Office of the Auditor General

Auditor General's Statement to the Media

Release of Fall 2011 Report to the Nova Scotia House of Assembly

11/16/2011

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Good afternoon, ladies and gentlemen.

Today, I am presenting a Report to the House of Assembly on performance audits completed by my Office during the summer and fall of this year.

I want to thank my staff for their determination and dedication to this important work. I also want to thank public servants in departments and agencies across government for their continued understanding and assistance, both of which are vital to the success of these audits.

In that regard, I must report with disappointment that one agency of government – the Canada Nova Scotia Offshore Petroleum Board – denied us access to information we needed to conduct an audit of that federal-provincial body. That denial came at the instruction of the operators of Nova Scotia's offshore gas developments, ExxonMobil and EnCana. It places the Board in contravention of the Nova Scotia Auditor General Act. More to the point, it is contrary to the principles of open and transparent government – principles I believe to be fundamental tenets of good government.

I will return to that in a moment.

The Report I am releasing today contains six chapters, including my introductory comments and five audits. I will start with the good news.

The province has taken appropriate action to address recommendations of the *Nunn Commission of Inquiry* related to youth justice in the province. Thirty-one of the 34 recommendations of the commission have been implemented.

We recommend the government act on the remaining three. We recommend in particular that the Justice Department re-evaluate its position related to youth bail supervision. Justice Nunn recommended bail supervision as an intermediate option between pretrial detention and release with conditions for young people facing criminal charges. The Department implemented but later cancelled a bail supervision program citing budgetary restraint and limited use of the program. This leaves a gap in pretrial options and removes an opportunity identified by Justice Nunn to support youth in trouble.

Also on the positive side, we report that the Department of Community Services and Department of Health and Wellness have good processes in place to investigate allegations of abuse in provincially-licensed residential facilities such as group homes, rehabilitation centres, nursing homes, and hospitals. Our office does recommend, however, that an appeals process be implemented to provide an avenue for complainants who may not be satisfied with the resolution of their issues.

Persons in care are a vulnerable sector of our society. These individuals deserve every possible protection from abuse. An effective appeal process would strengthen that protection. It is an important component of any complaints-based program.

Moving on to areas where results were perhaps less encouraging, we conducted an audit to determine if, in the event of a disastrous service interruption at the provincial data centre, the government is capable of an orderly and timely recovery of all its computer systems. It is not.

The Chief Information Office does not have an adequate disaster recovery plan for the nonfinancial information systems it supports. As a result, in a crisis, important services like income assistance payments could be in jeopardy; critical data such as property and business records could be at risk and public safety could be compromised should police, jails and courts be unable to access information.

On the other hand, disaster preparedness for the province's major financial systems, managed by the Department of Finance, was found to be good.

In general, the government is not fully prepared to deal with extended disruptions caused by hacker attacks, fire, loss of power, or damage to the building where much of its technology is housed. For example, the data centre's servers are located directly above a records warehouse full of boxes of paper stacked from floor to ceiling. Fire, therefore, is not an inconsiderable risk.

The Chief Information Office is working on a disaster recovery plan, but it is at least six months behind schedule and no new target has been set for completion.

Our audit of the Department of Agriculture's meat inspection program identified another kind of risk.

The Department is not adequately managing its duty to audit – in other words, inspect – facilities that process meat or slaughter animals for human consumption. That failure increases public health risks associated with meat and meat products.

While inspections of slaughtering activities are conducted as required, we found that departmental audits of slaughterhouses and meat processing facilities are not being done with regularity or consistency, and there is little enforcement of compliance by the facilities with regulations and standards, when problems are discovered.

The Department says its policy is for monthly facilities audits when plants are in operation. Yet 11 of 24 slaughterhouses operated for up to a year or more without an audit. Similar gaps were apparent in meat processing plants, where 7 of our sample of 10 plants went for up to a year or more of operations without an audit.

Guidance given to inspectors is inadequate and allows inconsistencies. For instance, regulations call for sanitary facilities, but do not define how inspectors are to determine that; inspectors therefore rely on visual assessment and judgement. There is no requirement to test for bacteria – a gap we recommend be evaluated.

In 21 of 133 cases where deficiencies were cited, the same problems were found in subsequent inspections. The majority of these deficiencies related to sanitary conditions, suggesting that some operators are not taking meat safety as seriously as they should.

One facility was cited for the same deficiency on four successive occasions over a 30-month period. The deficiency, while considered low risk, was nevertheless a violation of the Meat Inspection Act. Yet no action was taken to enforce compliance.

Failure to enforce the Act and regulations reduces the incentive for facilities to correct problems that could impact the safety of meat.

Finally, the shortest chapter in our Report, dealing with the Canada Nova Scotia Offshore Petroleum Board, owes its brevity to the fact that we discontinued the audit.

We are unable to provide assurance to the legislature or the people of Nova Scotia that the Board is properly meeting its regulatory responsibilities – to ensure offshore activities are conducted safely, with due regard for the environment and protecting the interests of the public, the ultimate owners of the resource.

We believe the exercise of these responsibilities should be open and transparent. It is not.

The Board wanted our assurance that any information provided to it by the operators – ExxonMobil and EnCana – that is not already public, would not be disclosed in our audit report without the approval of the operators. Without that assurance – which we will not provide – the Board, on instructions from the operators, would not release the information we required to conduct our audit.

The resources these companies develop belong to the people of Nova Scotia and Canada. The manner in which this activity is conducted is, therefore, a matter of public interest.

Had we agreed to the conditions set down by the Board and the operators we would, in effect, have signed away our ability to inform the legislature and Nova Scotians about matters they have every right to know.

If we did nevertheless conduct an audit, and a dispute later arose between our Office and an operator about disclosure, the matter could only be resolved in the courts. Given that ExxonMobil's annual earnings are more than three times the entire budget of Nova Scotia, it would be folly to engage them in a prolonged legal battle.

I'm sure you know that my office is always respectful of the sensitivity of information we examine.

However, without the unfettered ability to report what we find, we had no tenable alternative but to abandon our audit of the Board.

The Board does not agree with me. I have received a letter from the Board, in which they express their disagreement with my position and take issue with a number of points and some of our language. They feel, in particular, that:

- our disagreement is about interpretation of our respective legislation – the Accord Acts and the Auditor General Act;
- they do not see why we should need to disclose information about operators, as this was an audit of the Board;
- they take issue with our characterization of the Board as acting on the instruction of the operators;
- they dispute our statement that we were denied most of the information we required;
- they believe we were free to report on the board's performance and were only restricted in reporting information from the operators; and
- they reject our contention that oversight of the Board is negligible, and provide information to the contrary.

We could argue about all these points, but few are relevant.

What is relevant is that we did not conduct the audit because the Board refused to provide a large part of the information we requested, unless we agreed not to disclose it without permission from the operators. They feel they can legally do this. I do not agree. And as a matter of principle, I will not conduct an audit in which the subject of the audit is able to dictate what I can disclose in my report.

We began this audit in cooperation with the office of the Commissioner of the Environment and Sustainable Development of the Auditor General of Canada. As of this moment, the federal audit is proceeding, under conditions we do not accept. That is their decision and their right. I will not speak for them on this issue.

Ladies and Gentlemen, there are 43 recommendations in this report, designed to improve the operations of government in the Province. We will as usual, follow up in two years with the expectation that they will have been substantively addressed.

Thank you. I will now take your questions.