenditures. The extent to which system weaknesses, processing errors, innocent mistakes, or conscious decisions by Members contributed to these expenditures is unclear. It is not our practice to identify individuals in our Reports; thus we have not named individual Members but describe the types of errors or questionable spending that has occurred. We have provided necessary details to the Office of the Speaker to enable funds to be recovered, as appropriate.



Appropriateness of Expenditures

Conclusions and summary of observations

Inappropriate expenditures were claimed by some Members for personal items, expenses already covered by an allowance, items previously claimed, and items and services from ineligible relatives. These types of expenditures are not in accordance with the regulations and we recommended the Office of the Speaker recover all such amounts paid.

4.23 *Assessing appropriateness* – We referred to the existing regulations and guidelines governing constituency expenses and other payments to assess the appropriateness of expenditures by Members. While most items claimed were within the established rules and Members' total expenditures in 2008 did not exceed the yearly maximum allowed, we noted instances in which claimed expenditures were not in accordance with the regulations.

4.24 *Personal items* – Members are entitled to claim reimbursement for certain expenses incurred to run their constituency offices and carry out their duties as representatives in the House. In our examination of expense claims, we identified four instances in which Members claimed for items which we considered to be of a personal nature. There were no documents to support why such claims were made or why they were processed and paid. These items included:

- a claim of \$7,995 for the supply and installation of a generator at a Member's home residence;
- a claim of \$400 for furniture for a Member's home residence;
- a claim of \$373 for airfare for an accompanying passenger on a Member's flight to Ottawa; and
- a claim of \$150 for 3 MP3 players purchased on the same day.

4.25 *Ineligible expenses* – Members who reside outside a 25 mile radius of the House of Assembly are eligible to claim a monthly allowance for accommodation expenses. This allowance is intended to cover rent and other expenses for the Member while working in Halifax. No receipts are required to claim this allowance. We noted that two Members, in addition to claiming the monthly living allowance, also claimed for telephone or internet services for their accommodation in Halifax through their constituency expense claims. These costs should be covered by the monthly accommodation allowance. During our testing period (July 2006 to June 2009) these two Members claimed \$1,540 and \$1,274 respectively.

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES



4.26 *Payments to relatives* – The regulations specify that Members may not claim for expenses “paid to the member’s spouse, child, parent, brother or sister”. We found two cases in which Members made such claims.

- A Member claimed a total of \$1,260 for parking lot sanding from a company owned by a brother.
- A Member claimed \$252 for pictures as donation items from a company owned by a brother.

4.27 *Duplicate payments* – A duplicate payment occurs when a Member receives reimbursement for an expense which has already been claimed. We examined expense claims for the period from July 2006 to June 2009 and noted 64 instances totaling \$14,123 in which 28 Members submitted claims for expenses which had previously been claimed. In most cases, the duplicate claims occurred only once or twice per Member. Of the 64 duplicate payments, in 14 cases we determined the Member also paid the same expense twice. Duplicate payments per Member ranged from a low of \$28 for a single occurrence to a high of \$3,072 for ten occurrences.

4.28 Over half of the Members (28 of 51) claimed for duplicate payments. Members are responsible for ensuring their claims are properly completed and do not contain expenses previously claimed. Administrative staff have a responsibility to screen, question and, if necessary, reject inappropriate claims.

4.29 Claims for personal items, expenses already covered by an allowance, payments to designated relatives, and items previously claimed are not in accordance with the regulations and are not eligible for reimbursement.

Recommendation 4.2

Payments to Members for personal items, expenses already covered by an allowance, items or services from relatives defined in the regulations, and items previously claimed should be recovered by the Office of the Speaker.

Reasonableness of Expenditures

Conclusions and summary of observations

The lack of spending parameters and clear guidelines have resulted in excessive expenditures on a number of items that may not be appropriate for constituency work purposes. Amounts spent on advertising range from 13% to 85% of a Member’s receiptable constituency expenditures. Advertising methods vary from traditional media advertisements to donations to organizations and individuals.

Members purchased a wide range of furniture and equipment; similar types of items, such as cameras, were purchased multiple times. Although the identified items were not in violation of the regulations, we believe many are unreasonable, representing an inappropriate use of public funds. They demonstrate the need for clearer, more comprehensive regulations and guidelines.

4.30 *Assessing reasonableness* – The regulations specify that Members are entitled to reimbursement of constituency expenditures, supported by receipts. As previously noted, the regulations and guidelines provide limited guidance on constituency expenditures. This increases the risk of unnecessary or unreasonable expenditures occurring. Given the lack of clear guidelines, during our examination we also considered what a reasonable person would regard as an appropriate expense. This judgment was applied in a number of the areas discussed below.

4.31 *Excessive expenditures* – From our examination of Members' claims from July 2006 to June 2009, we noted a number of items of a higher cost which appeared to be outside of the norm of Member spending. While not in violation of the regulations, we believe a reasonable person would consider the following expenditures to be excessive.

- \$13,445 for custom-made office furniture
- \$6,234 for website design and programming
- \$5,501 claimed for a laptop computer
- \$3,250 for a projector screen and accessories
- \$2,969 for book purchases
- \$2,665 for a projector
- \$2,600 for a printer
- \$2,499 for a 40 inch LCD television
- \$2,150 for a digital camera
- \$1,763 for a video camera
- \$790 for a model boat office display
- \$738 for an espresso coffee maker
- \$750 for a GPS unit

4.32 Good stewardship of public funds is enhanced when regulations, policies and guidelines are clear and comprehensive. Excessive expenditures like the items above are not a reasonable use of public funds and further support our recommendation to establish comprehensive guidance on expenditures discussed earlier in this Chapter.

4.33 The following *consider points* should be taken into account when establishing rules and guidance.



- Specify clearly the types of expenditures allowed, with examples provided.
 - Establish reasonable limits or cost ranges for allowable expenditures.
- 4.34 *Advertising* – Advertising is specifically noted in the regulations as a claimable expense. Although the *Members Advertising and Donation Guidelines* were developed to provide guidance on these types of expenses, we believe the guidelines do not clearly distinguish between partisan and nonpartisan advertising and fail to provide the necessary guidance. We found the following partisan advertising practices in our examination of claims:
- prominent displays of party logos;
 - use of party colours; and
 - references to party initiatives.
- 4.35 Information for constituents regarding their constituency representative is important. It is also important that access and services to constituents be nonpartisan in fact and in perception. When information is presented in a partisan manner, there is an increased risk of creating barriers between some constituents and their representative. We believe advertising, as allowed under the constituency expenditures allotment, should be presented in a nonpartisan manner.
- 4.36 We also noted the following advertising practices involving excessive amounts, unclear purposes, or potential personal benefits.
- Payments from \$7,600 to \$17,240 for 7,500 to 13,000 calendars
 - Purchases of gift items such as jackets, blankets and teapots with little or no indication why the items were purchased
 - Donations to individuals, such as hockey or basketball players
 - Receipt of hockey or other tickets as part of the advertising package, with little or no indication of the disposition of the tickets
- 4.37 We believe amounts spent in these ways have the potential to be more personal and partisan than providing service to constituents and may not be a justifiable use of public money.
- 4.38 Current practices allow unlimited flexibility to Members in how money is spent on advertising. We found amounts spent on advertising varied widely. Members spent from 13% to 85% of their receiptable constituency expenditures on advertising, from a low of \$6,019 to a high of \$44,424. While some flexibility may be appropriate, we believe there needs to be more guidance on what kind of advertising should be allowed and what range of spending is appropriate.

Recommendation 4.3

Rules and guidance on advertising should clearly define acceptable nonpartisan practices. Partisan advertising should not be claimable by Members through their constituency expense claims.

4.39 The following *consider points* should be taken into account when establishing rules and guidelines on advertising.

- Limit amounts claimable for advertising by a dollar amount, percentage of the constituency expenditures allotment, or other reasonable means.
- If gifts are allowed, require details of purpose of gift items.
- If donations to individuals are allowed, require purpose for donations.
- Require clear accounting of the disposition of tickets or other items received as a result of advertising.

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

4.40 *Assets* – Furniture and equipment, such as desks and computers for constituency offices, may be purchased by Members and claimed through their constituency expense claims. In addition, the LIEB established a separate yearly amount of \$2,500 for each Member for electronic technology, including computers and other electronic devices. The purpose of this money is not defined in the regulations and there are no written rules or guidelines outlining how it should be spent.

4.41 We examined constituency and electronic technology claims from 2006 to 2009 and noted items such as computers, cameras, projectors, GPS units, televisions and furniture were purchased. We noted significant differences in the number of purchases claimed for the same types of items. The following table outlines types and numbers of various assets purchased by Members. We defined assets as furniture and equipment over \$100.

Assets	# of Members and items purchased over 3 years
Computers	23 Members - 0 to 3 computers 15 Members - 4 computers 11 Members - 5 computers 1 Member - 6 computers 1 Member - 11 computers
Cameras	11 Members - 0 cameras 25 Members - 1 camera 9 Members - 2 cameras 4 Members - 3 cameras 1 Member - 4 cameras 1 Member - 5 cameras
Printers	46 Members - 0 to 4 printers 1 Member - 5 printers 1 Member - 6 printers 1 Member - 7 printers 1 Member - 9 printers 1 Member - 12 printers



Assets	# of Members and items purchased over 3 years (continued)
Televisions	35 Members - 0 televisions 13 Members - 1 television 3 Members - 2 televisions
Video Recorders	41 Members - 0 video recorders 9 Members - 1 video recorder 1 Member - 4 video recorders
Generators	3 Members - 1 generator No other Members purchased a generator over the 3 year period.

4.42 Based on the typical acquisition by Members, some of the above may not be reasonable constituency expenditures.

4.43 We also noted a range of prices were claimed for the same type of asset.

- \$146 to \$2,150 for cameras
- \$100 to \$2,600 for printers
- \$129 to \$2,499 for televisions
- \$230 to \$1,763 for video recorders
- \$147 to \$750 for GPS units

4.44 As well, the regulations in effect during our testing period did not address ownership of these items. The established practice was that any such items purchased become the property of the Members once they cease to be Members. This situation puts Members in a conflict of interest position when making decisions about purchasing assets. It also increases the risk that the purchases will be perceived as being made for eventual personal use.

Recommendation 4.4

Ownership by the Province of assets purchased with public funds should be clearly established. Assets purchased by Members beginning in 2006 and onward should be inventoried and properly accounted for.

4.45 The following *consider points* should be taken into account when establishing rules and guidance on assets.

- Clearly specify the types of assets allowed, with examples provided.
- Establish asset thresholds.
- Specify the number of allowable purchases for the same or similar items.
- Specify reasonable dollar amounts or ranges for assets.
- Establish proper asset return and disposal methods.

Adequacy of Claims Documentation

Conclusions and summary of observations

The normal relationship of a senior employee approving the expenses of a subordinate does not exist for Members' expense claims; thus clear policies and guidelines are critical to assist administrative staff in interpreting the rules and applying them to the claims. Inadequate documentation, such as photocopies of invoices, no evidence of payment and no supporting documentation or noted purpose for an expenditure, hinder staff's ability to monitor and ensure only appropriate expenses are processed for payment. We recommended only complete and proper documentation be accepted and processed for payment.

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

4.46 *Approval process* – Members are in a unique position as they approve the amount of allowance and other limits for Member expenses, through the LIEB. Normally, effective internal control requires a more senior employee to approve the expenses of a subordinate. In the case of expense reimbursements to Members, this type of relationship does not exist. Although Office of the Speaker administrative staff process and approve claims for payment, the LIEB and the Speaker ultimately have the discretion to assess the appropriateness of Member expenditures. Given this situation, clear and detailed policies and guidelines are critical to assist administrative staff in interpreting the rules and applying them in the claim process.

4.47 *Processing and documentation* – Proper and effective controls are important to both prevent inappropriate expense reimbursements and protect Members from allegations of improper expense reimbursements. We assessed the adequacy of the claims process and documentation based on good practices such as submission of original invoices and evidence of payment. We found a number of cases in which support for expenditures was deficient or did not provide adequate information to determine whether the claim for reimbursement was appropriate. We noted the following inadequacies for a number of claims.

- Original invoices were not provided.
- Evidence of payment was not provided.
- Supporting documentation, such as a copy of the advertisement, was not provided.
- The purpose or disposition of a gift item or donation was not noted.
- The purpose for mileage or per diem claimed was not noted.

4.48 Incomplete or inadequate documentation, such as photocopies of invoices, significantly increases the risk of a Member claiming an item more than once and decreases staff's ability to properly monitor and conclude whether



the claim is appropriate. Staff should not process claims unless they are supported with complete and original documentation including evidence of payment and intended purpose of the expenditure. Elected members have a responsibility for the stewardship of public money, including their own expenses and claims, and are ultimately responsible for ensuring their expenditures are appropriate and adequately supported.

Recommendation 4.5

Complete and proper documentation, including original invoices, evidence of payment, and purpose of the expenditure, should be included to support claims for reimbursement. Claims which are not properly supported should not be paid by the Office of the Speaker.

Payments to Staff

Conclusions and summary of observations

The LIEB established a payroll system with unclear lines of responsibility, allowing inappropriate treatment of some salary payments. The Office of the Speaker administers the salary and benefits for certain employees on behalf of each Member. Several Members have made additional salary payments, reimbursed through their constituency expense claims, for which required payroll remittances have not been made. Members expressed uncertainty over who is responsible for remittances related to these extra payments. It is possible the Province may be held accountable for the payroll deductions due on these additional salary payments. We recommended LIEB examine the system for compensating Members' staff and ensure responsibilities are clearly and properly established, including proper payroll remittances and documentation to support additional salaries.

- 4.49 *Additional payments* – Prior to May 2007, all payments to Members' staff were covered through their monthly constituency expenditures allotment. Beginning in May 2007, the LIEB determined the Office of the Speaker would fund and administer salary and benefits for one staff person on each Member's behalf. The LIEB allows Members to pay extra amounts to their staff or pay for additional staff through their constituency expenditures allotment.
- 4.50 Over our July 2006 to June 2009 examination period we noted that 30 Members paid extra amounts to their staff totaling \$185,687. Amounts ranged from \$250 to \$43,375 over the 3 year period. We found no evidence that Members or the Office of the Speaker made remittances which presumably would be required under federal regulations, such as employer share of Canada Pension Plan and Employment Insurance contributions, for



these extra amounts. We also understand T-4 forms issued do not include these additional salary payments and T-4A forms were not issued.

- 4.51 In our discussions, we concluded many Members were unclear as to who was responsible for payroll remittances for these payments. In establishing a payroll service through the Office of the Speaker, and allowing extra payments through the constituency expenditures allotment, the LIEB has created a situation with unclear lines of responsibility. This has resulted in payroll remittances being made for some but not all of the amounts paid to employees. We understand this matter was raised before the LIEB on more than one occasion but was not addressed.
- 4.52 We also noted that 44 Members paid a total of \$410,356 to 157 staff other than those paid through the Office of the Speaker. We were not able to determine whether these payments should be considered salary and therefore, also require appropriate remittances be made. Members need to determine if an employment, rather than contractual, relationship exists with any other staff they may periodically retain and ensure payments to those individuals are properly administered.
- 4.53 We are concerned with the possible implications of extra payments to staff. In addition to the uncertainty as to whether the deductions were properly administered by Members, and the need for adequate support to justify amounts paid, the Members' employer relationship may also come into question. Since the payroll service provided is integrated with the Province's payroll service for government employees, there is a possibility that Canada Revenue Agency could deem the Province to be the employer and hold it accountable for all remittances and for possible interest and penalties. These matters could have significant financial implications for the Province, the Members, or the Members' staff and they need to be addressed.

Recommendation 4.6

The LIEB should examine and reform the system and practices for compensating Members' staff and ensure responsibilities are clearly and properly established. These responsibilities should address proper administration, including necessary payroll remittances for all payments in accordance with federal regulations. Requirements for proper documentation to support additional salaries paid should also be addressed.

Recommendation 4.7

All additional salary payments to staff in 2009 should be properly reported and necessary submissions made prior to the February 2010 reporting deadline.



4.54 The following *consider points* should be taken into account when establishing proper procurement of services.

- Determine whether each staffing relationship is employment (payroll) or contractual procurement.
- Establish non-payroll staffing on the basis of a signed contract or letter of agreement.
- Make payments to non-payroll staff based on proper invoices documenting hours, cost and services provided.

Other Issues

Conclusions and summary of observations

A weakness in legislation allows certain Members to claim a per diem as well as the cost of meals for the same day. Late fees as a result of untimely payment by Members are claimable expenses through their constituency expense claims. We recommended these matters be examined and brought in line with sound business practices.

4.55 *Sound business practices* – There is no requirement for the LIEB to follow the same financial management principles and practices issued by government in establishing regulations and guidelines for Members. However, because public money is affected, it is important that whatever framework is in place be clearly defined and in line with good accountability principles and practices. Members are responsible for prudently managing public resources and should follow sound business practices wherever possible. We noted the following areas in which processes are not in line with sound business practices.

4.56 *Per diems and meals* – Members may claim a daily per diem without receipts when the House of Assembly is in session, as well as at other times outlined in the regulations. The regulations define the per diem as “*on account of expenses.*” The per diem was set at \$84 per day for 2009. An orientation manual, prepared by Office of the Speaker administration and provided to newly-elected Members, describes per diems as “*an allowance to cover meal expenses and other incidentals.*”

4.57 Under the House of Assembly Act, the Speaker and non-government party leaders are entitled to additional amounts for travel and other reasonable expenses in relation to their duties in these positions. We examined such claims made by these Members in addition to their monthly constituency expense and per diem claims during the period from July 2008 to June 2009. We noted instances totaling 26 days in which claims for meal expenses were made for the same day as per diem claims. While such claims do not



appear to be a violation of the Act or regulations as written, we believe this does not demonstrate good stewardship of public money and is a weakness in the legislation.

Recommendation 4.8

The purpose of per diems should be clearly established and communicated. Reimbursement for an expense should not be permitted more than once, whether the expense is governed by one or more Acts or regulations.

4.58 *Late fees* – Businesses often charge late fees when payment for goods or services is not timely, generally after 30 days. For the period from July 2008 to June 2009, we noted that reimbursements to 25 of the 51 Members included late fees totaling \$806 as a result of untimely payment by the Members. Although the regulations do not state late fees are an eligible expense, minutes from a 2005 LIEB meeting indicate late fees may be claimed. While total late fees may not seem significant, we believe reimbursement for late fees does not reflect sound business practices or best use of public monies.

Recommendation 4.9

Late fees and other avoidable expenses should not be eligible for reimbursement to the Members.

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES



NOVA SCOTIA

Appendix I

Table 1
Receiptable Constituency Expenditures
July 2008 to June 2009*

OFFICE OF THE
 SPEAKER: MEMBERS'
 CONSTITUENCY AND
 OTHER EXPENSES

Member	Total Constituency Receipts	General Office	Media Advertising	Donations & Gifts	Assets
Bain, K.	\$52,899	\$12,962	\$39,317	\$-	\$620
Barnet, B.	\$49,615	\$26,578	\$19,306	\$-	\$3,731
Belliveau, S.	\$47,629	\$25,128	\$15,204	\$7,297	\$-
Bolivar-Getson, C.	\$47,630	\$24,857	\$16,009	\$6,764	\$-
Casey, K.	\$46,454	\$25,121	\$15,378	\$1,110	\$4,845
Chisholm, R.	\$41,102	\$23,727	\$8,631	\$6,372	\$2,372
Clarke, C.	\$50,040	\$24,465	\$19,377	\$5,087	\$1,111
Colwell, K.	\$50,210	\$30,559	\$10,176	\$8,071	\$1,404
Conrad, V.	\$43,246	\$25,596	\$14,257	\$1,675	\$1,718
Corbett, F.	\$36,640	\$28,525	\$4,642	\$2,847	\$626
d'Entremont, C.	\$49,346	\$26,200	\$18,728	\$1,470	\$2,948
Dexter, D.	\$56,612	\$28,596	\$8,730	\$15,156	\$4,130
Dooks, B.	\$46,682	\$20,207	\$16,912	\$6,784	\$2,779
Dunn, P.	\$47,817	\$25,388	\$15,866	\$5,720	\$843
Epstein, H.	\$37,926	\$25,471	\$6,723	\$423	\$5,309
Estabrooks, B.	\$52,066	\$7,486	\$14,674	\$29,750	\$156
Fage, E.	\$38,856	\$24,192	\$8,725	\$350	\$5,589
Gaudet, W.	\$46,675	\$26,798	\$5,354	\$13,035	\$1,488
Glavine, L.	\$49,150	\$24,840	\$19,494	\$4,816	\$-
Gosse, G.	\$54,167	\$25,322	\$11,397	\$13,236	\$4,212
Goucher, L.	\$46,394	\$35,999	\$3,784	\$2,235	\$4,376
Hurlburt, R.	\$49,654	\$26,164	\$12,431	\$1,845	\$9,214
Kent, R.	\$43,183	\$18,599	\$9,222	\$14,693	\$669
MacDonald, Manning	\$43,569	\$21,092	\$16,612	\$4,294	\$1,571
MacDonald, Maureen	\$46,245	\$17,449	\$24,926	\$3,870	\$-
MacDonald, R.	\$42,148	\$31,830	\$8,333	\$1,985	\$-
MacDonell, J.	\$30,768	\$13,471	\$6,924	\$2,941	\$7,432
MacIsaac, A.	\$26,692	\$16,095	\$9,657	\$940	\$-
MacKinnon, C.	\$48,794	\$31,840	\$14,165	\$1,935	\$854
MacLeod, A.	\$47,476	\$22,739	\$18,381	\$2,221	\$4,135
Massey, J.	\$49,360	\$35,520	\$5,845	\$7,995	\$-
McNeil, S.	\$40,428	\$31,317	\$5,846	\$2,560	\$705
More, M.	\$50,906	\$30,731	\$5,743	\$9,469	\$4,963
Morse, D.	\$44,658	\$21,143	\$19,145	\$4,370	\$-
Muir, J.	\$33,537	\$13,108	\$7,766	\$12,375	\$288
Parent, M.	\$48,143	\$30,212	\$12,470	\$2,443	\$3,018
Paris, P.	\$42,034	\$23,644	\$13,901	\$4,489	\$-
Parker, C.	\$33,663	\$15,816	\$15,747	\$920	\$1,180

Table 1 (continued)
Receiptable Constituency Expenditures
July 2008 to June 2009*

Member	Total Constituency Receipts	General Office	Media Advertising	Donations & Gifts	Assets
Porter, C.	\$47,587	\$23,891	\$12,810	\$10,568	\$318
Preyra, L.	\$57,425	\$18,388	\$15,275	\$23,427	\$335
Raymond, M.	\$29,760	\$12,817	\$11,578	\$3,798	\$1,567
Samson, M.	\$55,161	\$19,360	\$14,400	\$20,737	\$664
Scott, M.	\$50,087	\$31,316	\$10,318	\$6,570	\$1,883
Steele, G.	\$50,288	\$33,037	\$14,343	\$748	\$2,160
Streach, J.	\$47,156	\$16,342	\$20,557	\$7,419	\$2,838
Taylor, B.	\$23,102	\$16,019	\$5,516	\$1,155	\$412
Theriault, H.	\$48,870	\$26,167	\$17,132	\$3,116	\$2,455
Whalen, D.	\$55,336	\$46,143	\$6,375	\$2,818	\$-
Wilson, D. A.	\$56,376	\$20,494	\$10,575	\$25,161	\$146
Wilson, H. D.	\$54,696	\$42,184	\$4,677	\$2,211	\$5,624
Zinck, T.	\$47,744	\$27,535	\$6,295	\$13,607	\$307
Total	\$2,336,002	\$1,252,480	\$649,649	\$332,878	\$100,995
Average	\$45,804	\$24,558	\$12,738	\$6,527	\$1,980
Median	\$47,629	\$25,121	\$12,470	\$4,294	\$1,180

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

* Constituency expenditure limits are based on the calendar year.

General Office – includes office rent

Media Advertising – payments for print and electronic media

Donations – payments to non-profit, sport, community and other groups and individuals

Gifts – payment for items to be used by third parties for fund raising purposes

Table 2
Assets Purchased Through Constituency Allotment and Electronic Technology Fund

Member	Constituency Allotment Assets (July 2006 to June 2009)	Electronic Technology Assets 2006-2009 (to June 30, 2009)
Bain, K.	\$9,292	\$6,194
Barnet, B.	\$8,617	\$-
Belliveau, S.	\$8,096	\$7,546
Bolivar-Getson, C.	\$9,969	\$7,544
Casey, K.	\$11,486	\$5,977
Chisholm, R.	\$2,960	\$6,749
Clarke, C.	\$13,447	\$7,398
Colwell, K.	\$5,255	\$10,078
Conrad, V.	\$9,645	\$6,185
Corbett, F.	\$1,988	\$6,899



OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

Table 2 (continued)
**Assets Purchased Through Constituency Allotment and Electronic
Technology Fund**

Member	Constituency Allotment Assets (July 2006 to June 2009)	Electronic Technology Assets 2006-2009 (to June 30, 2009)
d'Entremont, C.	\$5,902	\$8,367
Dexter, D.	\$12,072	\$7,227
Dooks, B.	\$15,903	\$6,450
Dunn, P.	\$7,461	\$6,540
Epstein, H.	\$10,472	\$3,735
Estabrooks, B.	\$1,849	\$195
Fage, E.	\$5,989	\$4,676
Gaudet, W.	\$8,158	\$7,909
Glavine, L.	\$399	\$3,193
Gosse, G.	\$6,978	\$6,151
Goucher, L.	\$29,456	\$9,238
Hurlburt, R.	\$24,710	\$4,538
Kent, R.	\$6,910	\$6,340
MacDonald, Manning	\$2,134	\$1,899
MacDonald, Maureen	\$2,798	\$4,775
MacDonald, R.	\$5,310	\$4,248
MacDonell, J.	\$26,791	\$-
MacIsaac, A.	\$5,731	\$6,373
MacKinnon, C.	\$9,000	\$5,679
MacLeod, A.	\$25,127	\$8,024
Massey, J.	\$4,415	\$7,116
McNeil, S.	\$2,971	\$4,332
More, M.	\$7,544	\$4,538
Morse, D.	\$3,297	\$2,147
Muir, J.	\$843	\$6,557
Parent, M.	\$5,566	\$7,812
Paris, P.	\$14,646	\$3,773
Parker, C.	\$1,180	\$5,079
Porter, C.	\$3,623	\$7,598
Preyra, L.	\$19,189	\$3,640
Raymond, M.	\$5,415	\$1,298
Samson, M.	\$5,345	\$7,806
Scott, M.	\$3,829	\$5,022
Steele, G.	\$3,969	\$6,144
Streach, J.	\$12,763	\$8,090
Taylor, B.	\$2,468	\$5,821
Therriault, H.	\$6,202	\$4,813
Whalen, D.	\$784	\$6,470
Wilson, D. A.	\$6,512	\$6,748
Wilson, H. D.	\$6,979	\$4,914



Table 2 (continued)
Assets Purchased Through Constituency Allotment and Electronic
Technology Fund

Member	Constituency Allotment Assets (July 2006 to June 2009)	Electronic Technology Assets 2006-2009 (to June 30, 2009)
Zinck, T.	\$6,572	\$1,961
Total	\$418,017	\$281,806
Average	\$8,196	\$5,526
Median	\$6,512	\$6,151

OFFICE OF THE
SPEAKER: MEMBERS'
CONSTITUENCY AND
OTHER EXPENSES

Response: Nova Scotia Legislature Internal Economy Board

The Legislature Internal Economy Board (“the Board”) extends its thanks to the Office of the Auditor General for its report on Members’ Constituency and other Expenses. The Board hereby commits to implementation of recommendations of the report as a matter of high priority. Additionally, Arthur R. Donahoe, Q.C. has been engaged by the Board to review the existing system of expenses and allowances presently afforded to the Members and will have in his possession, as part of his deliberations, the findings and recommendations of the Auditor General.

The Board is of the opinion that this additional review by Mr. Donahoe demonstrates the commitment of the Board to have in place a system that not only addresses the concerns of the Auditor General, but also will incorporate best practices within the Canadian parliamentary landscape.

There is undoubtedly a need to perform a comprehensive examination of the types and levels of expenses and allowances presently available to Members. As part of any such examination, necessary changes will be made to the Regulations and Guidelines governing same to ensure that the system we will have in place in Nova Scotia will serve as a model for years to come.

The Board has already taken certain measures to address concerns expressed in the report with respect to ownership of assets and compensation for Members’ constituency staff. The Board has also removed transition payments for former Members as were previously contained in the LIEB Regulations.

To reiterate, the Board would again thank the Office of the Auditor General for its rigorous and comprehensive audit stretching over a period of four months. The Board also wishes to thank staff of the Office of the Speaker for their efforts in accommodating the Auditor General staff while performing their usual work-related duties.

Financial Reporting



5 Government Financial Reporting

Summary

Financial reporting is a key component of government's accountability framework. Financial reports must be reliable and accurate, and must be provided on a timely basis so that they are relevant.

Our review opinion of the 2009-10 Revenue Estimates included in the September 24, 2009 Budget Address was again qualified. Third party revenues were not estimated or included in the revenue estimates and therefore the budget was not prepared on the same basis as the consolidated financial statements. This is a requirement of generally accepted accounting principles (GAAP) for governments. We have again recommended these revenues be estimated to ensure compliance with GAAP.

During the fiscal year forecast updates are issued to forecast actual results to date to year end. A \$35.29 million adjustment made in preparing the December 19, 2008 forecast update was subsequently reversed at March 31, 2009 because government acknowledged the initial adjustment was made prematurely. We recommended adjustments to revenues or expenditures for future forecast updates be adequately supported.

The Minister of Finance tabled the Province's Public Accounts for the year ended March 31, 2009 on September 10, 2009. The Auditor General's opinion on the consolidated financial statements included in the Public Accounts was unqualified. In November 2009, we provided a management letter to the Minister of Finance with detailed audit findings and recommendations. While our quantitative findings were neither individually nor cumulatively significant enough to affect the audit opinion, all findings impact the integrity of the financial statements. In particular, we made recommendations concerning the Province's accounting policy on foreign exchange and improvements to the Province's general ledger.

In addition to the above findings and recommendations on government financial reporting, we also have comments on government's financial management processes and other matters.

We continued to express our concern regarding the amount and approval of additional appropriations. Additional appropriations totaling \$408 million were required for 2008-09. Since 2003-04, expenditures approved through additional appropriations have increased by \$307 million. We believe the process to approve additional appropriations reduces accountability to, and control by, the House



of Assembly. We also noted our concern with the practice of making advance payments on funding obligations as this potentially distorts future operating results. Advance payments for Assistance to Universities accounted for \$256 million of the 2008-09 additional appropriations.

We noted that the ability of the Office of the Auditor General to conduct audits of the Teachers' Pension Plan and the trustee of the Plan, the Teachers' Pension Plan Trustee Inc., is unclear from the wording of the Teachers' Pension Act. We have recommended the Minister of Finance amend this Act to ensure the Auditor General has the undisputed and unrestricted ability to conduct performance audits on the operations of the Teachers' Pension Plan.

Finally, we repeated our recommendation that Department of Finance management should obtain an independent external audit opinion on the governance and control framework of certain divisions within that Department, as a follow-up to an external audit conducted on those divisions in 2004 which resulted in a denial of opinion.

5 Government Financial Reporting

Background

- 5.1 Government financial reporting serves many purposes and is provided to stakeholders in various forms. Reports may be prepared to meet the needs of specific users, such as credit rating agencies and lenders. Individual entities may produce reports, such as annual reports, to demonstrate how they have complied with legislation throughout the year, and to measure and report on their financial condition and on the performance of funds, programs and activities. Whatever the format or purpose, financial reports prepared by government are designed to provide information to a variety of users for numerous reasons, on past or future activities.
- 5.2 Financial reports are a means through which government fulfills its accountability responsibilities regarding the use of public funds and demonstrates its stewardship over those funds. Financial reports assist us in evaluating operating results and assessing the level of services the government provides. These financial reports must therefore be relevant, reliable, understandable and released on a timely basis if they are to be used to hold government fiscally accountable.
- 5.3 The Provincial Finance Act outlines the financial reporting cycle of the Province, from budget to actual results. The Act details financial reporting requirements as annual estimates (budget), regular forecast updates, and tabling of the Public Accounts (actual financial results). These reporting requirements are part of the government's accountability framework and contribute to oversight and the effective and efficient use of resources.

Budgets

- 5.4 Government uses the budget process to inform stakeholders of its fiscal plan and priorities for the upcoming year. The budget is a key policy document and, in Nova Scotia, forms the basis for the legal authority to spend throughout the year through the voting and approval of the Appropriations Act.
- 5.5 The budget is a critical component of government accountability against which forecast updates and actual performance are compared. As the provincial government manages billions of dollars of public funds each year, the budget process is essential to effective fiscal management.



Forecasts

- 5.6 Forecasts provide a comparison of activity to date to the approved budget for the year, and update the estimate of the surplus or deficit for the year based on results to date.
- 5.7 Forecast updates are an important element of accountability. They enhance transparency by providing current information on the government's financial situation, and contribute to effective management of public funds. In order to be an effective accountability tool and to provide appropriate information for decision making purposes and resource allocation, forecast updates must be prepared with due diligence and adequate oversight.

Public Accounts

- 5.8 Financial statements are the final component in the financial reporting cycle. The Canadian Institute of Chartered Accountants' (CICA) Public Sector Accounting Board (PSAB) notes that *"They serve as a means by which a government provides an accounting of its administration of public financial affairs and resources. [They]... are a principal means of communicating financial information to those not involved in the government's financial administration."*
- 5.9 The Province's annual Public Accounts are prepared by the Controller on behalf of the Minister and Deputy Minister of Finance. The Provincial Finance Act requires the Public Accounts to be tabled not later than September 30 of the calendar year in which the fiscal year to which the Public Accounts relate ends.
- 5.10 The Public Accounts include Financial Statement Discussion and Analysis (FSD&A), which is a recommended practice by PSAB, and the audited consolidated financial statements (CFS) of the government. The FSD&A provides comparative financial highlights of the CFS and information on certain financial indicators. The CFS provide audited financial information for two years as well as comparison of budget to actual results. As the budget reflects the plan approved by the House, the comparison of budget to actual enhances transparency. The information provided in the Public Accounts can be used for a variety of purposes, including:
- to evaluate the government's performance for the year as compared to budget and prior year; and
 - to form the basis of analyzing government's financial performance and condition.
- 5.11 The release of the Public Accounts is a key component in the accountability framework of the government, comparing actual results for the year

against the approved budget, and providing important information to all stakeholders, including taxpayers and members of the House of Assembly.

Chapter Objective

5.12 The objective of this Chapter is to provide summary comments and recommendations on government financial reporting, specifically:

- the results of our review of the revenue estimates included in the September 24, 2009 budget address;
- observations on the December 19, 2008 forecast;
- information resulting from our audit of the Province's March 31, 2009 consolidated financial statements; and
- other financial reporting matters.

Significant Observations

Review of 2009-10 Revenue Estimates

5.13 *Background* – Under Section 9B of the Auditor General Act, the Auditor General is required to provide an opinion on the reasonableness of the revenue estimates included in the budget tabled with the House of Assembly. During the past year, two budgets were prepared – one dated May 4, 2009 and the second dated September 24, 2009. While an opinion was provided on the revenue estimates included with each of these budgets, we did not provide observations and comments related to the first budget since it was not tabled in the House of Assembly. Consequently, our comments below relate to the September 24, 2009 budget.

5.14 *Results of review* – The opinion on the revenue estimates indicates whether:

- at the date of the opinion (September 21, 2009), the assumptions used by departmental management are suitably supported and consistent with the plans of the government, as described by management, and provide a reasonable basis for the 2009-10 revenue estimates;
- the 2009-10 revenue estimates fairly reflect these assumptions; and
- the 2009-10 revenue estimates comply with the presentation and disclosure standards of the CICA.



- 5.15 Consistent with prior years, the opinion on the 2009-10 revenue estimates was qualified with respect to the CICA's presentation and disclosure standards. Specifically, the opinion was qualified for two reasons as discussed in the following paragraphs.
- 5.16 First, there was a reservation of opinion because revenues of certain government units were excluded from the revenue estimates. These revenues relate primarily to the Departments of Health (district health authorities) and Education (school boards). Canadian generally accepted accounting principles require the revenues of these government units to be reported as separate line items in the Government's revenue estimates.
- 5.17 The estimates for these revenues, which consist of, for example, third party revenues such as ancillary operations in health authorities, or municipal funding in school boards, are included elsewhere in the budget as an offset to related expenses for these governmental units and are therefore presented on a net basis. This presentation is not consistent with CICA standards which require that the revenue estimates be presented on the same gross basis as the consolidated financial statements.
- 5.18 In addition, because these revenues are excluded, the related departmental budget is not complete. This means all revenues and expenditures of the department are not subject to review and challenge in the budget process.
- 5.19 Second, because management does not have support for these third party revenues, there is a scope limitation on our review of the revenue estimates. We were unable to perform a review of these third party revenues, which would include determining their nature and scope.
- 5.20 In each of the past several years we have recommended that the revenue estimates include all revenues of the consolidated entity so that the revenue estimates comply with Canadian generally accepted accounting principles. This was never intended as a recommendation to revise the way in which the government prepares its budget for operating purposes. Rather, it is a recommendation made for the sole purpose of advising that the presentation of the revenue estimates included in the annual budget should be on a gross basis to ensure consistency with the consolidated financial statements of the Province.
- 5.21 Government hired a consultant to undertake an independent review and analysis of the Province's current and future financial position. One of the objectives of Phase 2 of that review was to recommend an approach to resolving this qualification on future revenue estimates. The Phase 2 Report, released on November 20, 2009, recommended a schedule of all revenues be prepared for inclusion in the budget documents, and for examination by our Office. We encourage government to adopt this recommendation.

Recommendation 5.1

The Department of Finance should include estimates of all revenues of the consolidated entity in the Provincial budget in order to comply with Canadian generally accepted accounting principles.

5.22 The qualified opinion on the 2009-10 revenue estimates is indicative of deficiencies in the budget process as it relates both to completeness of revenues at specific departments (Health and Education as discussed above) and also accountability to the Department of Finance, which has overall responsibility through the Minister and Deputy Minister, as per the Provincial Finance Act, to examine and compile the annual estimates, including the budgeted revenue figures.

5.23 To effectively carry out its budget mandate, the Department of Finance must be able to hold all department management accountable for the timely preparation and presentation of budget information. Essentially, the Department of Finance has been given the responsibility to prepare the annual estimates without being provided the authority to compel departments to provide all necessary information. As a result of the review of the 2008-09 revenue estimates, we recommended changes be made to ensure information is provided by departments to prepare a complete budget. No changes to this aspect of the budget development protocols were undertaken in the current year and therefore we repeat our recommendation below.

Recommendation 5.2

The Department of Finance should take the necessary steps to ensure it is provided with the appropriate authority for completion of the revenue estimates.

5.24 *Approval of assumptions* – As a result of our review of the 2009-10 revenue estimates we provided a management letter with observations and suggestions on a number of subjects. This letter included a recommendation related to the approval process for key economic indicators and other assumptions.

5.25 A presentation is made to Treasury Board on a number of key national and provincial economic indicators and assumptions supporting the revenue estimates. The approval of these indicators and assumptions is formally documented in a minute letter from Cabinet. However, other key indicators such as foreign exchange and interest rates, and natural gas and oil prices, are not part of this approval process. Since these assumptions support other revenue items such as petroleum royalties, interest revenue and motive fuel taxes, they should be subject to the same approval process.



Recommendation 5.3

All key economic and other assumptions used in the preparation of the revenue estimates should be approved by Treasury Board.

Preparation of Budget Forecast Updates 2008-09

- 5.26 *Observations* – Financial forecasts are to be prepared and tabled in the House of Assembly on at least four occasions during the year, as prescribed by Section 8B(1) of the Provincial Finance Act. For the year ended March 31, 2009, forecasts were presented as follows.
- On August 25, 2008, in which the estimated surplus was \$355.4 million
 - On December 19, 2008, in which the estimated surplus was \$212.9 million
- 5.27 Because the date of the 2009-10 budget was significantly past March 31, 2009, the budget included actual results for the year ended March 31, 2009.
- 5.28 Forecast updates are key accountability documents in the annual financial reporting cycle of budget to actual results. The December forecast notes “Government initiated a review of its expenditure plans to see where it is possible to achieve savings. This was necessary to ensure that the province met its commitment to maintain a surplus and reduce debt”. This was to be done while also considering the impact reduced expenses might have on client groups, business and industry. The forecast is therefore part of the financial management process of the Province, including the allocation of resources and future spending initiatives.
- 5.29 The Office of the Auditor General is not required to audit or review forecasted information. However, during the audit of the March 31, 2009 Public Accounts, one matter came to our attention with respect to the preparation of the December 19, 2008 forecast update.
- 5.30 The consolidated financial statement balance sheet includes a provision for the cost of remediation of the Sydney Steel Corporation (SYSCO) and adjacent sites, including the Sydney Tar Ponds Agency (STPA). As a result of the review of expenditure plans in preparing the December 19, 2008 forecast update the provision was reduced by \$35.29 million.
- 5.31 At the start of the audit, we were provided with an internal report prepared by senior management of the Sydney Tar Ponds Agency to support the reduced general ledger balance recorded at that time. The report explains the need to reduce the provision at December 2008 to reflect only those

future costs required to complete the project. During the audit, the journal entry made to reduce the provision in December 2008 was reversed and the balance of the provision reinstated.

- 5.32 Senior management at both the Departments of Finance, and Transportation and Infrastructure Renewal (TIR), have provided support for reinstating the provision to its pre-December 19, 2008 balance. A memo provided during the audit noted that since the decision to reduce the provision, additional contamination had been found at the site, new spending requirements had been identified, and certain costs provided in support of the reduction were being questioned. For these reasons, the \$35.29 million reduction of the provision was considered premature and was reversed.
- 5.33 We agree with the assessment that the reduction of the provision was premature. An adjustment of this magnitude, to a project as complex as the clean-up of the tar ponds and adjacent sites, should not have been made until testing of all sites had been completed, and uncertainty around issues such as future site use had been settled. Department of Finance management noted the need for independent detailed costing. This is a critical step in estimating the provision and should have preceded the reduction in December 2008.

Recommendation 5.4

An independent analysis of the costs necessary to complete the remediation project of Sydney Steel Corporation and adjacent sites should be conducted. The balance of the provision should be adjusted to reflect this estimate.

- 5.34 The Minister of Finance is responsible for the preparation of the forecast updates. With respect to the above transaction, we were informed the reduction of the provision was reviewed by management staff of both Department of Finance and Treasury and Policy Board (now Treasury Board), and that assertions from TIR management were relied upon.
- 5.35 The process to review and challenge significant adjustments to budgeted amounts should be improved. For example, the Department of Finance could consider that adjustments to the budget above a certain threshold be accompanied by adequate, and if required, independent, support. This would avoid the need to revise reported amounts.

Recommendation 5.5

The Department of Finance should require adequate support for adjustments to departmental budgets reported in the forecast updates.



Audit of the March 31, 2009 Consolidated Financial Statements

Introduction

- 5.36 The Province's consolidated financial statements (CFS) are included in Volume 1 of the Public Accounts. The Auditor General is required to report annually to the House on these financial statements, under Section 9(1) of the Auditor General Act.
- 5.37 The Minister of Finance tabled Volume 1 of the Public Accounts on September 10, 2009. An unqualified audit opinion dated July 15, 2009 was issued on the March 31, 2009 consolidated financial statements.
- 5.38 A management letter including detailed audit findings, recommendations and other comments was provided to the Minister in November 2009. The unqualified audit opinion on the CFS indicates that there were no quantitative findings, either individually or cumulatively, which were significant enough to impact our opinion. However, the management letter included several recommendations for improvements to be implemented by the Department of Finance. We discuss the key findings and recommendations in the following paragraphs, under these headings:
- required communication of audit results;
 - systems and controls;
 - audit misstatements and accounting policies;
 - general ledger maintenance and other reportable matters;
 - audit completion; and
 - accounting and auditing standards.

Required communication of audit results

- 5.39 *Responsibility for the consolidated financial statements* – The preparation of the consolidated financial statements in accordance with Canadian generally accepted accounting principles for the public sector is the responsibility of the Department of Finance's Government Accounting Division. Government management are also responsible for the maintenance of adequate accounting records and internal controls; prevention and detection of fraud and errors; safeguarding of assets; selection and application of suitable accounting policies; and appropriate disclosure of financial information in the financial statements.
- 5.40 Our Office is the legislated auditor of these financial statements. We plan and perform the audit in accordance with Canadian generally accepted auditing standards. Our audit included such tests of accounting records and other auditing procedures as we considered necessary in the circumstances. Due to the inherent limitations of an audit, there is an unavoidable risk

that some misstatements of the financial statements will not be detected (particularly intentional misstatements concealed through collusion), even though the audit is properly planned and performed. Accordingly, we plan and perform our audit procedures to provide reasonable, but not absolute, assurance of detecting fraud and errors that have a material effect on the financial statements.

- 5.41 Based on our audit, we concluded the consolidated financial statements presented fairly, in all material respects, the financial position of the Province as at March 31, 2009, and the results of the operations, changes in net debt and cash flow for the year then ended, in accordance with Canadian generally accepted accounting principles for the public sector.
- 5.42 *Review of supporting information* – Professional standards require that an auditor review, prior to release, any information or other documents to be released concurrently, or in combination, with financial statements upon which the auditor has, or will be providing, an opinion. We reviewed, but did not audit, the information in the Financial Statement Discussion and Analysis (FSD&A) section of Volume 1 of the March 31, 2009 Public Accounts. We did not find any inconsistencies between the information in the FSD&A and the information in the consolidated financial statements.
- 5.43 *Management judgments and estimates* – Government’s preparation of the Province’s consolidated financial statements requires the use of significant accounting estimates, certain of which are particularly sensitive to future actual results differing from government’s assumptions upon which the accounting estimates are based. At the conclusion of this year’s audit there were no significant outstanding concerns with the estimated accounting balances used in preparing the March 31, 2009 consolidated financial statements.

Systems and controls

- 5.44 *Responsibility of the auditor* – As part of our audit, internal controls were studied and evaluated to the extent considered necessary under Canadian generally accepted auditing standards. This was done to establish a basis for determining the nature, timing and extent of audit procedures necessary to express an opinion on the Province’s consolidated financial statements and to otherwise assist in planning and performing the audit. Our work was not designed to determine whether internal controls are adequate for management’s purposes and will not necessarily disclose all conditions requiring attention by management.
- 5.45 Further, as it relates to the internal controls of the agencies consolidated in the Province’s financial statement reporting entity, reliance has been placed on the audit work of public accounting firms appointed to report



on the financial statements of those agencies. Chapter 7 in this Report includes information and commentary on selected weaknesses in internal controls, and other deficiencies, which were reported to those entities by their auditors.

- 5.46 *Responsibility for internal control* – Roles and responsibilities concerning internal controls are delegated throughout government. While the Provincial Finance Act includes general references to the roles and responsibilities of the Minister and Deputy Minister in this regard, additional guidance needs to be developed, and effectively communicated on a more comprehensive basis. This would include the roles and responsibilities of departmental and crown agency governing bodies and senior management in the design, implementation, operation and maintenance of internal controls.
- 5.47 Government has not prepared its own descriptions and evaluation of government-wide control systems. Such documentation is critical to management's ability to monitor internal control. We have commented on the need for action in this area in our Reports in 2003, 2004, 2005, 2006 and 2008.
- 5.48 In Chapter 7 of the November 2008 Report of the Auditor General – Government Financial Reporting – we noted that a project had begun to support the annual certification requirement by management on the CFS, and to address recommendations related to the documentation of internal controls made by this Office in prior years. A Steering Committee has been formed for this project - Internal Controls over Financial Reporting - and a draft *Program for 2009/10* was presented to the Committee in June 2009. Final approval of the Program by the Committee is anticipated in the upcoming months. We are concerned about the ability of the Committee to meet the objectives of the Program given it has not been approved at this point in the 2009-10 fiscal year.
- 5.49 The draft Program notes several key elements in maintaining internal controls over financial reporting such as a formal management assessment of controls, a risk-based approach in developing controls, and the need to clearly document processes and controls. It is a significant step toward addressing our prior recommendations on deficiencies in documenting and communicating internal controls. However, the Program relates only to the Consolidated Fund for the year ended March 31, 2010. Since the annual certification by management relates to a system of internal controls for the consolidated financial statements, and not just the Consolidated Fund, our prior recommendations on internal controls over financial reporting on a government-wide basis still need to be implemented.

Recommendation 5.6

Management should document internal controls for government and include these in the Management Manuals.

Recommendation 5.7

Management should assign roles and responsibilities for the design, implementation, operation and maintenance of internal controls as part of the documentation of internal controls.

5.50 *Reconciliations* – Reconciliations are a fundamental financial reporting control as they provide management with assurance that the general ledger balances are accurate. Reconciliations are prepared to ensure transactions are recorded completely and accurately, and are a key control in preventing fraud. Without regular reconciliations, there is a risk that management is making decisions based on incorrect or outdated information.

5.51 Reconciliations to trustee statements for sinking fund assets were not prepared during the year by the division responsible for recording sinking fund assets transactions - the Capital Markets Administration Division. As a result, the general ledger did not reflect the results of changes in sinking fund assets at any time during the year, with the exception of recording instalment payments. The error related to recording the results of the sale of certain assets, described in paragraph 5.55 below, might have been identified prior to the audit and corrected had reconciliations been performed during the year.

5.52 In prior years, reconciliations to the trustee statements were prepared on a monthly basis and transactions were recorded each month in the general ledger. This year, a total of \$4.2 billion in gross adjustments was needed during the audit to adjust the general ledger sinking fund accounts (earnings, assets and unamortized foreign exchange) to the amounts presented in the consolidated financial statements.

Recommendation 5.8

The Department of Finance's Capital Markets Administration Division should prepare monthly reconciliations to trustee statements and the general ledger should be updated each month to reflect the results of transactions.

Audit misstatements and accounting policies

5.53 *Accounting errors* – As noted above, we issued an unqualified opinion on the March 31, 2009 consolidated financial statements. In forming this opinion, we considered any unresolved, unadjusted errors or differences in determining whether the statements were presented fairly in accordance



with GAAP. Management has represented, and we have concluded, there were no errors or differences that would, individually or collectively, materially affect the Province's reported financial position, results of operations, changes in net direct debt or cash flows.

- 5.54 The most significant misstatements identified during this year's audit are discussed in the following paragraphs.
- 5.55 In November 2008, \$212 million US sinking fund assets were sold. This sale resulted in a gain of approximately \$18 million due to the difference in the exchange rate at the time of sale compared to the exchange rate at March 31, 2008, the last date at which the asset had been translated into Canadian dollars. The gain should have been recognized in income during 2008-09 as it related to a completed transaction and was measurable. Instead, the gain on sale of these assets was recognized as a deferred asset and will be amortized to income over a number of years. Income was therefore understated by \$18 million for the year ended March 31, 2009.
- 5.56 At the time of sale, approximately \$38 million of net cumulative exchange losses had been deferred on these US sinking fund assets. These net losses resulted from the deferral of the exchange rate differences at each year end to the date of sale. Under GAAP, these amounts may be deferred and recognized into income over the life of the asset. However, when the asset is sold, any cumulative unamortized deferred amounts must be recognized in income at the time of sale as there is no longer a basis for deferral. Since the net cumulative exchange losses were not recognized in income at the time of sale, income was therefore overstated by \$38 million for the year ended March 31, 2009.
- 5.57 The appropriate accounting treatment of these deferred amounts was the most significant issue during the audit. The net impact of the two items was a \$20 million overstatement of income. This net amount, although significant, was below materiality and therefore an appropriate unqualified audit opinion was issued on the March 31, 2009 consolidated financial statements. However, the unamortized foreign exchange account balance remains overstated at March 31, 2009.

Recommendation 5.9

The Department of Finance's Capital Markets Administration Division should adjust the balance of the unamortized foreign exchange account to recognize all deferred gains and losses on monetary items that have been sold, and to ensure the account only includes deferred amounts related to existing monetary items.

- 5.58 Generally accepted auditing standards require that all but trivial known errors identified in the Province's consolidated financial statements during

the year-end accounting or audit processes be corrected. Any unresolved, unadjusted errors are considered when preparing the auditor's report on whether the statements were presented fairly in accordance with GAAP. All but trivial errors should be corrected to enhance the accuracy of the financial statements. We have commented on this in past years and again recommend that action be taken to correct identified errors.

Recommendation 5.10

The Department of Finance's Government Accounting Division should ensure all non-trivial known errors identified during the audit are corrected.

- 5.59 *Other matters* – Additionally, there were a number of other accounting, disclosure and audit issues which arose and were communicated to government staff at various points in the audit process. Some of these issues were resolved either by review of additional information provided to us or by adjustments to the financial statements.
- 5.60 *Significant accounting policies* – Note 1 to the March 31, 2009 consolidated financial statements indicates that, for purposes of the Province's statements, Canadian GAAP for the public sector is represented by the accounting recommendations of the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA), supplemented where appropriate by other CICA and International Federation of Accountants accounting standards or pronouncements.
- 5.61 As noted above, the most significant issue in this year's audit related to the sale of \$212 million US sinking fund assets. The results of this transaction were not appropriately recognized in the financial statements in accordance with GAAP, and we have recommended that the related accounts be adjusted during 2009-10.
- 5.62 The audit of this transaction included a review of the Province's accounting policy related to unamortized foreign exchange. This policy states that unamortized foreign exchange gains and losses on sinking fund assets are amortized over the life of the monetary issue (interpreted as the debt) to which they relate. This is not in accordance with PSAB GAAP which requires that amortization of deferred foreign exchange gains and losses be over the life of the sinking fund asset itself.

Recommendation 5.11

The Province's stated accounting policy with respect to unamortized foreign exchange gains and losses should be revised to ensure it is in accordance with GAAP.



- 5.63 We also identified certain areas in which further improvements to the consolidated financial statements are needed to ensure full compliance with GAAP. These are summarized in the following paragraphs.
- 5.64 We have determined that Canadian Blood Services (CBS) is a Government Partnership Arrangement as defined by PSAB. This entity should be included in the government reporting entity and the results of its operations should be consolidated. We prepared a position paper supporting the treatment of Canadian Blood Services as a Government Partnership Arrangement. The Department of Finance's Government Accounting Division does not agree with our conclusion on CBS, and has provided us with an updated analysis of their position regarding this entity. We did not have sufficient time to formally respond to the updated analysis but will do so in the upcoming year.
- 5.65 Government has determined the amount or threshold for capitalizing asset purchases into various classes of tangible capital assets (TCA). We have concerns with the high level of TCA thresholds used by government for certain classes of TCA. We were advised by Government Accounting that further analysis of the thresholds will continue to ensure the thresholds are appropriate. We expect that matters related to this issue will also be resolved for next year's audit.

General ledger maintenance and other reportable matters

- 5.66 *Assets and liabilities* – Last year, we noted numerous accounts receivable and advances, and accounts payable and accrued liabilities balances that had remained unchanged since the end of the prior fiscal year. Inactive general ledger accounts may not represent true assets and liabilities as defined by PSAB. We were advised that, during 2008-09, Government Accounting has cleared certain inactive accounts to operations, and other accounts remain under review to ensure those amounts included in assets and liabilities meet the definitions under PSAB. This review should be completed and action taken before the end of the 2009-10 fiscal year. We again recommended that unsupported amounts be eliminated.

Recommendation 5.12

The Department of Finance's Government Accounting Division should analyze all inactive asset and liability accounts to determine whether they should be maintained in the general ledger. Accounts which do not meet the definition of an asset or liability should be removed and the result recognized in operations.

- 5.67 *Business areas in the general ledger* – The Province's general ledger is divided into a number of business areas, each of which is used to record transactions related to a department or other unique entities such as certain special operating agencies of government (STPA, for example).

5.68 During the audit, we noted there are business areas used to record transactions for entities that are not part of the government reporting entity. There are also business areas to record transactions of other entities which use the Province's bank accounts rather than establishing their own bank account. The Government Accounting Division should determine if it is appropriate for the Province's general ledger to include business areas of stand-alone entities, or to include business areas to record transactions for operations which are not part of the government reporting entity. Any business areas not considered appropriate should be removed from the general ledger.

Recommendation 5.13

The Department of Finance's Government Accounting Division should remove all inappropriate business areas from the Province's general ledger.

5.69 We noted during the audit that certain business areas were not accounted for properly during the preparation of the consolidated financial statements. Balances due to and from the Province in several of these business areas were not eliminated on consolidation. This resulted in offsetting overstatements of both assets and liabilities of approximately \$24 million.

Recommendation 5.14

The Department of Finance's Government Accounting Division should ensure the business areas are appropriately reflected in the consolidated financial statements.

5.70 *Accounting for Sydney Steel Corporation* – We found that improvements had been made in the accounting for Sydney Steel Corporation (SYSCO). However, accounting for SYSCO continues to be complicated, due mainly to the numerous accounts in the general ledger used to recognize SYSCO transactions.

5.71 Recommendation 5.13 relates to business areas in the Province's general ledger. This may have an impact in accounting for SYSCO transactions. Further improvements could be made by, for example, limiting transactions to one department, and by separating Sydney Tar Ponds Agency (STPA) transactions from those of SYSCO for the revenues, expenses and recoveries that relate only to STPA.

Recommendation 5.15

The Department of Finance's Government Accounting Division should simplify the general ledger accounts used to record SYSCO transactions.

5.72 *Contingencies and contractual obligations* – Initial information relating to contractual obligations provided by the Department of Health was



inaccurate because it did not consider agreements for long-term care facilities signed as at March 31, 2009. The amount subsequently provided to support the financial statements required further adjustment because it considered all agreements, including those signed subsequent to March 31, 2009 which were not a contractual obligation at year end. The total of all signed agreements at the audit report date was \$3.4 billion; \$1.6 billion has been disclosed as a contractual obligation and the remaining \$1.8 billion as a subsequent event.

- 5.73 Although the amounts disclosed in Note 12 to the CFS – Contingencies and Contractual Obligations – do not impact current operations, they are an indication of amounts that may become liabilities of the Province in the future. For this reason, departments should be aware of the PSAB recommendation related to contingencies and contractual obligations to ensure accurate measurement and disclosure, and Government Accounting should ensure information provided by departments during the preparation of the financial statements is complete.

Recommendation 5.16

The Department of Finance's Government Accounting Division should instruct departments of the specifics in determining the amount of contractual obligations at year end.

Audit completion

- 5.74 *Timing of release* – The consolidated financial statements were issued on September 10, 2009, in advance of the legislated requirement of September 30. Our audit opinion was dated July 15, 2009. The audit deadline was met through cooperation from line departments and other entities included in the consolidated financial results of the Province.
- 5.75 In each of the last two years, the CFS have been issued in early August. Early release of the financial statements increases their relevance for decision making purposes in the current year. Government Accounting has indicated they are committed to an earlier release of the March 31, 2010 statements. We encourage this schedule and will work with Government Accounting to achieve this goal.
- 5.76 *Difficulties encountered completing audit* – Each year, a schedule of audit deliverables, including due dates, is provided to departments. For the most part, the audit working papers and other documentation we requested from departments were received as requested and in a timely matter. However, we encountered significant deficiencies in audit support related to information provided from the Capital Markets Administration Division, both in terms of delays in the receipt of information, and in the adequacy and accuracy of the information provided.



5.77 We require accurate information by the due date, and as requested, to complete the audit as our resources are scheduled based on the due dates included in the schedule of audit deliverables. It is evident, based on the audit of the March 31, 2009 CFS, that processes must be developed to ensure the accuracy and timeliness of audit support.

Recommendation 5.17

The Department of Finance's Government Accounting Division should monitor departments' progress, including significant divisions within departments, in providing information to the Office of the Auditor General as detailed in the schedule of audit deliverables.

Accounting and Auditing Standards

5.78 *New accounting standards* – There are new accounting pronouncements and some in process that will have an impact on the government's future financial reporting. The following are more significant matters on which PSAB has recently released final or revised pronouncements or is developing new or revised pronouncements, or issuing statements of principle.

- Tax revenue
- Government transfers
- Liability for remediation and mitigation of contaminated sites
- Financial instruments

5.79 New formal recommendations or guidance in such areas could require changes to government's financial reporting in the future. The nature and impact of required or planned accounting changes should be disclosed as soon as practical, ideally no later than during the presentation of the budget for the fiscal year in which the changes will take effect.

5.80 In addition, there are several accounting topics which impact crown corporations and other agencies whose results are consolidated with those of the Province. These include:

- financial reporting by certain government organizations;
- financial reporting by not-for-profit organizations;
- financial statement presentation for not-for-profit organizations;
- entity-level financial statements;
- financial instruments; and
- capital disclosures.



- 5.81 The impact of these changes on the financial statements of crown corporations and other agencies will have to be considered during the consolidation process.
- 5.82 Finally, we note that the move to international accounting standards is fast approaching. PSAB recently approved an amendment to the Public Sector Accounting Handbook which will outline the appropriate GAAP for use by public sector entities. Publicly accountable enterprises in Canada, which include government business enterprises, are to adopt International Financial Reporting Standards starting January 1, 2011. Other government organizations will need to determine which GAAP is appropriate based on the guidance provided by PSAB. The scope and impact of this transition may be significant to the Public Accounts.
- 5.83 Government Accounting should take the lead in ensuring there is an analysis prepared or provided by each entity in the government reporting entity to determine the accounting standards most appropriate to their organizations. Government Accounting should also consider the financial reporting objectives of the consolidated financial statements in providing guidance to entities to determine appropriate accounting standards.

Recommendation 5.18

The Department of Finance's Government Accounting Division should take appropriate steps to ensure all government reporting entities adopt the appropriate GAAP based on amendments to the Public Sector Accounting Handbook.

- 5.84 *New Auditing Standards* – The Canadian Auditing and Assurance Standards Board is adopting International Standards on Auditing as Canadian Auditing Standards (CAS) for the audits of financial statements for periods ending on or after December 14, 2010. As a result, the audit of the CFS for the year end March 31, 2011 will be conducted under CAS rather than the existing standards. The new standards will require us to be more involved in the audit of significant entities included in the consolidated financial statements. The Province's consolidated financial statements will also require formal approval prior to their release, and the date of this approval will become the date to which we will now perform our subsequent events procedures. The impact of revised procedures to accommodate these new standards will be communicated in audit planning documents.

Other Financial Reporting Matters

Introduction

- 5.85 During the audit of the consolidated financial statements and throughout the rest of the year, we became aware of other financial reporting matters



for inclusion in this Chapter. We provide details of each of these under the following headings.

- Additional appropriations
- Teachers’ Pension Fund
- Audit of governance and control framework
- Assistance to Universities
- Special warrants
- Cash and other losses

Additional appropriations

5.86 *Required reporting* – We are required under Section 9 of the Auditor General Act to report on any appropriations that were exceeded during the year. Executive Council approved Order-in-Council 2009-159 effective March 31, 2009 approving additional appropriations of \$256 million. OIC 2008-659 approved additional appropriations of \$59 million earlier in the year. Subsequent to year end, OIC 2009-379 approved \$92.9 million.

5.87 *Significance of additional appropriations* – In total, additional appropriations of \$407.9 million were approved for the year ended March 31, 2009. This is in excess of any amount approved in prior years. The exhibit below notes total additional appropriations in each of the last six years. With the exception of 2005-06, additional appropriations increased steadily. Expenditures authorized through additional appropriations have increased by over 400% since 2003-04.

Additional Appropriations (in millions of dollars)

Year	Revenue Estimates	Actual Revenue	Variance	Additional Appropriation
2008-09	\$8,108	\$8,135	\$27	\$408
2007-08	\$7,674	\$8,179	\$505	\$385
2006-07	\$6,589	\$7,293	\$704	\$222
2005-06	\$6,098	\$6,318	\$220	\$111
2004-05	\$5,574	\$5,855	\$281	\$159
2003-04	\$5,302	\$5,356	\$54	\$99

Source: *Volume 1, Public Accounts*



5.88 The following exhibit reveals that additional appropriations have been used to authorize an increasing percentage of total expenditures, including capital purchases, again with the exception of 2005-06, and with a slight decrease in 2008-09.

Additional Appropriations as a Percentage of Total Expenditures
(in millions of dollars)

Year	Total Expenditures	Additional Appropriation	Additional Appropriation as % of Expenditure
2008-09	\$8,977	\$408	4.5%
2007-08	\$7,976	\$385	4.8%
2006-07	\$7,520	\$222	3.0%
2005-06	\$6,964	\$111	1.6%
2004-05	\$6,589	\$159	2.4%
2003-04	\$4,797	\$99	2.1%

Source: *Volume 1, Public Accounts*

5.89 In each of the past several years we have reported our concerns with the increasing extent and use of additional appropriations. Additional appropriations have become an extension of the budget process, without the challenge and debate accompanying the vote on the annual Appropriations Act.

5.90 The most significant source of additional appropriations in 2008-09 related to Assistance to Universities. This is discussed later in this Chapter beginning at paragraph 5.105. This additional appropriation resulted from the decision to advance scheduled funding to the universities from one year to the prior year. It is our view that additional appropriations should be used to authorize unforeseen increases in expenses, instead of being used to advance payments in one year that could properly relate to the subsequent year.

5.91 In the November 2008 Report of the Auditor General, we suggested that Cabinet consider engaging the full House of Assembly in the process to approve additional appropriations. That did not happen during the past year. However, we note that with respect to the 2009-10 budget, the advance on the payment to universities scheduled for 2010-11 has been included in the estimates for 2009-10. While it is not possible to predict whether additional appropriations will be needed in 2009-10, including an amount in the budget that had previously been a significant source for additional appropriations increases the transparency of the budget and overall financial management process.

5.92 *Timing of approvals* – According to Section 13 of the Provincial Finance Act, no further contractual obligations or commitments may be charged to

an exhausted appropriation. However, there is an inconsistency within the Act. Section 28 of the Act allows up to ninety days after the tabling of the Public Accounts for the approval of additional appropriations related to the appropriations in the Public Accounts. Management has acknowledged this inconsistency. Last year we recommended that the Provincial Finance Act be amended and we repeat this recommendation below.

Recommendation 5.19

Department of Finance management, in conjunction with Executive Council, should ensure the Provincial Finance Act is amended to eliminate the existing inconsistency with respect to additional appropriations.

Teachers' Pension Fund

5.93 Chapter 2 of the April 2009 Report of the Auditor General – Government-wide: Audit Committees – reported the results of an audit on compliance with best practices for audit committees by entities within the Nova Scotia public sector. The audit was conducted through a survey of numerous provincial public sector entities, followed by more detailed audit work in several entities.

5.94 One of the entities surveyed and selected for additional audit work was the Nova Scotia Teachers' Pension Fund, an entity included in Note 8 of the consolidated financial statements as a Trust Fund Under Administration. The Minister of Finance had been the sole trustee of the Fund until April 1, 2006. On that date, under a joint trust agreement between the Province and the Nova Scotia Teachers' Union, the Teachers' Pension Plan Trustee Inc. (TPPTI) replaced the Minister of Finance as trustee.

5.95 We noted in the April 2009 Report that TPPTI had obtained a legal opinion indicating that it was not subject to audit by the Office of the Auditor General. We were subsequently informed that opinion extended as well to the Fund itself.

5.96 The December 31, 2008 audited financial statements of the Fund noted:

“The Teachers' Pension Fund (the “Fund”) was established by the Teachers' Pension Act (the “Act”). It is the funding vehicle for the Teachers' Pension Plan (the “Plan”), a pension plan which covers public school and community college teachers. The detailed provisions of the Plan, including pension eligibility criteria and benefit formulas are contained in the Act and in the Regulations made under the Act.”

5.97 Contributions to the Plan are made by teachers and matched by the



Province. This is a significant expenditure of public funds. Contributions in excess of benefit payments, since the Plan's inception, as well as significant unmatched contributions by the Province, have accumulated to approximately \$3 billion in investments at December 31, 2008 (the last fiscal year end of the Fund). However, the funded status of the Plan is an issue. The Fund's December 31, 2008 audited financial statements indicate the funding deficiency has increased from 10% at December 31, 2007 to almost 30% at December 31, 2008.

5.98 The following exhibit notes the market value of investments and the pension liability as determined by the Plan's actuary for each of the last five years. The funded status shown represents the extent to which assets cover the liability to current and future pensioners. It should be noted that, in addition to the contributions in 2005, the Province provided an additional \$142 million as part of the change in governance of the Plan (i.e. as part of the change in trusteeship of the Minister of Finance from 100% to 50%).

Financial Results of the Teachers' Pension Plan
(in billions of dollars)

Year Ended December 31	2004	2005	2006	2007	2008
Investments	\$3.883	\$4.410	\$4.814	\$4.648	\$3.710
Pension Liability	\$4.774	\$4.684	\$4.951	\$5.066	\$5.180
Funded Status (%)	81.7%	93.6%	96.1%	90%	70.8%

Source: Volume 2, Public Accounts

5.99 The ability of the Office of the Auditor General to conduct audits of the Fund and TPPTI is unclear from the wording of the Teachers' Pension Act. We acknowledge that the Plan's financial statements are audited each year by a private sector auditor appointed by the trustee. However, because the Province contributes public money to this Plan, it is our view that this money is subject to performance audit by the Office of the Auditor General under Section 8 of the Auditor General Act. In addition, the Province includes its share of the liability for the Plan in the consolidated financial statements. This totaled \$51.5 million at March 31, 2009 (March 31, 2008 - \$47.2 million). These are clearly public funds and it is in the public interest that the stewardship of these funds be subject to audit. However, the legal opinion obtained from TPPTI restricting us from auditing TPPTI or the Fund makes it difficult to perform audits under our Act.

Recommendation 5.20

The Minister of Finance should ensure the Teachers' Pension Act is amended such that the Auditor General has the undisputed and unrestricted ability to audit the operations of the Teachers' Pension Plan.



Audit of governance and control framework

5.100 An audit of the governance and control framework of the Investment Management, Liability Management and Treasury Services, and the Capital Markets Administration Divisions of the Department of Finance was conducted by an external audit firm and completed in 2004. The resulting report, issued in December 2004, identified several control weaknesses which resulted in a denial of opinion. The auditors grouped the significant deficiencies into two categories.

- Those related to the governance model including the need for an oversight body in both the Liability Management and Treasury Services, and Investment Management Divisions, and a more comprehensive risk management plan for the Liability Management and Treasury Services Division
- Those related to internal controls including improved segregation of duties in each of the Liability Management and Treasury Services, Investment Management, and Capital Markets Administration Divisions

GOVERNMENT
FINANCIAL
REPORTING

5.101 A significant portion of the activity of the Investment Management Division related to investments in the two public service pension plans. These activities are now part of the activities of the Nova Scotia Pension Agency. However, substantial short term investment activity is conducted through the Liability Management and Treasury Services Division. In addition, the Liability Management and Treasury Services, and Capital Markets Administration Divisions are responsible for the Province's \$12 billion in unmaturing debt (including over \$8 billion in derivative instruments) and \$2 billion in sinking fund assets. The transactions processed by these divisions are significant and complex.

5.102 In 2007, the Internal Audit Centre conducted a follow-up to the 2004 audit of these Divisions. The objective of that engagement was to determine whether the recommendations of the 2004 audit had been implemented, or, if not implemented, that strategies had been developed to mitigate related risks. The results of the follow-up note that one significant issue from the 2004 audit was resolved through the establishment of a separate function (a middle office) to ensure that investment and debt management activities comply with legislation and Department of Finance policies. In addition, an Executive Director has been appointed in recent months. The oversight provided by this new position is a positive addition to the governance structure.

5.103 During the audit of the March 31, 2009 consolidated financial statements, we found deficiencies in the reconciliations processes in the Capital Markets Administration Division, as noted in paragraphs 5.50 to 5.52. We



also identified an error in recording the sale of sinking fund assets (see paragraph 5.55).

5.104 We have repeatedly recommended an audit by an external, experienced private sector firm be conducted to obtain an unqualified audit opinion, and note this again this year.

Recommendation 5.21

We again recommend that Department of Finance management should obtain an independent external audit opinion on the governance and control framework of the Liability Management and Treasury Services, and Capital Markets Administration Divisions.

Assistance to Universities

5.105 *Memorandum of Understanding* – On March 31, 2008, the Province signed a Memorandum of Understanding (MOU) with the Nova Scotia universities to provide funding for 2008-09, 2009-10, and 2010-11. The MOU specifies funding for each of these years, as follows.

- 2008-09 – \$216,294,347
- 2009-10 – \$318,745,347
- 2010-11 – \$348,745,347

5.106 \$256 million of the \$318.8 million in funding scheduled for 2009-10 was paid in 2008-09. This advance payment caused the appropriation for Assistance to Universities to be significantly overspent in 2008-09. An additional appropriation of \$256 million provided the necessary authority for these payments in 2008-09. An amendment to the MOU, dated March 30, 2009, revised the 2008-09 funding to \$472,294,347 and the 2009-10 funding to \$62,745,347.

5.107 The Estimates for the 2009-10 fiscal year include the final payment under this MOU even though the schedule in the signed agreement does not require payment of this amount until the 2010-11 fiscal year. Accordingly, the appropriation for Assistance to Universities includes \$341.6 million of the \$348.7 million funding scheduled for 2010-11; as noted in paragraph 5.105. Without this advance payment, the 2009-10 appropriation of \$455.8 million would be \$114.2 million. In both 2008-09 and 2009-10, the majority of the advance related to operating funding for the universities.

5.108 Recognition of these amounts in advance of the scheduled payments is acceptable under GAAP. However, the practice of advancing payments on any funding which the Province has a continuing obligation to provide is not consistent with good financial management. This could potentially result in a year in which there is little expense related to this funding, when

in fact there has been no change in the actual funding obligation. This distorts the budget and actual results of the Province from one year to the next, and decreases the usefulness of the financial reporting process.

Special warrants

- 5.109 *Required reporting* – Section 9A of the Auditor General Act requires that we report whether any special warrants have been issued. A special warrant is issued under Section 29 of the Provincial Finance Act for expenses that have not been provided for by the Legislature and are immediately and urgently required for the public good.
- 5.110 Two special warrants were issued since our last Report. OIC 2009-261, dated May 13, 2009, authorized \$130 million for expenditures related to Tangible Capital Assets. OIC 2009-313, dated July 2, 2009, authorized \$1.13 billion to fund operating and capital needs to October 31, 2009. The Legislature was not in session when either special warrant was issued. In addition, no appropriation had been granted by the Legislature for the year ended March 31, 2010 to that date. These special warrants allow for expenditures that would be in excess of those allowed under Section 27 of the Provincial Finance Act. This Section allows spending for services of up to one-half of the prior year’s spending on such services when there has been no approved appropriation for the year.

Cash and other losses

- 5.111 Section 9A (1) (e) of the Auditor General Act requires that we report every case in which we have observed that “... *there has been a deficiency or loss through fraud, default, or mistake of any person.*”
- 5.112 There is no longer a requirement in the Management Manuals for departments and crown entities to report losses to this Office. However, during the year, the Department of Justice reported cash losses totalling \$746, and property losses of \$1,500. We appreciate receipt of this information.

Response: Department of Finance

Thank you for the opportunity to review and respond to the draft of Chapter 5 “Government Financial Reporting” in your February 2010 report. We offer the following comments, which may be included in your report as the response of the Department of Finance.

Indicators of Government Financial Condition

While the Department of Finance recognizes that the report “Indicators of Financial Reporting” which was produced by the Office of the Auditor General, is no longer an appendix to Chapter 5 Government Financial Reporting, management felt it necessary to still provide comment.

It is management’s responsibility to determine the format and type of reporting within Generally Accepted Accounting Principles (GAAP). It is also management’s responsibility to implement, or not, Statements of Recommended Practice (SORPs). SORPs are recommendations for preparers to follow if they choose to provide certain financial information but SORPs are not required for an entity to remain GAAP compliant. “Indicators of Financial Reporting” is a SORP and management has chosen not to produce this report as we felt most of the content is already available in other financial reports. This is a legitimate choice of management.

Furthermore, by producing this report, the Office of the Auditor General blurs the line between the preparer of financial reporting and the reviewer of such information. Therefore we believe that it is inappropriate for the Office of the Auditor General to produce such financial reports.

Review of the 2009-2010 Estimates

Recommendation 5.1

The Department of Finance should include estimates of all revenues of the consolidated entity in the Provincial budget in order to comply with Canadian generally accepted accounting principles.

Management recognizes that the annual budget includes revenue for only the Consolidated Fund and not all revenues of the Government Reporting Entity. The inclusion of all revenues, and the associated offsetting expenses in the annual budget, would require changes in the provincial budgeting process and additional resources to coordinate this additional information. Recently Government requested an external review to provide options to address this recommendation. These options, which were just recently received, will be considered.

A further point of clarity that is important for readers to understand is that the Public Sector Accounting Handbook does not include presentation or disclosure

standards for budgeting. The underlying accounting policies are consistent and in accordance with GAAP. It is also understood throughout the budget process that a reconciliation to the presentation format of the actual results will be required for the public accounts.

Recommendation 5.2

The Department of Finance should take the necessary steps to ensure it is provided with the appropriate authority for completion of the revenue estimates.

The Province's budget process is complex and is completed within a limited time frame. Line departments are pushed for the timely provision of information, but at times this is not possible.

Management will review opportunities to improve the process.

Recommendation 5.3

All key economic and other assumptions used in the preparation of the revenue estimates should be approved by Treasury Board.

Management agrees with this recommendation.

Preparation of Budget Forecast Updates, 2008-2009

Recommendation 5.4

An independent analysis of the costs necessary to complete the remediation project of Sydney Steel Corporation and adjacent sites should be conducted. The balance of the provision should be adjusted to reflect this estimate.

As noted in the text of your chapter, management agrees that an independent detailed costing is required to adequately assess the provision. This work should commence in 2009-2010 and the provision will be adjusted accordingly upon completion and acceptance of the costing.

Recommendation 5.5

The Department of Finance should require adequate support for adjustments to departmental budgets reported in the forecast updates.

Management is generally in agreement with this recommendation provided there is an understanding that timing issues can be encountered where management must be able to rely on departmental representations and not be dependent on documentary evidence being provided prior to a forecast being released. A forecast represents management's best estimate at the time. While adjustments like this do not occur frequently, management will endeavor to improve such adjustments in the future.

RESPONSE:
DEPARTMENT
OF FINANCE

Audit of the March 31, 2009 Consolidated Financial Statements

Recommendation 5.6 and 5.7

Management should document internal controls for government and include these in the Management Manuals.

Management should assign roles and responsibilities for the design, implementation, operation and maintenance of internal controls as part of the documentation of internal controls.

Management agrees with both of these recommendations. It should be noted that the Internal Controls over the Financial Reporting project and the annual certification requirements will become more robust over time. The focus however will remain with the Consolidated Fund, and the interactions between the Consolidated Fund and consolidated entities. Management will advise consolidated entities on the need to assign and document internal controls within their organizations.

Recommendation 5.8

The Department of Finance's Capital Markets Administration Division should prepare monthly reconciliations to trustee statements and the general ledger should be updated each month to reflect the results of transactions.

Management agrees with this recommendation.

Recommendation 5.9

The Department of Finance's Capital Markets Administration Division should adjust the balance of the unamortized foreign exchange account to recognize all deferred gains and losses on monetary items that have been sold, and to ensure the account only includes deferred amounts related to existing monetary items.

Management will review our long standing and previously accepted accounting policy relating to unamortized foreign exchange gains and losses, and will make any changes necessary, to ensure it continues to be in accordance with GAAP.

Recommendation 5.10

The Department of Finance's Government Accounting Division should ensure all non-trivial known errors identified during the audit are corrected.

Management feels that the financial statements present fairly, in all material respects, the financial position of the Province as at March 31, 2009. Management is committed to correcting all known errors identified during the course of the audit; however, certain errors are not corrected due to the timing of identification (i.e. the publication schedule of Volume One of the Public Accounts requires

financial statements to be finalized approximately one week prior to release). Management feels that any known errors not corrected are immaterial or insignificant items or matters and in accordance with paragraph .14 of the introduction to public sector accounting standards.

Recommendation 5.11

The Province's stated accounting policy with respect to unamortized foreign exchange gains and losses should be revised to ensure it is in accordance with GAAP.

Management will review our long standing and previously accepted accounting policy relating to unamortized foreign exchange gains and losses, and is committed to making any changes, deemed necessary, to ensure it continues to be in accordance with GAAP.

Recommendation 5.12

The Department of Finance's Government Accounting Division should analyze all inactive asset and liability accounts to determine whether they should be maintained in the general ledger. Accounts which do not meet the definition of an asset or liability should be removed and the result recognized in operations.

Management agrees with this finding. During 2008-09 approximately 40 inactive general ledger accounts were reviewed and closed. This maintenance will continue during 2009-10.

It should be noted that there are a number of accounts receivable/advances and accounts payable/accrued liability accounts in the general ledger that, while unchanged, are not inactive and contain valid balances which meet the definitions of assets and liabilities under PSAB.

Recommendation 5.13

The Department of Finance's Government Accounting Division should remove all inappropriate business areas from the Province's general ledger.

Management agrees with this recommendation. Government Accounting will establish criteria for including business areas in SAP to ensure the 9900 Business Areas are appropriately reflected in the consolidated financial statements.

Recommendation 5.14

The Department of Finance's Government Accounting Division should ensure the business areas are appropriately reflected in the consolidated financial statements.

RESPONSE:
DEPARTMENT
OF FINANCE

Management agrees with this recommendation. Government Accounting will implement additional year-end procedures in its consolidation process to ensure the 9900 Business Areas are appropriately reflected in the consolidated financial statements.

Recommendation 5.15

The Department of Finance's Government Accounting Division should simplify the general ledger accounts used to record SYSCO transactions.

The accounting for SYSCO is complicated. Management remains committed to streamlining the consolidation process for SYSCO.

Recommendation 5.16

The Department of Finance's Government Accounting Division should instruct departments of the specifics in determining the amount of contractual obligations at year end.

Educational refreshers on Contingencies and Contractual Obligations will be conducted throughout 2009-10. Management will also implement additional year-end procedures to ensure that line departments provide a complete analysis of contractual obligations at year end.

Recommendation 5.17

The Department of Finance's Government Accounting Division should monitor departments' progress, including significant divisions within departments, in providing information to the Office of the Auditor General as detailed in the schedule of audit deliverables.

Management agrees with this recommendation. Although the majority of information was submitted in a timely manner, there were a few sections that caused delays. Government Accounting will implement additional year-end processes in its year end planning process to ensure timely information is provided to the Office of the Auditor General.

Recommendation 5.18

The Department of Finance's Government Accounting Division should take appropriate steps to ensure all government reporting entities adopt the appropriate GAAP based on amendments to the Public Sector Accounting Handbook.

The Department of Finance closely monitors the activity of the Public Sector Accounting Board and Canadian Institute of Chartered Accountants in regards to the evolution of GAAP. Staff members regularly respond to statement of principles and exposure drafts. Certain staff members also participate on PSAB standard setting task forces. Further, other departments/entities that would be

impacted by new accounting standards are contacted for input or to consider submitting a separate response.

Management continues to be committed to GAAP compliance and therefore places a high priority on monitoring the developments in this area. The Controller and members of Government Accounting continue to participate in teleconferences with the other Canadian governments to discuss new proposed standards (PSAB, CICA and IFRS) and their possible impacts on government financial reporting.

Management will be proactive and notify the relevant entities within the government reporting entity (GRE) affected by this amendment to the Public Sector Accounting (PSA) Handbook. Government Accounting will be available to assist and support entities in this matter, while ensuring that these entities adopt the most appropriate GAAP.

Recommendation 5.19

Department of Finance management, in conjunction with Executive Council, should ensure the Provincial Finance Act is amended to eliminate the existing inconsistency with respect to additional appropriations.

Management, in consultation with Executive Council, will review the existing inconsistency with respect to additional appropriations.

Recommendation 5.20

The Minister of Finance should ensure the Teachers' Pension Act is amended such that the Auditor General has the undisputed and unrestricted ability to audit the operations of the Teachers' Pension Plan.

Management will not be implementing this recommendation. It should be noted that there is a requirement for the pension fund to be audited by a qualified auditor.

Recommendation 5.21

We again recommend that Department of Finance management should obtain an independent external audit opinion on the governance and control framework of the Liability Management and Treasury Services, and Capital Markets Administration Divisions.

Management will consider an independent audit on the governance and control framework of the Liability Management and Treasury Services and Capital Markets Administration divisions. It must be observed that the sale of sinking fund assets were recorded in accordance with long standing and previously accepted accounting policy, and an audit pertaining to governance and control frameworks, would not have addressed this issue.

RESPONSE:
DEPARTMENT
OF FINANCE

Response: Department of Transportation and Infrastructure Renewal

Recommendation 5.4

An independent analysis of the costs necessary to complete the remediation project of Sydney Steel Corporation and adjacent sites should be conducted. The balance of the provision should be adjusted to reflect this estimate.

The Department is in general agreement with the findings of the Auditor General. The Department would like to point out, however, that some of the ongoing uncertainties regarding site remediation and the resolution of all outstanding issues pertaining to the former steel mill and Tar ponds sites may prevent the preparation of a full and accurate estimate of total costs for several years. While some of the uncertainties regarding issues identified in earlier reports to the OAG have been resolved, several others will be addressed within the next year and others may not be resolved for some time.

Currently, work is proceeding on the preparation and award of tenders for a comprehensive assessment of contamination issues on the High Dump and Front End (federal land boundary) which will provide more detailed estimates of costs to remediate these areas. As well, the recent contract awards for the construction of the new Grand Lake Water system allows better cost projections for this particular project. These activities will address some of the considerations raised in reversing the December 2008 Sysco adjustment, however, other issues such as the ongoing class action lawsuit against Sysco remain unresolved.

While every effort is being made to obtain independent analyses of the extent of contamination and the eventual remediation costs for the entire site, there is still considerable uncertainty surrounding these projects. As new and more accurate information becomes available, the Department will be in a better position to quantify the cost and adequacy of the existing provision.

6 Indicators of Financial Condition

Summary

In 2009, the Public Sector Accounting Board (PSAB) issued Statement of Recommended Practices (SORP) 4: Indicators of Financial Condition. Information on financial condition is useful to users of financial statements by demonstrating how the government may be able to respond to changes in the economic climate.

The Public Accounts currently contain information on the economy but not information on how the Province is performing in that economy. That is the intent of the SORP. The SORP recommends that, at a minimum, indicators related to government's sustainability, flexibility and vulnerability to its economic climate be disclosed. Governments are not required to implement recommendations under the SORP.

The information included in this chapter is for consideration only. We feel it is important and useful to provide indicators of financial condition and, in doing so, we are following a trend in several other legislative audit offices in Canada.

The indicators we considered each demonstrate the improved financial condition of the Province, for the most part, from 2002 to 2008. One indicator, however, may best illustrate the shape of things to come. The annual surplus of the Province at March 31, 2009 is lower than at any other time this decade. This indicator demonstrates the risks facing government in maintaining the programs and services it currently provides as well as the policy and operational decisions it must make in light of its financial health.



6 Indicators of Financial Condition

Introduction

- 6.1 The consolidated financial statements provide a snapshot of the Province's financial position at its fiscal year end (March 31) and the results of its operations, and changes in both cash flow and net direct debt for the preceding year. However, the financial position of the Province as reflected in the consolidated financial statements is only one factor in determining the financial condition of the government. The consolidated financial statements do not provide a complete indication of the financial health of the Province nor indicate how well it is performing in relation to its economic and fiscal environment.
- 6.2 In 2009, PSAB issued Statement of Recommended Practices (SORP) 4: Indicators of Financial Condition. The SORP notes that "*The main objective of reporting on financial condition is to expand on and explain information in the financial statements by assessing a government's financial condition...*" This information may help financial statement users better understand, for example, the risks facing a government in maintaining the programs and services it currently provides, as well as the policy and operational decisions it must make in light of its financial health.
- 6.3 This SORP is not part of generally accepted accounting principals (GAAP) and there is no requirement for governments to implement its recommendations. At present, the Province includes information on the economy in the Financial Statement Discussion and Analysis included in Volume 1 of the Public Accounts. However, this information does not link the consolidated financial statements to the economic climate in which the Province operates. The purpose of this Chapter is to help provide that link through numerical and narrative analysis of several indicators.
- 6.4 There may be numerous indicators to assess a government's financial condition. The SORP recommends that, at a minimum, indicators related to sustainability, flexibility and vulnerability be considered. Definitions of these assessors follow, as well as a selection of indicators related to each. The SORP also recommends that indicators include those specific to government and related to government, and notes that indicators related to the economy may be useful.
- 6.5 We feel it is important and useful to show indicators of financial condition regardless of whether the economy is strong, as it was a few years ago, or weak, as is currently the global situation. In doing so, we are following a trend in several other legislative audit offices in Canada. We intend to expand and improve this reporting in future years.

6.6 Information on the Province’s financial condition has been developed using certain indicators contained in the Statement of Recommended Practices. We note that there may be other relevant indicators which would provide additional useful information for stakeholders’ assessment of financial condition. The indicators selected provide stakeholders with information which may be used to assess the ability of the government to continue offering current programs and services along with its ability to respond to changes in economic conditions. The information also demonstrates the reliance the government places on funds received from the federal government.

Indicators

Sustainability

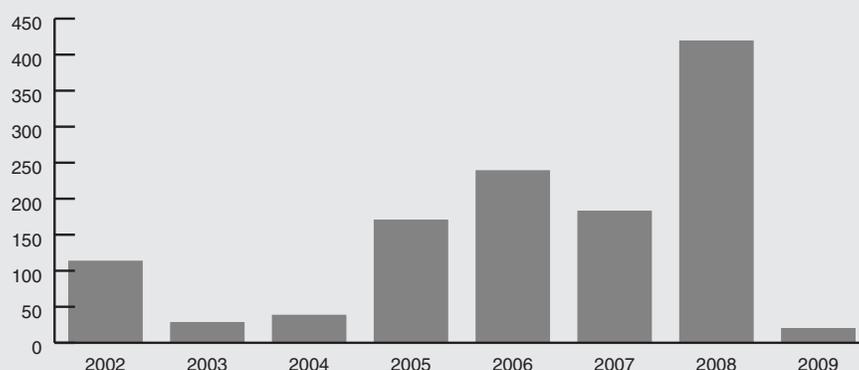
6.7 Sustainability measures the ability of a government to maintain its existing programs and services, including maintaining its financial obligations to creditors, without increasing its debt or raising taxes. The following indicators have been selected to assess sustainability.

Annual Surplus or Deficit

6.8 This annual result indicates the extent to which the government’s revenue is more than its expenses during that year. A surplus means revenues exceed expenses while a deficit indicates that government has not lived within its means. As noted below, there are significant fluctuations in the annual surplus from 2002 to 2009 with a high of \$418.9 million in 2008 to a low of \$19.7 million in 2009.

Annual Surplus 2002-2009

(in \$ millions)

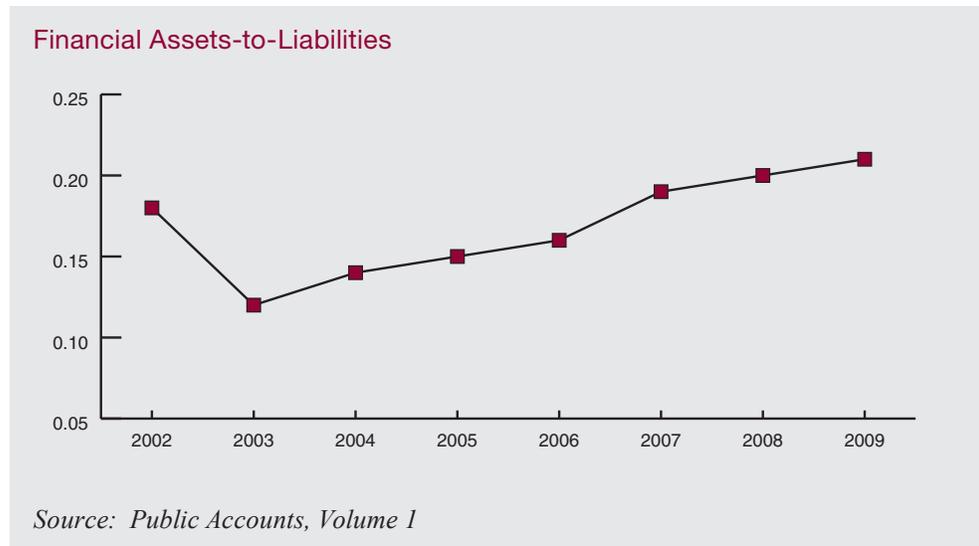


Source: *Public Accounts, Volume 1*



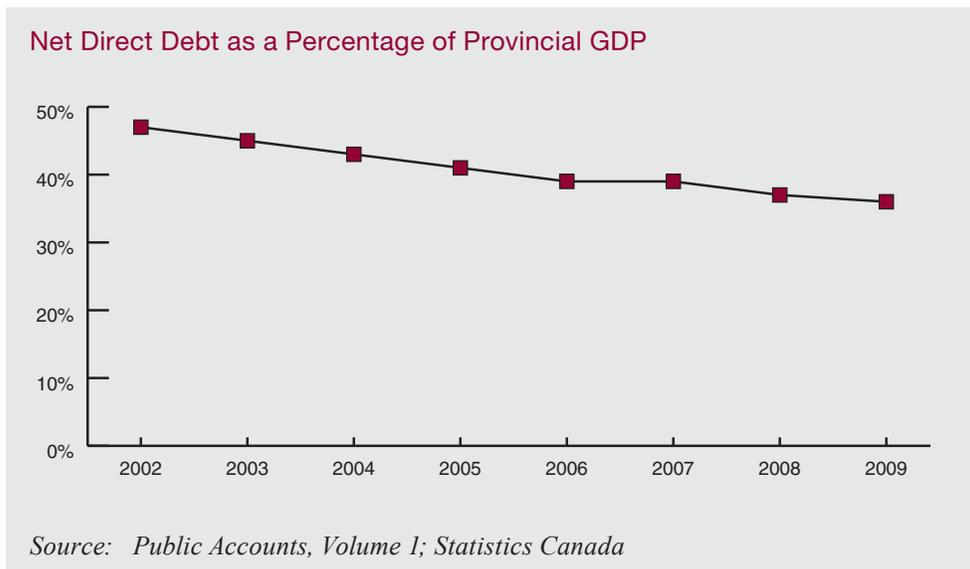
Financial Assets-to-Liabilities

6.9 This indicator shows the extent to which government’s future revenues will be required to pay for past transactions or events. A ratio greater than one indicates that financial assets are sufficient to meet obligations and to finance future operations while a ratio less than one may mean a reliance on future revenues or increasing debt to pay for past decisions. The ratios since 2002 are noted below and emphasize the degree to which liabilities exceed financial assets, and the fact that significant future revenues will be required to pay for past transactions or events. It is noted, however, that the ratio has steadily improved from 0.12 in 2003 to 0.21 at March 31, 2009.



Net Direct Debt-to-Provincial GDP

6.10 This indicator demonstrates the impact government’s debt may have on its economy. A high ratio may indicate that government’s debt places a burden on the economy. The net direct debt increased from \$12.1 billion in 2002 to \$12.3 billion in 2009; however, net direct debt as a percentage of provincial gross domestic product (GDP) has decreased from 47% to 36% during the same period. As this ratio declines, the net direct debt becomes less of a burden on the provincial economy.

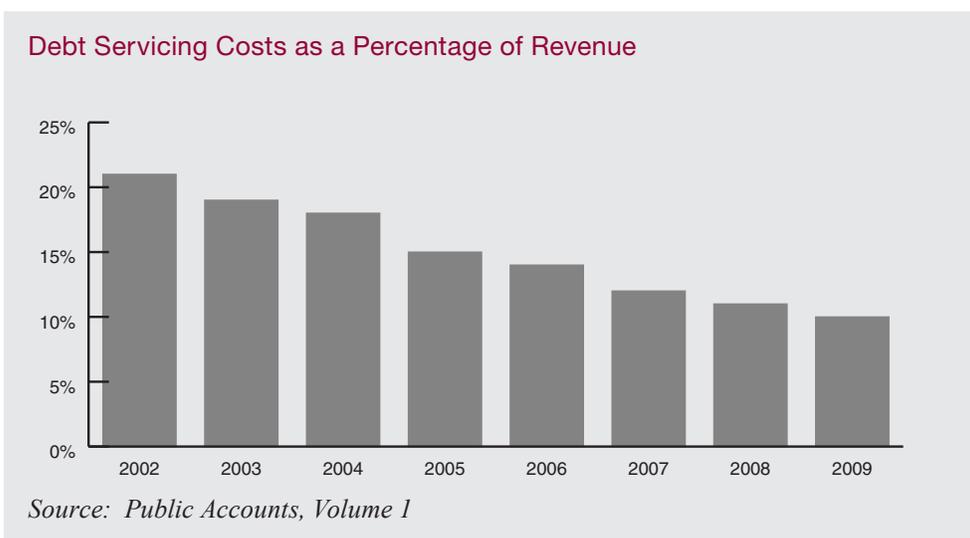


Flexibility

6.11 Flexibility describes the extent to which a government can change its debt burden or raise taxes within its economy. Increasing debt and taxation reduces flexibility and government's ability to respond to changing circumstances.

Debt Servicing Costs-to-Revenues

6.12 The ratio of debt servicing costs-to-revenues indicates the amount of current revenue that is required to service past borrowing decisions and, as a result, is not available for programs and services. As indicated below, debt servicing costs were 21% of revenue in 2001-02 and steadily decreased over the years to 10% at March 31, 2009.

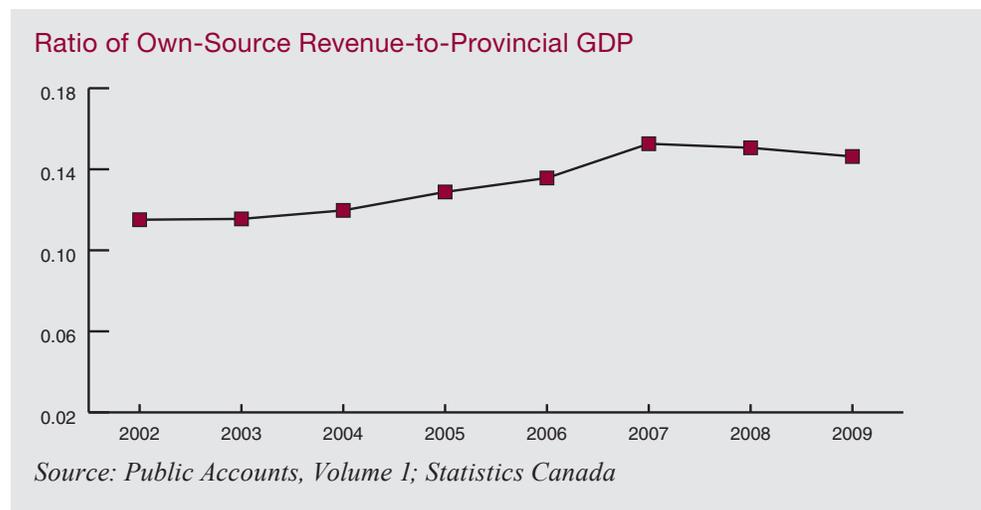




Own-Source Revenue-to-Provincial GDP

6.13 Own-source revenue-to-provincial GDP is an indicator of government revenue derived from the provincial economy, through taxation or other sources, compared to the provincial GDP. Increasing ratios may indicate a reduction in flexibility; however, the impact on flexibility would be affected by taxpayers' willingness for government to increase taxation or other own-source revenue. Tax rates and other own-source revenue that are currently high may also impact the government's ability to increase own-source revenue and may have a negative impact on flexibility. As noted in the following chart, the ratio increased from 0.115 in 2001-02 to 0.153 in 2006-07, declining to 0.146 in 2008-09.

6.14 For the purpose of the following chart, own-source revenue is defined as provincial source revenue, including prior years' adjustments, as noted in the Public Accounts.

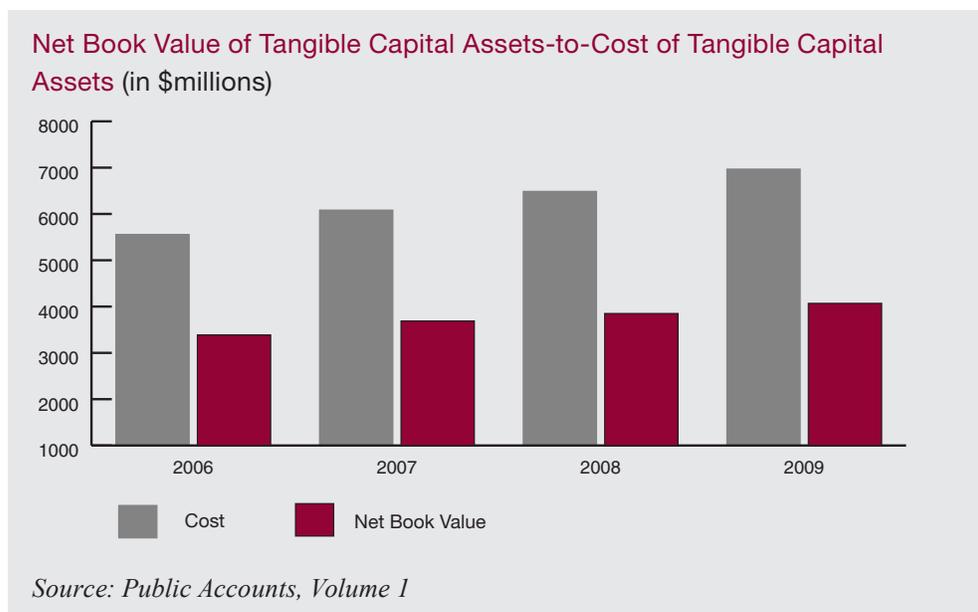


Net Book Value of Tangible Capital Assets-to-Cost of Tangible Capital Assets

6.15 According to SORP 4, net book value of tangible capital assets (TCA) compared to total cost of TCA measures "...the extent to which the estimated useful lives of a government's tangible capital assets are available to provide its products and services".

6.16 SORP 4 indicates that at least five years worth of data should be used. Due to the retroactive change in an accounting policy, required data is not available prior to 2005-06; therefore, only four years of data are presented in the following table. The ratio in 2005-06 was 0.61, declining

to 0.58 in 2008-09. A diminishing ratio may indicate increasing deferred replacement or maintenance costs; however, due to the limited number of years of available data, one must be cautious in drawing conclusions on the significance of the decline. The net book value increased from 2005-06 through to 2008-09 which indicates that the rate of investment in TCA was greater than TCA amortization and disposals.



INDICATORS OF
FINANCIAL CONDITION

Vulnerability

6.17 Vulnerability indicators can measure the amount government is dependent on sources of revenue outside its control and its exposure to risks which might affect the government's ability to meet its commitments. The lower government's own-source revenue is, the more it relies on fiscal decisions of others.

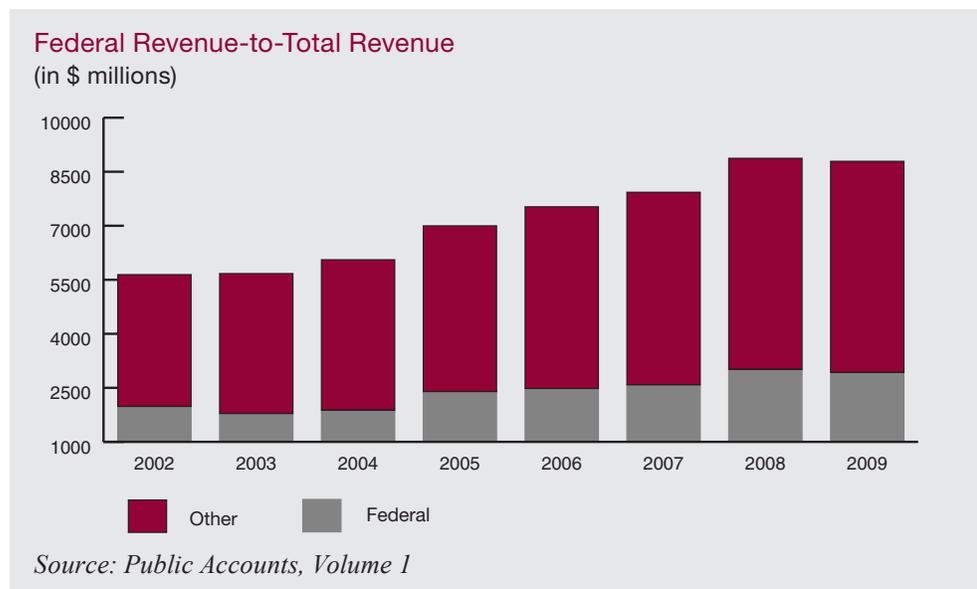
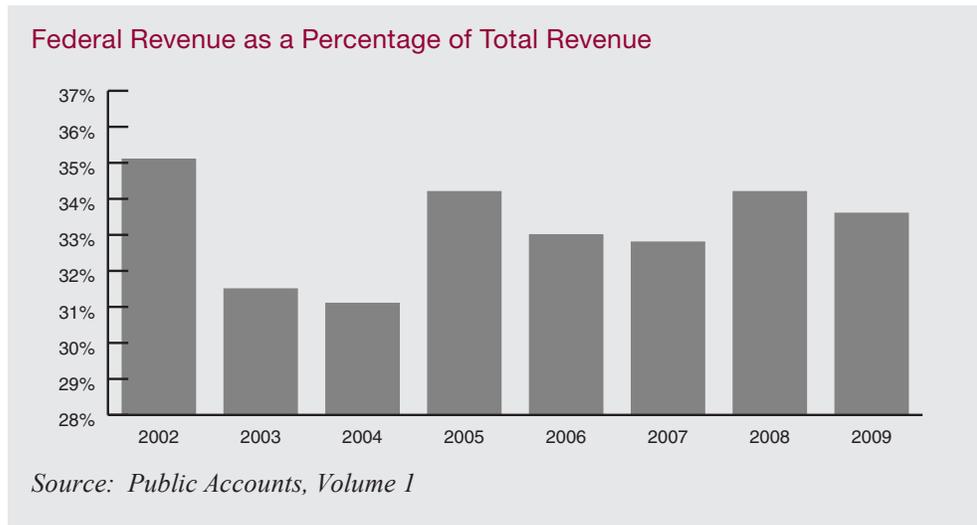
Federal Government Transfers-to-Total Revenues

6.18 This indicator demonstrates the level of federal government transfers compared to total government revenues. The higher the percentage, the more reliance the provincial government puts on receipt of funds from the federal government. These transfers are dependent on policy decisions at the federal level and outside the control of the provincial government. As noted in the following exhibit, federal transfers as a percentage of total revenue for the province can vary significantly from year to year. Since 2002, the percentage has been at a high of 35.1% to a low of 31.1%. For the year end March 31, 2009, the revenue received from the federal government was 33.6% of total provincial revenue.



INDICATORS OF
FINANCIAL CONDITION

6.19 For purposes of the following two exhibits, revenues for 2005-06 through to 2008-09 were adjusted from the figures in the Public Accounts to exclude TCA cost-shared revenue which was netted against the cost of assets in years prior to 2005-06.



7 Review of Agency Financial Statements and Management Letters

Summary

Under Section 17 of the Auditor General Act, we conduct a review of the audit opinions and related management letters of those agencies audited by private sector auditors. We consider those results, as well as results from our audits of agencies within the GRE, when auditing the consolidated financial statements of the Province. The purpose of this Chapter is to highlight matters of interest as a result of this review.

Although the majority of audits conducted on agencies within the GRE resulted in unqualified audit opinions, there were also a number of qualified opinions. The audit opinions for several of the school boards were qualified due to the inability of the auditors to verify the completeness of school-based funds. In our view, these qualified opinions do not diminish the usefulness of the related financial statements. However, the continuing qualification of the audit opinion of one of the Province's loan funds due to insufficient support for management's estimate of provisions on asset impairment, means those financial statements cannot be used to evaluate the performance of the fund.

During our review of management letters we found auditors had identified numerous internal control and information technology deficiencies. Many deficiencies identified by auditors in the prior year still existed in 2008-09. We noted that about 40% of the recommendations made in 2008-09 were repeated from 2007-08 and of these, over half had been reported in the prior year as well. Deficiencies were also identified in two provincial loan boards regarding documentation to support financial statement balances.

Control weaknesses will continue to be identified as auditors increase their awareness of the control environment in these agencies. Management should address the deficiencies identified by their auditors to ensure the integrity of their financial systems and financial reporting processes.



7 Review of Agency Financial Statements and Management Letters

Background

- 7.1 The financial statements of crown corporations and agencies, funds of the government of Nova Scotia and trusts administered by the government of Nova Scotia, are in some cases audited by the Office of the Auditor General, and in other cases by private sector auditors licensed under the Public Accountants Act.
- 7.2 Section 17 of the Auditor General Act permits this Office to conduct additional reviews of those agencies where financial statements are reported on by private sector auditors. This Chapter includes comments on our review of the results of financial statement audits by private sector auditors, as well as comments on audits performed by this Office.
- 7.3 In prior years, we have included the results of the annual audit of regional development authorities in this Chapter. It has been determined these entities should be excluded from the scope of our review as they are not part of the government reporting entity.
- 7.4 As noted in Chapter 5 of this Report, the Auditor General is responsible for the annual audit of the consolidated financial statements of the Province of Nova Scotia. Comments and observations on our audit of the Province's March 31, 2009 statements are noted in that Chapter.

Chapter Objective

- 7.5 The objective of the review of financial statements and management letters is to identify matters of interest to the users of public sector financial statements.

Significant Observations

Review of Audit Opinions

Conclusions and summary of observations

We noted qualified audit opinions were issued in several agencies due to the inability of their auditors to audit completeness of certain revenues. We also

noted during our review that a qualified opinion was issued in one instance where there was insufficient support for the provision for impairment in one of the loan funds. This was consistent with the prior year and reduces the usefulness of these financial statements in assessing the recovery of financial assistance.

7.6 *Background* – The result of an audit is an opinion on whether financial statements present fairly the financial position of the entity at its fiscal year end, and the results of its operations for the year then ended. Where there are qualifications of an audit opinion, or situations in which it is not possible to render an opinion, we believe it appropriate to report on such matters.

7.7 *Qualified audit opinions* – Several agencies included in the consolidated financial statements of the Province derive revenue from donations or other contributions, the completeness of which is difficult to verify during an audit. The audit opinions for these agencies are therefore qualified. This is a standard qualification for entities with these types of revenues.

7.8 Qualified audit opinions can also result from insufficient evidence to support financial statement balances or disclosures. The audit opinion of the Nova Scotia Farm Loan Board was qualified because of insufficient satisfactory evidence relating to management’s estimate of provisions for loan impairment. The audit opinion of the Nova Scotia Power Finance Corporation was qualified because the Corporation was unable to provide historical cost and effective interest rate of investments. Both audit opinions are consistent with those issued at March 31, 2008.

7.9 Qualified audit opinions were issued by the auditors of the following agencies. The opinions are identical to those issued in 2007-08.

- Cape Breton Victoria Regional School Board, South Shore Regional School Board, Strait Regional School Board, Conseil scolaire acadien provincial, and Tri-County Regional School Board – due to the inability to verify the completeness of school-based funds
- Public Trustee – due to insufficient evidence to indicate whether trust income and assets are complete
- Art Gallery of Nova Scotia – due to insufficient evidence to indicate whether revenue is complete
- Nova Scotia Agricultural College Foundation – because pledges were not recognized as revenue

7.10 A qualified audit opinion was issued for the E911 Cost Recovery Fund due to insufficient evidence to indicate whether expenses of the fund were complete. A qualified audit opinion was also issued for the Nova Scotia Health Research Foundation due to the inappropriate application of an accounting policy related to grants payable.



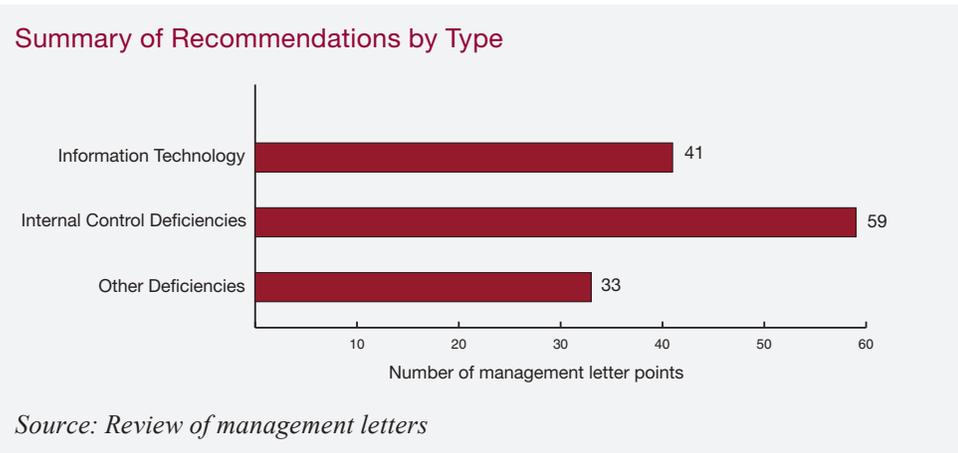
- 7.11 *Disclosed basis of accounting* – Auditors can no longer provide an unqualified opinion on general purpose financial statements prepared on a basis of accounting other than generally accepted accounting principles (GAAP).
- 7.12 A qualified audit opinion was issued for the Sherbrooke Restoration Commission. The Commission’s financial statements were prepared using accounting principles for museum boards in Nova Scotia as prescribed by the Department of Tourism, Culture and Heritage. This preparation is consistent with prior years.

Review of Management Letters

Conclusions and summary of observations

Many of the findings noted in the management letters we reviewed were reported in prior years and management have failed to respond to auditors’ recommendations for improvement. A significant number of internal control deficiencies were reported in several agencies. Examples include improperly prepared and supported account reconciliations, and poor segregation of duties. In addition, there are numerous findings and recommendations related to information technology, including system access issues such as continuing access rights for terminated employees and access rights that are in excess of those needed to perform duties.

- 7.13 *Information technology controls, and financial controls and records* – During financial statement audits, situations were noted where accounting and control systems or procedures, including those related to information technology systems, were deficient. These weaknesses were reported by the auditors in management letters to the crown corporations or agencies. Other deficiencies reported include matters related to governance and other financial reporting matters. The exhibit below provides the number of weaknesses identified by type.





- 7.14 We noted that audit findings reported in 2007-08 in each of the public sector pension plans had been addressed during the current year, and there were no findings to report in 2008-09. We acknowledge the efforts of management of these plans in implementing audit recommendations.
- 7.15 Responding to audit recommendations is indication of a strong overall control environment in an entity. The number of control recommendations that remain outstanding from one year to the next in several agencies is concerning, as is the number of new findings and recommendations. In fact, about 40% of the recommendations made in 2008-09 were repeated from 2007-08, and of these, over half had been reported in 2006-07. Management needs to address recommendations on a timely basis to ensure the integrity of their financial statements.
- 7.16 Although they were not of a magnitude to require reservation of an audit opinion, the auditors of several agencies recommended improvements regarding the deficiencies noted to ensure financial records provide complete and accurate information on a timely basis. These recommendations are detailed below.

Regional School Boards, Nova Scotia Community College and Atlantic Provinces Special Education Authority

- 7.17 *Cape Breton Victoria Regional School Board* – Numerous recommendations reported in prior year’s management letters were noted again in the current year.
- Management should determine if there is any obligation to provide future health retirement benefits to confidential employees.
 - Management needs to review the payroll register for accuracy of payroll expenses.
 - The payroll journal should be reconciled to SAP.
 - Improvements in cash flow are still needed by collecting on the March 31, 2009 accounts receivable balance.
 - Management should assess the impact of exceptions noted to control objectives in the service provider’s audit report for physical access controls, logical access controls, and application software development and implementation.
- 7.18 The auditors also noted that management of the Board develop a plan to ensure school-based funds are properly accounted for and included in the financial statements. A new recommendation is that management should perform a review of all bank accounts to ensure disclosure of all funds belonging to the Board in the financial statements.



- 7.19 *Conseil scolaire acadien provincial* – The Conseil’s auditors noted that improvements had been made over the year and that time will be needed to implement all recommendations. As in 2007-08, auditors continued to recommend a formal procedure be adopted for evaluating internal controls. Resource constraints prevented the creation of a manual. However the Conseil now has access to a template developed by another entity that it is able to adapt in the formation of its own manual.
- 7.20 With respect to school-based funds, the auditors continued to recommend that all accounts, and only those accounts and transactions, related to school-based funds be included in the system to record these funds. The establishment of an internal audit review of these funds is also still recommended from the prior year.
- 7.21 *South Shore Regional School Board and Tri-County Regional School Board* – Though the Board has made significant effort to develop an internal audit function for school-based funds in the past few years, there is still a need to establish procedures for documenting, testing and evaluating internal controls at the individual school level to ensure complete and accurate disclosure of these amounts. Auditors are also concerned with the lack of segregation of duties in the accounts payable division and in the preparation of journal entries. These weaknesses were reported in 2007-08.
- 7.22 *Strait Regional School Board* – Individual schools within the Board have made significant improvements in procedures related to school-based funds. The auditors continue to note two other findings with respect to school-based funds: the existence of pre-signed cheques and unclaimed HST rebates. At the Board level, the auditors have further recommended that management should assess the impact of exceptions noted in the service provider’s audit report related to the Board’s general ledger system.
- 7.23 *Nova Scotia Community College* – The auditors noted an instance where a test plan had not been documented for a system change. They also recommended that password policies be revised to be consistent with leading industry practice. With respect to bookstore operations, a consistent policy was needed on the timing of returns to suppliers. Auditors also advised management to review file accumulation procedures to ensure information included in personnel files is appropriate.
- 7.24 *Atlantic Provinces Special Education Authority (APSEA)* – The auditors recommended that credit card transactions be recorded in the general ledger as they are incurred, in order to facilitate the process of reconciling the monthly credit card statement. The auditors further recommended the financial statements be released on a timely basis. (These recommendations

relate to the March 31, 2008 financial statements. The March 31, 2009 financial statements have not been issued to date.)

District Health Authorities and the IWK Health Centre

7.25 *Annapolis Valley Health, South Shore Health, and South West Health* – Auditors noted control deficiencies in the use of procurement cards and recommended policies related to these cards be communicated to cardholders again. Additionally, cardholders need to approve credit card statements prior to these statements being approved by supervisors. Computer security issues were of concern this year. Password parameters were not consistent with leading practice and user accounts were not always deactivated for all systems upon termination of an employee. Physical access to the system needs to be better controlled. Management should approve all operating system changes, and changes should be tested prior to implementation. Auditors made note of the continuous improvements made by management in addressing recommendations from the 2008 audit. In addition, with respect to Annapolis Valley Health only, the auditors have recommended the entity obtain formal authorization from the Department of Health for the deferral of funds related to a redevelopment project.

7.26 *Cape Breton Health* – Numerous significant deficiencies were identified in the current year. No report was generated from the accounts payable system indicating new vendor set-up that would help detect the creation of a fictitious vendor, and inventory was not valued correctly in the system. HST claims were not supported by a detailed listing of the related purchases. Segregation of duties issues were noted in the revenue processing area and in the access to software applications, and passwords were not meeting standards. Access rights were also not updated immediately upon termination or transfer of an employee. Finally, with respect to system deficiencies, it was noted that program change controls are weak including the ability of programmers to access the live production environment. Several of these items were reported in the prior year.

7.27 Other audit observations were numerous and most related to payroll issues. Assets provided to employees such as cell phones needed to be tracked, and there was a need to reconcile data on payroll reports to the general ledger when preparing T4s. Variances between T4 amounts and payroll amounts need to be formally approved and maintained with the T4 file. The management letter highlighted that overtime paid to one employee totaled almost \$140,000 and that overtime paid to two other individuals totaled nearly \$110,000. Finally, management review and documentation of IT vulnerability assessments and authorized access were lacking.

7.28 *Colchester East Hants Health Authority* – Access control issues were highlighted in the management letter. Recommendations made in 2007-08



to strengthen password controls in two applications were not acted upon, and similar issues with another system were found in the current year.

- 7.29 *Cumberland Health Authority* – As reported in the prior year, reconciliations of supplier statements to accounts payable were not completed on a regular basis. Current year findings were related to the following: late HST reports as a result of not having filed on a monthly basis, miscellaneous MSI billings were not accrued, and an erroneous entry related to employee benefits was recorded because a reconciliation of these benefits had not been performed. Monitoring cash collection processes needs to be performed regularly, and there should be evidence of the reconciliation of accounts receivable sub ledgers to the general ledger. Development of procedures to standardize the termination system access process was recommended.
- 7.30 *Guysborough Antigonish Strait Health Authority* – Cheque numbers recorded in the general ledger for one bank account did not match the cheque numbers clearing the bank; certain accounts payable accounts remained unchanged from prior years, and system users were not required to change passwords on a regular basis. These findings were consistent with those noted in 2007-08. Current year recommendations include strengthening exception reports related to cheque disbursements in excess of \$25,000 and payroll cheques greater than \$25,000. It was also noted that the procurement binder, including approval limits, should be kept up-to-date to prevent unauthorized purchases.
- 7.31 *Pictou County Health Authority* – Consistent with weaknesses found in the 2007-08 year, password controls for certain applications could have been stronger and administrative access for a specific application needed to be reviewed for two business users to ensure there was appropriate segregation of duties. In addition, journal entries prepared by senior management were only reviewed for part of the year. Auditors recommended the Authority's use of the Province's general ledger system be included within the scope of the Province's annual system audit report.
- 7.32 *IWK Health Centre* – Issues related to prior year findings on the inventory system had been addressed by management, except that controls over entries to override the inventory system need to be improved. There were still instances where users were emulating other users in one system and also copying the access rights of another user. These were reported in the prior year. In the current year, auditors noted time processed by payroll that was not reviewed or signed off by department managers.

Entities Providing Financial Assistance

- 7.33 *Film Nova Scotia* – As reported in the prior year, the Corporation should develop a detailed tangible capital asset policy.

- 7.34 *Nova Scotia Business Inc.* – The auditors noted very little substance to support equity valuations and recommended reviewing the latest financial statements as part of the process. The auditors also recommended improvements to the valuation process including use of a checklist with probing questions, and obtaining entity interim financial statements to provide more timely information. As reported in prior years, management should consider an actuarial valuation for the public service awards liability.
- 7.35 *Nova Scotia Farm Loan Board* – The Board has made some progress in loan monitoring and documentation to support loan valuations, but the auditors were still unable to conclude on the accuracy of provisions for loan impairment, and the Board should ensure there is independent and objective support for the valuation of loans.
- 7.36 *Nova Scotia Fisheries and Aquaculture Loan Board* – The Board’s books of accounts did not report all transactions and accounts. Year end accounting processes should include preparation of a trial balance showing all accounts and adjustments to support the financial statements. There was inadequate documentation supporting the allowance amount for impaired loans and the auditors recommended formalizing and approving a process for determining the annual allowance for doubtful accounts. The Board should assess the need for an audit committee.
- 7.37 *Strategic Opportunities Fund Incorporated* – The auditors recommended considering investment opportunities for the \$9 million balance of the Fund.

Government Business Enterprises

- 7.38 *Halifax Dartmouth Bridge Commission* – The auditors recommended an allowance be established for MacPass accounts in arrears, to recognize possible collectability issues with these amounts. They have also advised that the liability recorded for customer deposits on lost or stolen transponders should be taken into income. Both recommendations were reported last year. In the current year, the auditors have recommended adjusting the liability for retiring allowances each year, and that the Commission should consider having an actuary determine this liability. The Commission should also consider restricting some of its assets to fund this liability
- 7.39 *Highway 104 Western Alignment Corporation* – No new findings were identified in the current year’s audit, but each of the 2007-08 findings remained outstanding. These related to the tolling system that had been in place during the March 31, 2009 fiscal year but which was replaced subsequent to year end. A weakness in the previous tolling system was that several users had the same passwords, and it was recommended this be taken into account in the new system.



7.40 *Nova Scotia Liquor Corporation (NSLC)* – Several observations resulting from the Province’s service auditor’s report were applicable to NSLC. The auditors specifically noted the following significant deficiencies.

- Security access should be reviewed to ensure the ability by one individual to make system changes is appropriate.
- Controls over application software development, implementation and testing should be reviewed to ensure they are operating effectively. The auditors recommended this review be conducted by internal or external auditors.

7.41 In addition, the auditors had numerous findings on other system-related matters.

- Changes to user access rights in the Warehouse Management System (WMS) need to be made on a more timely basis.
- Access rights of personnel within the IT group need to be reviewed on a periodic basis, as do access rights to certain privileged-level accounts.
- There are deficiencies in the password standards used in the WMS. The scope of the existing documented password policy at NSLC is limited to the network and should be expanded to include all significant financial applications.
- There is a lack of segregation of duties in aspects of the WMS and other financial applications.
- Requests for application access should be approved by the owner of the business application.
- Security-related logs should be independently reviewed.

7.42 Additional findings related to each of the above matters were identified in the auditor’s management letter resulting from the March 31, 2008 audit. NSLC had addressed several findings but the above remained outstanding at March 31, 2009.

Pension Funds

7.43 *Members’ Retiring Allowances Act accounts* – Consistent with 2007-08 recommendations, management should ensure the pension confirmation process is applied to all pensioners. In the 2008-09 year, the process was not applied to retired MLAs. Also consistent with prior year recommendations, the Plan needs a formal amendment to reflect previously approved changes so a formal waiver can be obtained from the Canada Revenue Agency. Auditors also recommended management amend the legislated interest

rate. In the current year, it was noted that journal entries were approved by an individual without proper authorization per the signing authority book.

Other Agencies

- 7.44 *Canada-Nova Scotia Offshore Development Board* – The Board should continue to assess the on-line payment system to ensure that all safeguards are being followed and that passwords to this system are routinely changed. Also, the Board should consider restricting a further amount to make up the funding shortfall of pension and other retirement obligations.
- 7.45 *Canadian Blood Services* – Procedures to remove user access for former employees need to be complied with. Also, the auditors recommended that a complete audit trail is implemented to ensure all system jobs have been run to normal completion, and access to the general ledger batch job administrative functions should be reviewed and restricted to a small group of IT staff.
- 7.46 *Canadian Sport Centre Atlantic* – The auditors noted all the observations and recommendations resulting from the March 31, 2008 audit were still relevant. In the current year, they recommended an accounts receivable subledger be created and reconciled to the general ledger each month, and that the payroll register and prepaid payroll account be reviewed on a monthly basis.
- 7.47 *Nova Scotia Crop and Livestock Insurance Commission* – The Commission should continue to move forward with the development of a new information system. Incorrect rates were used in the calculation of insurance premiums due to errors in manual spreadsheets. The Commission should check all calculations for accuracy before insurance coverage is written. Monthly reconciliations should be completed for government accounts receivable, premium revenue, and claims to ensure submissions are accurate and complete.
- 7.48 *Nova Scotia Gaming Foundation* – Auditors identified the Foundation’s non-compliance with the Memorandum of Agreement with the Department of Health Promotion and Protection in 2007-08, and repeated this finding in 2008-09. Management should document review of bank reconciliations. Finally, the Board of the Foundation should develop a process for monitoring compliance with the investment policy, and for measuring performance of the investment manager.
- 7.49 *Nova Scotia Health Research Foundation* – Auditors recommended management review the payroll summary for each payroll cycle to ensure all changes were appropriate.



- 7.50 *Nova Scotia Housing Development Corporation* – The auditors recommended an annual review of access privileges for all user accounts be performed, and that the change management process be expanded to include documentation of these changes, and approvals. Internal control weaknesses in three housing authority offices were identified, including lack of segregation of duties.
- 7.51 *Nova Scotia Innovation Corporation (InNOVAcorp)* – Management should consider modifying the security access rights of senior financial reporting personnel to remove their ability to post journal entries.
- 7.52 *Nova Scotia Primary Forest Products Marketing Board* – Working papers prepared for the audit should reconcile to the general ledger.
- 7.53 *Nova Scotia Public Service Long-Term Disability Trust Fund* – As in the prior year, the auditors encouraged the formation and greater use of committees such as investment, benefit, and human resource committees. Authority to withdraw investment funds has not yet been established.
- 7.54 *Nova Scotia School Boards Association* – The audit committee should conduct periodic testing to monitor compliance with Board policies and procedures. A written policy should be established for investing surplus funds. There should be an approval process for expenses exceeding a predetermined amount. Finally, the Association should investigate its eligibility to apply for the GST rebate available to non-profit organizations.
- 7.55 *Nova Scotia Utility and Review Board* – The Board should continue to evaluate its IT processes and policies and implement changes similar to those made by government in response to the April 2009 Report of the Auditor General, and should also consider these recommendations during the selection and implementation of its new IT system for the Motor Carrier Division. It was also noted that stale-dated cheques should be investigated and removed from the bank reconciliations.
- 7.56 *Public Trustee Trust Funds* – The Public Trustee should develop a system to ensure revenue and expense transactions are properly classified as they are recorded. The financial statements should be prepared on an accrual basis to be in compliance with GAAP. The Public Trustee should establish a policy for valuing real estate and should also investigate and remove stale-dated cheques.
- 7.57 *Resource Recovery Fund Board* – The auditors continue to recommend that password setting and user access for certain applications be reviewed. They also recommended that change management policies and procedures be developed and documented. In addition, the auditors recommended

that formal approval be obtained from the Board of Directors for the postponement of payments on a note receivable, and additional documentation on the continuation of a customer's personal guarantee.

- 7.58 Sydney Tar Ponds Agency (STPA) – The auditors noted that the Province has the ability to post transactions to the STPA general ledger. They have recommended these entries should only be made to reflect payments made by the Province on behalf of the Agency. The auditors have further recommended the Agency establish an audit committee.
- 7.59 *Waterfront Development Corporation* – The Board should approve all dividends paid and the Controller should not prepare journal entries. Both findings were noted in the prior year.

Timeliness of Financial Reporting

Conclusions and summary of observations

The usefulness of financial information is impacted by its timeliness. Management of all agencies within the government reporting entity need to ensure their financial statements are released as required by legislation. Timely financial results are important for decision-making purposes.

- 7.60 *Compliance with deadlines* – The Provincial Finance Act requires that financial statements for government business enterprises and government units be submitted to the Minister of Finance by June 30 following their fiscal year end (usually March 31).
- 7.61 There continue to be problems with receiving submissions by the deadline although the number of agencies in violation of this deadline has decreased by over 50% for the year ended March 31, 2009. This year, 11 agencies (2008 – 32) were not successful in providing audited financial statements and requested information by June 30. Four of these agencies were also late in providing the requested information on time in 2008. This delay results in using unaudited information for planning and monitoring purposes in the current year. The exhibit below provides a complete list of late agencies for 2008-09.



Late Agencies

Atlantic Provinces Special Education Authority	Nova Scotia Municipal Finance Corporation
Conserve Nova Scotia	Nova Scotia Strategic Opportunities Fund Inc.
Industrial Expansion Fund	Provincial Drug Distribution Program
Nova Scotia E911 Cost Recovery Fund	Public Trustee Trust Funds
Nova Scotia Farm Loan Board	Trade Centre Limited
Nova Scotia Housing Development Corporation	

REVIEW OF AGENCY FINANCIAL STATEMENTS AND MANAGEMENT LETTERS

7.62 The Province's March 31, 2009 consolidated financial statements were released on September 10, 2009 meeting the reporting requirement set out in the Provincial Finance Act.

Appendix



An Act Respecting the Office of Auditor General

Short title

1 This Act may be cited as the Auditor General Act. *R.S., c. 28, s. 1.*

APPENDIX I

Interpretation

2 (1) In this Act,

(a) “agency of government” means any department, board, commission, foundation, agency, association or other body of persons, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors of which,

(i) are appointed by an Act of the Legislature or by order of the Governor in Council, or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

(b) “Auditor General” means a person appointed pursuant to this Act and includes any person appointed in his place and stead;

(c) “Minister” means the Minister of Finance;

(d) “public property” means property immovable or movable, real or personal, belonging to Her Majesty in right of the Province and includes property belonging to an agency of Her Majesty in said right.

(2) Unless otherwise provided in this Act, the words and expressions used herein have the same meaning as in the Provincial Finance Act. *R.S., c. 28, s. 2.*

Auditor General and Deputy Auditor General

3 (1) Subject to the approval of the House of Assembly by majority vote, the Governor in Council shall appoint a person to be the Auditor General.



(1A) Subject to subsection (1B), the Auditor General holds office for a term of ten years and may not be re-appointed.

(1B) The Governor in Council shall remove the Auditor General on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members of the House of Assembly voting thereon requiring the Governor in Council to remove the Auditor General from office.

(2) The Auditor General shall be paid out of the Consolidated Fund of the Province such salary as the Governor in Council determines.

(3) Notwithstanding subsection (2) hereof, the salary of the Auditor General shall not be reduced by the Governor in Council except on the passing by the House of Assembly of a resolution carried by a vote of two thirds of the members of the House of Assembly voting thereon requiring the Governor in Council so to do.

(4) Upon written advice of the President of the Executive Council and the Leader of the Official Opposition, the Governor in Council may, at any time the Legislature is not in session, suspend the Auditor General for cause, but the suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.

(5) The Governor in Council may appoint a person to be Deputy Auditor General who shall hold office during pleasure and shall be paid such salary as the Governor in Council determines and shall perform such duties as are assigned to him by the Auditor General and who shall during any vacancy in the office of the Auditor General or during the illness or absence of the Auditor General have and exercise all the powers of the Auditor General.

(6) Such officers and employees as are necessary to enable the Auditor General to perform his duties shall be appointed in accordance with the Civil Service Act.

(7) The Auditor General and the Deputy Auditor general shall be qualified auditors. *R.S., c.28, s.3; 2005, c.13, s.1.*

Experts

4 (1) The Auditor General may engage the services of such counsel, accountants and other experts to advise him in respect of matters as he deems necessary for the efficient carrying out of this duties and functions under this Act.

(2) The compensation paid to those persons mentioned in subsection (1) hereof shall be determined by the Auditor General within the total dollar limitations established for the Office of the Auditor General in The Appropriations Act for the year in which the compensation is paid and shall be paid out of the Consolidated Fund of the Province. *R.S., c.28, s.4.*

Oath

APPENDIX I

5 (1) The Auditor General and every officer, agent and other person employed in the execution of any duty under this Act or under any regulations made hereunder, before entering upon his duties, shall take and subscribe to the following oath:

I,solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the Office of the Auditor General and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. So help me God.

(2) This oath shall be taken before such person, and returned and recorded in such manner, as the Governor in Council prescribes. *R.S., c.28, s.5.*

Public Service Superannuation Act

6 The Auditor General and all officers and employees of the Auditor General are employees within the meaning of the Public Service Superannuation Act and are entitled to all benefits therein set forth. *R.S., c.28, s.6.*

Powers and duties

7 (1) The Auditor General shall supervise and be responsible for all matters relating to the conduct of his office and of persons employed by him and shall have all the powers and perform all the duties conferred and imposed upon him by this Act, any other Act and the Governor in Council.

(2) The Auditor General may delegate to any person employed by him any duty, act or function that by this Act he is required to do other than reporting to the House of Assembly or to the Governor in Council. *R.S., c.28, s.7.*



Examination of account

8 The Auditor General shall examine in such manner and to the extent he considers necessary such of the accounts of public money received or expended by or on behalf of the Province, and such of the accounts of money received or expended by the Province in trust for or on account of any government or person or for any special purposes or otherwise, including, unless the Governor in Council otherwise directs, any accounts of public or other money received or expended by any agency of government appointed to manage any department, service, property or business of the Province, and shall ascertain whether in his opinion

- (a) accounts have been faithfully and properly kept;
- (b) all public money has been fully accounted for, and the rules and procedures applied are sufficient to secure an effective check on the assessment, collection and proper allocation of the capital and revenue receipts;
- (c) money which is authorized to be expended by the Legislature has been expended without due regard to economy or efficiency;
- (d) money has been expended for the purposes for which it was appropriated by the Legislature and the expenditures have been made as authorized; and
- (e) essential records are maintained and the rules and procedures applied are sufficient to safeguard and control public property. *R.S., c.28, s.8.*

Annual report

9 (1) The Auditor General shall report annually to the House of Assembly on the financial statements of the Government that are included in the public accounts required under Sections 9 and 10 of the Provincial Finance Act, respecting the fiscal year then ended.

- (2) The report forms part of the public accounts and shall state
 - (a) whether the Auditor General has received all of the information and explanations required by the Auditor General; and
 - (b) whether in the opinion of the Auditor General, the financial statements present fairly the financial position, results of operations and changes in financial position of the Government in accordance with the stated accounting policies of the Government and as to whether they are on a basis consistent with that of the preceding year.

(3) Where the opinion of the Auditor General required by this Section is qualified, the Auditor General shall state the reasons for the qualified opinion. *1998, c.5, s.1.*

Other reports

9A (1) The Auditor General shall report annually to the House of Assembly and may make, in addition to any special report made pursuant to this Act, not more than two additional reports in any year to the House of Assembly on the work of the Auditor General's office and shall call attention to every case in which the Auditor General has observed that

(a) any officer or employee has willfully or negligently omitted to collect or receive any public money belonging to the Province;

(b) any public money was not duly accounted for and paid into the Consolidated Fund of the Province;

(c) any appropriation was exceeded or was applied to a purpose or in a manner not authorized by the Legislature;

(d) an expenditure was not authorized or was not properly vouched or certified;

(e) there has been a deficiency or loss through fraud, default or mistake of any person;

(f) a special warrant, made pursuant to the provisions of the Provincial Finance Act, authorized the payment of money; or

(g) money that is authorized to be expended by the Legislature has not been expended with due regard to economy and efficiency.

(2) The annual report of the Auditor General shall be laid before the House of Assembly on or before December 31st of the calendar year in which the fiscal year to which the report relates ends or, if the House is not sitting, it shall be filed with the Clerk of the House.

(3) Where the Auditor General proposes to make an additional report, the Auditor General shall send written notice to the Speaker of the House of Assembly thirty days in advance of its tabling or filing pursuant to subsection (2).

(4) Whenever a case of the type described in clause 1(a), (b) or (e) comes



to the attention of the Auditor General, the Auditor General shall forthwith report the circumstances of the case to the Minister.

(5) The Auditor General shall, as soon as practical, advise the appropriate officers or employees of an agency of Government of any significant matter discovered in an audit.

(6) Notwithstanding subsection (1), the Auditor General is not required to report to the House of Assembly on any matter that the Auditor General considers immaterial or insignificant. *1998, c.5, s.1.*

Review and opinion of revenue estimates

9B (1) The Auditor General shall annually review the estimates of revenue used in the preparation of the annual budget address of the Minister of Finance to the House of Assembly and provide the House of Assembly with an opinion on the reasonableness of the revenue estimates.

(2) The opinion of the Auditor General shall be tabled with the budget address. *1998, c.5, s.1.*

Access to information

10 (1) Notwithstanding the provisions of any other Act, every officer, clerk or employee of an agency of government shall provide the Auditor General with such information and explanation as the Auditor General requires and the Auditor General shall have free access, at all times, to the files, records, books of account and other documents, in whatever form, relating to the accounts of any agency of government.

(2) The Auditor General, if he deems it expedient, may station one or more of his officers in any agency of government to enable him more effectively to carry out his duties under this Act, and the agency of government shall provide necessary office accommodation for such officer or officers. *R.S., c.28, s.10.*

Audit before payment

11 (1) The Auditor General, if directed by the Governor in Council, shall audit the accounts of any agency of government before payment.

(2) Where the Auditor General is directed to audit, before payment, certain accounts or classes of accounts, no payment of such accounts may be made until the Auditor General has certified them to be correct or the Minister directs. *R.S., c.28, s.11.*

Examination of security

12 The Auditor General may examine in such manner and to the extent he considers necessary such of the securities representing any debt of the Province which have been redeemed and cancelled. *R.S., c.28, s.12.*

APPENDIX I

Security required

13 The Auditor General shall require every person employed by him who examines the accounts of an agency of government to comply with any security requirements applicable to officers and employees of that agency of government. *R.S., c.28, s.13.*

Powers, privileges, immunities

14 The Auditor General shall have, in the performance of his duties, the same powers, privileges and immunities as a Commissioner appointed under the Public Inquiries Act. *R.S., c.28, s.14.*

Special audit and report

15 Notwithstanding any provision of this Act, the Auditor General may, and where directed by the Governor in Council or the Treasury and Policy Board shall, make an examination and audit of

(a) the accounts of an agency of government; or

(b) the accounts in respect of financial assistance from the government or an agency of the government of a person or institution in any way receiving financial assistance from the government or an agency of government,

where



NOVA SCOTIA

(c) the Auditor General has been provided with the funding the Auditor General considers necessary to undertake the examination and audit; and

(d) in the opinion of the Auditor General, the examination and audit will not unduly interfere with the other duties of the Office of the Auditor General pursuant to this Act,

and the Auditor General shall perform the examination and audit and report thereon. *R.S., c.28, s.15; 2005, c.13, s.2.*

APPENDIX I

Payment for statutory audit

16 (1) Where under this Act or any other Act of the Legislature, the Auditor General is, or may be, required to examine and audit or inquire into the accounts of any agency of government, the Governor in Council may direct that the cost of the examination and audit or inquiry be paid by that person, institution or agency of government, and upon such direction such payment shall be made.

(2) The Auditor General may charge fees for the examination and audit or inquiry, or such other professional services rendered by the Office of the Auditor General, on the basis approved by the Treasury and Policy Board. *R.S., c.28, s.16; 2005, c.13, s.3.*

Examination by chartered accountant

17 (1) Where the Governor in Council pursuant to this Act or any other Act has directed that the accounts of public money received or expended by any agency of government shall be examined by a chartered accountant or accountants other than the Auditor General, the chartered accountant or accountants shall

(a) deliver to the Auditor General immediately after the completion of the audit a copy of the report of findings and recommendations to management and a copy of the audited financial statements relating to the agency of government; and

(b) make available to the Auditor General, upon request, and upon reasonable notice, all working papers, schedules and other documentation relating to the audit or audits of the agency accounts.

(2) Notwithstanding that a chartered accountant or accountants other than the Auditor General have been directed to examine the accounts of an agency of government, the Auditor General may conduct such additional examination and investigation of the records and operations of the agency of government as he deems necessary. *R.S., c.28, s.17; revision corrected 1999.*

Where other auditor designated

18 Nothing in this Act shall be construed to require the Auditor General to audit or report upon the accounts of any agency of government if the Governor in Council, in pursuance of statutory authority in that behalf, has designated another auditor to examine and report upon the accounts of the agency of the government. *R.S., c.28, s.18.*

Powers and authorities

19 The Auditor General shall have all the powers and authorities exercisable by a deputy head under the Civil Service Act. *R.S., c.28, s.19.*

Regulations

20 The Governor in Council may make such regulations as are deemed expedient for the better carrying out of this Act. *R.S., c.28, s.20.*

Annual estimate

21 The Auditor General shall prepare annually an estimate of the sums required to be provided by the Legislature for the carrying out of this Act during the fiscal year, which estimate shall be transmitted to the Treasury and Policy Board for its approval, and shall be laid before the Legislature with the other estimates for the year. *R.S., c.28, s.21; 2005, c.13, s.4.*

Expenses

22 The expenses to be incurred under this Act shall be paid out of the Consolidated Fund of the Province. *R.S., c.28, s.22.*



Regulations Act

23 Regulations made by the Governor in Council pursuant to Section 20 shall be regulations within the meaning of the Regulations Act. *R.S., c.28, s.23.*

APPENDIX I

