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Introductory Comments

Timeliness

1.1 At the time of writing of this annual Report, it appears that the Province's audited financial statements for the year ended 31 March 2003 will not be issued until at least November 2003. This would be more than seven months after year end. In order for information to be used for decision-making and accountability, it must be timely. When a government is already seven months into the next fiscal year, decisions made using this information could have limited benefit. But perhaps more importantly, is the fact that the taxpayers are still waiting to see how their money was spent. Some provinces in Canada release their audited financial statements before the end of June. Our own Province should adopt a similar reporting regime.

This year's Report will be in two volumes

1.2 The annual Report of the Auditor General normally includes a chapter on financial indicators. However, due to the government's lateness in closing its accounts we were not able to include such comments in this volume. We intend to prepare a second volume of the Report, which will include our financial observations, and this volume will be released early in the new calendar year. We also plan to include in that volume work we have done on the management of absenteeism, focusing on sick leave. My Office is also doing work on the salmon aquaculture industry and our findings are expected to be published in June 2004. The Federal Auditor General's Office and the Office of the Auditor General of British Columbia are also examining the salmon industry and we are planning a joint release of our reports.

1.3 There are a number of issues that I would like to raise in this chapter, some related to the projects we did this year, some related to operations of the Office of the Auditor General and others of a more general nature. I will start by emphasizing the importance of good governance and accountability.

Comments on this year's work

Governance

1.4 Over the past few years, there have been a number of private sector scandals that have resulted in the collapse of companies like Enron in the U.S. and Bre-X Minerals in Canada. These scandals have caused an increase in the public awareness and interest in issues of board governance and accountability. These boards of directors did not represent the best interests of the shareholders who appointed them. Further, they added little or no value to the corporations they were governing and instead blindly followed the advice of, and supported the decisions of, senior management.

1.5 In 2001, the Joint Committee on Corporate Governance, which included the Canadian Institute of Chartered Accountants and the Toronto Stock Exchange, had this to say in their final report:

> *The objective of good governance is to promote strong, viable and competitive corporations.*

1.6 So, when examining the governance of any corporation it is important to have the right checks and balances in place to avoid poor governance. It is equally important to have the mechanisms in place to promote good governance.

1.7 The extent to which government services are delivered in New Brunswick through Crown agencies is significant. For instance, eight regional health authorities are responsible for the delivery of a large part of the Province's health care. And Crown agencies have been created to look after the distribution and sale of liquor products, the provision of electricity needs, the delivery of regional development programs and the management of over $5 billion in pension fund assets. There are approximately thirty-five organizations listed in the government's financial statements that have been given responsibility to deliver government services and who in turn are accountable to the Legislative Assembly. That is why the principles of good governance and accountability are so important. And this is why we undertook five governance-related projects between 1996 and 2000, culminating in a comprehensive project on Crown agency governance on which we are reporting this year. The results of our work are found in chapter 6. In total we made 19 recommendations covering practically every aspect of corporate governance. Action on these recommendations will without question improve our corporate governance culture but more importantly will enhance accountability and in the long run improve corporate performance. I hope that our observations and recommendations are seen in this light…. as an attempt to improve corporate performance.

1.8 On a related matter, I am reporting in our follow-up chapter 7 that in 1999 the board of directors of New Brunswick Liquor Corporation disagreed with 13 of the 19 recommendations we made as a result of reviewing their governance and accountability structures. I was surprised to learn this because in almost every instance the recommendation was promoting a practice that is seen to be generally accepted. Recently I have been informed that the current board has taken a number of initiatives and plans to undertake others to "promote effective Board Governance and provide greater accountability to our shareholders". I am encouraged by this and trust that the work we are reporting on this year will help the Corporation, other Crown agencies and government improve governance practices in the Province of New Brunswick.

Accountability

1.9 This year we also undertook an audit on the accountability of psychiatric hospitals and psychiatric units. The genesis for this audit was similar to that of Crown agency governance, in that more and more

services are being delivered outside the direct control of a government department. For instance, many health services such as addiction services, extramural care, cancer care, cardiac care and mental health services are under the management of the Regional Health Authorities. With growing control at the regional level and more money being spent to support regional operations, it becomes increasingly important to have central mechanisms in place to ensure the government is achieving its objectives in these programs. The results of work in this area are found in chapter 4. Our overall conclusion was that the Department of Health and Wellness does not have appropriate accountability processes in place for the operations of psychiatric hospitals and psychiatric units. In other words it is not receiving sufficient information to evaluate performance. My Office's work in this area will be of even greater value to the government and Legislative Assembly (and ultimately to the citizens of the Province) if it is used as a basis to evaluate other situations where service is being delivered outside the direct control and supervision of a department.

Child day care facilities

1.10 The Legislative Assembly has passed legislation, and the government has established standards for child care facilities in the Province of New Brunswick. We thought the Members would be interested in knowing whether or not the Department of Family and Community Services has appropriate policies and procedures to ensure there is compliance with the legislation and standards. We found that while the Department has established processes for approving and inspecting day care facilities, they are not adequate and they do not always ensure compliance with legislation and standards. The results of this work are found in chapter 2.

Tax expenditures

1.11 In chapter 3, we make some observations and recommendations concerning tax expenditures. "Tax expenditures" is the term given to foregone revenues due to special exemptions, deductions, or rebates that reduce the amount of tax that would otherwise be payable to the Province. For instance, the sales tax exemptions on gasoline used by farmers and fishermen would be a tax expenditure. As a result of our work, we have noted that tax expenditures do not receive the same annual scrutiny and approval by the Legislative Assembly as ordinary expenditures. Furthermore there is no public reporting on the effectiveness of these programs.

Management of insurable risks

1.12 In the late 1980s the government decided to no longer insure provincial buildings, meaning that all losses related to events such as fire would be borne by the taxpayers. We were interested in determining how the Department of Supply and Services manages the risks for the public buildings it is responsible for. In other words, what steps are being taken to minimize the risk of a loss occurring to one of our buildings? The results of our work are found in chapter 5.

Comments on action taken to address recommendations of prior years

1.13 I will highlight a number of issues from our follow-up chapter 7 on prior years' recommendations. Our policy is to track the disposition of our recommendations for a period of four years after they first appeared in our Report.

In some cases there have been few recommendations adopted

1.14 This is the last year we will be reporting on our 1999 work on the Department of Health and Wellness' role in food safety standards, and on governance at New Brunswick Liquor Corporation. In 1999 we made 36 recommendations related to the Department's role in ensuring food service establishments comply with food safety standards. Only four recommendations have been implemented since that time. I am very disappointed to see such slow progress in an area that is directly related to the safety of our citizens. All of the recommendations that have not been acted upon are listed in chapter 7. The thirteen recommendations that were not agreed to by the New Brunswick Liquor Corporation are also listed in chapter 7.

There has been a very positive response to some audit recommendations

1.15 Most of our follow-up findings have been positive. In 2001 we made 74 recommendations as a result of an audit of the Pupil Transportation Branch within the Department of Education. In two years the Department has implemented fifty recommendations and partially implemented another fourteen. This is a significant accomplishment. Also the Department of Agriculture, Fisheries and Aquaculture has implemented all eight recommendations related to an audit of controls over cash handling and inventory and the Department of Finance has implemented all six of our recommendations related to a review of a new automated accounts receivable system.

Adoption of some recommendations is beyond the responsibility of one department

1.16 I draw the attention of the Members of the Legislative Assembly to four recommendations that we made in 2000 as a result of a review of legislation in the Department of Agriculture, Fisheries and Aquaculture. These recommendations were made with the objective of assisting the Legislative Assembly in fulfilling its responsibility of ensuring legislation is being effective and relevant. While the recommendations were made initially to the Department they are applicable to all departments that are responsible for administering legislation. The four recommendations are found in paragraphs 7.98 to 7.102. I hope that both the Legislative Assembly and the government will see the value in these recommendations and that appropriate action will be taken.

New appendix

1.17 I have added a new feature this year to our annual Report and that is a brief description of all significant audits we have conducted in departments and Crown agencies over the past six years. This information has been grouped by department and agency and is found in Appendix 1.

Comments on the operations of my Office

1.18 There are three issues concerning the operations of the Office of the Auditor General that I am bringing to the attention of the Legislative Assembly. I believe these issues are extremely important because they relate directly to the Legislative Assembly's responsibility to hold the

government of the day accountable and the ability of the Auditor General to act independently. And they can only be resolved by the Legislative Assembly. The issues are:

- the process for approving the annual budget of the Office of the Auditor General;
- my Office's current budget situation; and
- the method of appointing the Auditor General.

The process for approving the annual budget of the Office of the Auditor General

1.19 Section 17(1) of the *Auditor General Act* requires the Auditor General to submit a budget request annually to the Board of Management. The Board of Management, which is a sub-committee of Cabinet, makes the final determination of the amount included in the Main Estimates for the operations of the Office. So, in effect, the body we are mandated to audit determines the amount to fund our operations.

1.20 It is interesting to note that section 4(4) requires the Auditor General to determine the manpower requirements of the Office, but of course this has no meaning if the funding is not provided. Of greater concern, however, is that the body I report to, the Legislative Assembly, is not involved in the process at an early enough stage to allow it to significantly influence the outcome.

1.21 The budgets of at least seven audit offices are submitted directly to committees of the Legislative Assembly for approval in compliance with the legislation of those provinces. In one jurisdiction (Ontario), the budget is submitted initially to the government, then to a committee of the Legislative Assembly. In this case, there is provision for the chair and vice-chair of the Public Accounts Committee to attend meetings of the Board of Management when the budget of the audit office is reviewed.

1.22 The independence of the Office would be greatly enhanced and the Legislative Assembly would have increased assurance that the Office was capable of fulfilling its responsibilities, if the Legislative Assembly or a legislative committee was involved in the budget review process.

1.23 In my 2001 annual Report I pointed out that, since I am an Officer of the Legislative Assembly, I should have a legislative committee that I can approach on matters of an administrative nature. Reviewing my Office's annual budget could be one of those administrative matters.

My Office's current budget situation

1.24 As a result of the current arrangement, the Legislative Assembly is not aware of any requests for increased personnel or funds which are not accepted by the Board of Management. While my Office has on a number of occasions accepted government budget guidelines, we have on other occasions requested extra staff and associated funding. They were not approved. As a result, my current funding supports a staff of 23, whereas seven years ago it supported 27.

1.25 For the 2004-05 fiscal year I will be requesting, under subsection 4(4) of my Act, two additional senior auditors and under subsection 17(1) an increase of $200,000 in funding. The extra staff is necessary to provide more extensive audit coverage in health, education, the environment and automated systems, areas of financial significance that have an impact on all New Brunswickers. The extra funding is to cover the cost of the extra staff, and to provide adequate funding for training, technology and other support services.

Method of appointing the Auditor General

1.26 The Auditor General is an Officer of the Legislative Assembly who by legislation is granted a term of office between five and ten years and can only be removed from the position on a two-thirds vote of the Legislative Assembly. This provides important independence to the Auditor General, but there is a serious shortcoming surrounding the method of appointment. Section 3(1) of the *Auditor General Act* gives the Lieutenant-Governor in Council the responsibility to appoint the Auditor General. There is no provision in the Act for government to consult with the other parties in the Legislature. In effect the power to appoint the auditor has been given to the body that the auditor will be auditing. This should be of concern to the Legislative Assembly which looks to the Auditor General for objective information and independent advice.

1.27 Since the Auditor General must be a non-partisan appointment, there should be some involvement of all political parties in the process. I understand that this has been done in the past as a matter of courtesy, but there is no requirement to do so. In British Columbia, the appointment follows a recommendation from a special committee of the Legislative Assembly and the Legislative Assembly itself. The Legislative Assembly is also directly involved in the appointment in Alberta, Ontario, Quebec and Newfoundland. In Saskatchewan and Ontario, there is consultation with the Chair of the Public Accounts Committee. The Auditor General must be independent and be seen to be independent. I ask that action be taken to ensure there is involvement by the Legislative Assembly in the appointment of all future Auditors General.

Other comments of a general nature

Risk management

1.28 In two of our audits this year we made recommendations concerning risk management. For instance in our audit of child day care facilities we said the Department of Family and Community Services "... should use a risk management approach or have a standard method of prioritizing inspection work for the Day Care Services Program." And in our audit of risk management for buildings, we recommended that the Department of Supply and Services "develop and document a risk management plan. The plan should identify all significant risks to each of its buildings … and document what procedures are required to identify risk factors in each building."

1.29 Last year in our work on environmental inspections we stated, "to aid in the enforcement of their legislation, the Department should use a risk management approach and develop an inspection strategy and an inspection plan. The inspection plan should identify the required

inspection work, both the areas for inspection and the frequency of inspection."

1.30 In 2001 one of our recommendations on pupil transportation was that, "the Department should clearly discuss the major risks of bus safety in its training material provided to students. The Department should consider the use of national accident statistics as a method of informing both children and parents where the risks are."

1.31 And in 1999 when we did our work on food safety we had this to say. "By doing risk assessments of food service establishments, inspectors will be able to determine the required inspection frequency, plan the necessary activities and then schedule them accordingly. Risk assessments should be updated on an annual basis….To use resources more effectively, higher-risk food service establishments should be targeted as having priority in the schedule."

1.32 From the work we did this year and previous years there appears to be a significant need for risk management training and skills. The need to identify and manage risks undoubtedly extends to most if not all departments. Because of this I see it as a central government issue and would look to Board of Management for the necessary leadership in providing this training.

New Brunswick's local governments do not follow PSAB

1.33 The Public Sector Accounting Board (PSAB) has been established by the Canadian Institute of Chartered Accountants (CICA) to issue recommendations and guidance with respect to matters of accounting in the public sector. The government of New Brunswick follows PSAB recommendations for its financial statements but has not required municipalities to do so. I believe the quality of financial reporting by local governments would be greatly improved if they were required to follow these recommendations. PSAB recognizes that financial statements should provide evidence of accountability and "report the information required by legislators and other users to help them make assessments and judgments concerning government financial operations and management."

1.34 Local governments in New Brunswick currently follow the Municipal Financial Reporting Manual in reporting their financial results. The Manual was developed in 1993, and while there have been a couple of updates since that time, it is not as comprehensive as PSAB, nor does it have the authoritative standing of a national independent standard setter. I have been informed by the Department of the Environment and Local Government that they "plan to fully review the PSAB recommendations in 2004 in order to determine the extent of further study required prior to conducting a complete Reporting Manual revision in 2005."

1.35 While I understand there may be challenges to be faced in accepting PSAB for local governments, I would encourage the Department and government to do so. At the present time the provinces of

Ontario, Manitoba, Saskatchewan, Alberta and British Columbia have adopted PSAB for their local governments.

About our Office

1.36 In most of our work we examine the extent to which a department or Crown agency has commented on its performance, either in delivering a service or in meeting annual objectives or performance indicators. We make recommendations when we believe they are warranted.

1.37 We are constantly reminded of our own responsibility in this area, because we too must be efficient and accountable. Chapter 8 represents our annual accountability report, which we believe is in compliance with the government's annual report policy. There we report on our goals, performance indicators and results.

1.38 A key indicator of our performance has traditionally been the survey results from members of the Public Accounts and Crown Corporations Committees. This year, due the provincial election, the committees did not meet to discuss our Report until late in 2003 and for this reason we did not conduct the surveys.

1.39 This year we made a significant effort to finalize our 2003-2008 strategic plan. The new strategic plan identifies three main goals that we will be concentrating on over the next five years. These are:

- the Legislative Assembly and the public are aware of and value all the work that we do, and have confidence in our ability to provide timely, objective and credible information;
- departments and agencies accept and implement our recommendations; and
- our stakeholders – the Legislative Assembly, the public, auditees and our employees – view us as leading by example.

1.40 These goals have related objectives and actions. The strategic plan has also resulted in us identifying new performance measures. A more full discussion on our strategic plan is found in chapter 8.

Acknowledgements

1.41 This Report is the culmination of a lot of hard work by the staff in my Office. Once again I am indebted to their professional advice and dedication.

Daryl C. Wilson, FCA
Auditor General

Chapter 2
Department of Family and Community Services
Child Day Care Facilities

Contents

Department of Family and Community Services Child Day Care Facilities

Background

2.1 *"*Our children are our greatest hope and our most important obligation.*"* These are the words of Premier Bernard Lord in his *State of the Province Address* on 30 January 2003, and it is a statement with which most people of New Brunswick would agree. The government has several programs for children. Interested in determining the government's involvement with day care facilities for children, we learned the following.

2.2 The authority for the government's involvement in child day care facilities is the *Family Services Act*.

- The Act gives the Minister of the Department of Family and Community Services the authority and the responsibility to: approve day care facilities; make standards; perform inspections; direct the operator to make changes; suspend or terminate operations; and enforce the legislation.

- The *Day Care Regulation - Family Services Act* (Regulation) specifies the responsibilities of the parties involved with approving day care facilities.

- The Regulation and the *Child Day Care Facilities Operator Standards* (standards) specify the conditions that day care facilities must follow.

2.3 The Department of Family and Community Services (Department) is responsible for the Day Care Services Program (program). The purpose of the program is to approve and monitor day care facilities to ensure that children who attend are safe and receive quality care. Eleven staff members are directly involved with the program. There are ten Early Childhood Services Coordinators (coordinators) who work in the Department's regional offices. There is also a Provincial Program Consultant who works in the central office. All eleven of these individuals have other program responsibilities in addition to the Day Care Services Program.

2.4 Child day care facilities are operated by individuals, corporations or not-for-profit groups. Child day care facilities include "day care centers" and "community day care homes". Typically, a "day care center" is a location, other than someone's home, where parents take their children for care. (The size may range from six to over sixty children.) And typically, a "community day care home" is where an adult uses their personal residence to take care of children. (The group size is smaller with a maximum of nine school-aged children, fewer if they are younger, including those living at the residence.)

2.5 On 31 March 2002, there were 359 approved day care facilities in the Province, providing 11,193 spaces. Most of the day care facilities are "day care centers". There are only approximately 25 "community day care homes". The number of approved day care facilities and spaces has been increasing at a slow but steady rate over the past ten years.

2.6 Day care facilities are inspected to ensure that they meet the requirements of the *Family Services Act*, the *Day Care Regulation* and the *Child Day Care Facilities Operator Standards* before they are "approved" by the Department. Annual inspections are performed by:

- the Public Health Regional Offices - Department of Health and Wellness (Public Health);
- the Office of the Fire Marshal - Department of Public Safety; and
- the Department. There are over one hundred standards that are to be verified through the Department's inspection.

2.7 While three government departments have responsibility for inspecting day care facilities, the Department of Family and Community Services has sole responsibility for approving the facilities. Certificates are to be issued annually to each facility indicating that it is "approved".

2.8 As an Office, we are interested in issues related to public safety and we have attempted to provide information that will assist in holding the government accountable for legislation it created to ensure the safety of the people of New Brunswick. Over the past six years, we have performed audits involving the Office of the Fire Marshal, pupil transportation, high-risk drivers, domestic well water quality, food safety and ambulance services. It is our interest in pursuing government accountability for safety legislation that led us to select the Day Care Services Program for audit. This program is responsible for the safety of a group who cannot speak publicly for themselves...our children.

2.9 In December 2001, a young boy died in Saint John from complications of E coli. The boy had attended a day care center. In March 2003, a coroner's inquest occurred as a result of the death. One of the recommendations from the inquest was, "An independent audit or review be conducted to determine how inspections are conducted by Family and Community Services of child care facilities. This audit

would recommend changes if required in the procedures being utilized during inspections of child care centers. This audit could be conducted by the Auditor General's Office or another qualified independent organization."

2.10 This chapter of our Report is in no way associated with these events. Preliminary planning for this audit took place in 2001, long before any of these events. The decision to proceed with this audit was communicated to the Department in January 2003. Most of the audit fieldwork was completed prior to the coroner's inquest. However, the Department did contact us to ask our opinion on whether our audit meets "the spirit and the intent" of the coroner's recommendation set out above. Our response was that it does to a point. The recommendations we made were directed towards bringing consistency between current practice and the current standards and legislation. The audit we conducted was not intended to question the adequacy or appropriateness of the current legislation or standards.

Scope

2.11 The objective for this audit was:

To determine if the Department of Family and Community Services has appropriate policies and practices to ensure compliance with the Province's legislation and standards for child day care facilities.

2.12 To provide further focus to our audit efforts, we developed four audit criteria to use as the basis or standards for our audit. These were discussed with the Department and it was agreed that they were reasonable. The criteria addressed the following:

- the process of approving day care facilities;
- planning, conducting and using the results of inspections;
- policies and procedures for the program; and
- monitoring and reporting on the program.

2.13 Our work included the following:

- reviewing relevant documents;
- interviewing program staff in central office and the regional offices;
- testing a sample of day care files; and
- performing analytical review procedures on program information.

2.14 We compared the audit evidence against the audit criteria in order to develop the findings, conclusions and recommendations that are presented in this chapter.

2.15 The audit was not directed towards verifying that all day care service providers were approved or evaluating the quality of the standards.

Results in brief

2.16 While there is an established process for approving the operation of day care facilities, it is not always followed and it does

not incorporate all of the regulatory requirements. We found cases where Certificates of Approval were issued without verification of compliance with the *Day Care Regulation* and Child Day Care Facilities Operator Standards. We found evidence that approvals are not being issued consistently by all of the regional offices due to differing requirements. And, we found that some requirements of the *Day Care Regulation* are not incorporated into the Department's process of approving day care facilities.

2.17 The Department has a standard form that, when used properly, would result in effective inspections being performed efficiently. However, the Department does not have established processes for prioritizing and performing inspections and for enforcing the standards. As a result, we found that inspection coverage is not adequate; inspections are being effectively performed at some day care facilities but not completely performed in others; and inspection results are not always linked to the approval process or enforcement actions.

2.18 The Department has not established formal policies and procedures for the Day Care Services Program.

2.19 The Department does not have appropriate procedures to measure and report on the effectiveness of their program for approving and monitoring child day care facilities.

2.20 We believe there are two key challenges to the Day Care Services Program. A proper decentralized program structure needs to be developed and the program's growth needs to be addressed.

The approval process

2.21 To enhance interpretation of this chapter, we would like to explain our usage of the following terms.

- "Certificate" refers to the Minister's approval of a day care facility, which could take the form of a first-time approval, a renewal or a temporary certificate.

- "Approval" is synonymous with Certificate, indicating the day care facility would receive a Certificate. It could be a first-time approval or a renewal.

- "First-time approval" refers to a new day care facility.

- "Renewal" refers to the annual approval for an established day care facility.

- "Infraction" refers to non-compliance with a standard; a standard that has not been met.

2.22 The legislation requires that all day care facilities obtain the Minister's approval to operate. The approval process involves the day care facility applying for an approval, paying the fee and meeting the legislative requirements, and the Department ensuring that the requirements are satisfied and then issuing the Certificate of Approval. While the process is the same for both "day care centers" and "community day care homes", the requirements differ. For example, annual inspections by Public Health and the Office of the Fire Marshal are requirements for "day care centers", but they are not requirements for "community day care homes".

2.23 Certificates are valid for one year and the expiry date is clearly shown on the Certificate. Each year the day care facility must apply for a renewal. The renewal process is the same as the process for obtaining a first-time approval and the requirements are the same. Hence, references to "the approval process" include both first-time approvals and annual renewals.

2.24 Our first criterion was:

The approval to operate a child day care facility should be issued in compliance with legislation.

2.25 To determine whether this criterion was met, we reviewed the relevant legislation, we examined the Department's policies and practices, we tested a sample of day care files, we performed some analytical review and we talked with staff. Our findings include the following.

- the requirements are not always met prior to the Department approving a day care facility;
- not all of the approved day care facilities received the required inspections during 2002;
- the Department is not complying with other sections of the Regulation; and
- Certificates are not always renewed on a timely basis.

The requirements are not always met prior to the Department approving a day care facility

2.26 Section 3(2) of the Regulation sets out the requirements for obtaining an approval, or renewal of an approval, for a day care center. The requirements are:

- an application has been received;
- the appropriate fee has been paid;
- Public Health has given a written statement of compliance stating that the sanitation, lighting, ventilation and other general health standards in the day care center meet the standards;

- the Office of the Fire Marshal has given a written statement of compliance stating that the day care center meets fire prevention standards and building standards;
- the Minister is satisfied that the day care center complies with the criteria prescribed by the Regulation and any standards prescribed by the Minister; and
- the Minister is satisfied that the operator of the day care center will meet specified conditions.

2.27 We selected a sample of forty Certificates issued to day care facilities for testing. The sample included day care facilities from each of the eight regional offices. It was comprised of six first-time approval Certificates and 34 renewal Certificates. While most were day care centers, there were two community day care homes included in the sample. We did not test for all of the legislative requirements. We examined only the following documents for each day care file in the sample:

- the application form remitted by the day care facility;
- the statement of compliance from Public Health;
- the statement of compliance from the Office of the Fire Marshal; and
- the day care inspection form (and subsequent spot check forms) completed by the coordinator in the regional office.

2.28 Only two of the forty sample items had all the documentation present, indicating compliance with the regulatory requirements selected for testing, to support the issuance of the Certificate (95% did not).

- Only one of the six first-time approval sample items had the proper documentation to support the issuance of the Certificate.

- Only one of the 34 renewal sample items had the proper documentation to support the issuance of the Certificate. While 17 of the 34 renewal sample items had all of the required forms present, in several cases the forms indicated that the day care facility had infractions at the time the facility was approved. Any documented infraction is effectively a statement of non-compliance.

2.29 The following observations discuss the deficiencies that we observed.

The application form, remitted by the day care facility, was not always present and properly completed

2.30 We examined the application form, remitted by the day care facility, to determine if it was present and properly completed. We found problems in eight of the forty files. Our observations included the following.

- The form was absent from four files. For one of these files, the renewal Certificate was dated August 2002 and as of March 2003,

the coordinator indicated the application form had still not been received.

- The form was dated after the Certificate date in two files. Since it is the day care facility's responsibility to apply for approval, no day care facility should be issued a renewal Certificate without first applying.

- The wrong form was used in two files. Since each form requires different information, it is important that the proper form be completed.

A statement of compliance from Public Health, within the previous twelve months, was not always present

2.31 We examined the statement of compliance from Public Health to determine if it was present, if an inspection had been conducted within the previous twelve months and if the inspector had recommended the day care center for approval. Since a public health inspection is not required for "community day care homes", our sample size was reduced to 38 items. We observed deficiencies in eleven of the 38 items tested. Our observations included the following.

- Documentation regarding a public health inspection, within the previous twelve months of the Certificate date, was not present for nine of the 38 items. One of these nine was a first-time approval.

- Of the remaining 29 items, two of the files had a public health inspection form indicating that the facility had infractions. In one file, the inspection form indicated that the indoor temperature was below the standard. In the second file, the inspection form had three remarks requiring immediate corrective action: completing a daily cleaning schedule, replacing floor tiles around toilets and keeping the floor swept free of sand that was slippery. In both files, there was no recommendation from the Public Health Inspector that the day care be approved. There was no further documentation indicating that these infractions had been corrected. We believe that an inspection form with infractions or orders for corrective action is insufficient documentation. Either a written statement of compliance or a written recommendation for approval should be required from the Public Health Inspector prior to issuing a Certificate to a day care facility.

A statement of compliance from the Office of the Fire Marshal, within the previous twelve months, was not always present

2.32 We examined the statement of compliance from the Fire Prevention Inspector to determine if it was present, if an inspection had been conducted within the previous twelve months and if the inspector had recommended the day care for approval. Since a fire prevention inspection is not required for "community day care homes", our sample size was 38 items. We observed deficiencies in 16 of the 38 items tested. Our observations included the following.

- Documentation regarding a fire prevention inspection, within the previous twelve months of the Certificate date, was not present for thirteen of the 38 items.

- Of the remaining 25 items, three of the files had a fire prevention inspection form indicating that the facility had some infractions. In one file, the inspection form indicated that the fire closures were unsatisfactory and issued an order to "ensure all fire doors close and latch properly". In the second file, the inspection form had five orders that included: removing electrical extension cords, changing the sleeping area, cleaning the storage room, installing an exit and changing door locks. In the third file, the inspection form required the replacement of the bulbs in the exit lights. In each file, there was no recommendation from the Fire Prevention Inspector that the day care be approved. There was no further documentation indicating that these infractions had been corrected. We believe that either a written statement of compliance or a written recommendation for approval should be required from the Fire Prevention Inspector prior to issuing a Certificate to a day care facility.

Requirements need to be formalized for inspection documentation, follow-up and communication with both Public Health and the Office of the Fire Marshal

2.33 There were significant inconsistencies in the documentation received from both Public Health and the Office of the Fire Marshal. Documentation ranged from a simple e-mail, stating that an inspection was done and the day care center had met the standards, to an inspection form indicating non-compliance. We found that it was sometimes difficult to determine whether or not the Public Health Inspector or the Fire Prevention Inspector was recommending that the day care center be approved.

2.34 In the sample of 38 items, we encountered eleven different types of inspection forms from the Public Health Inspectors and nine different types of inspection forms from the Fire Prevention Inspectors. The inconsistency in the inspection forms introduces the risk that different characteristics are being examined for compliance in different areas of the Province.

2.35 While the requirement to perform inspections is clearly assigned in the Regulation to Public Health, the Office of the Fire Marshal and the Department, specific inspection responsibilities are not clearly defined. The Department has developed a standard form for performing day care inspections; however, this is not the case for the other offices that are assigned inspection responsibilities.

2.36 We understand that the responsibility for doing follow-up of the public health and fire prevention inspections has not been clearly assigned. We observed several inspection reports from the Public Health Inspectors and one from the Fire Prevention Inspector where the inspection report indicated that there were orders for corrective action, yet the day care facility was still recommended for approval. Some of the comments on the public health inspection forms included:

disinfecting the kitchen, toys and the diaper-change area; putting a thermometer in the refrigerator; cleaning areas; supplying liquid soap; and storing food in plastic containers. There was only one file in the sample with outstanding comments from the Fire Prevention Inspector. It was a first-time approval. The comments involved: placing a portable fire extinguisher on the wall, installing an emergency light and finishing the wall around the electrical panel.

2.37 There are no formal communications between the Department and Public Health or the Department and the Office of the Fire Marshal. While meetings have occurred to address problems, there are no regularly scheduled meetings. Formal communication channels have not been established. We believe that each party would benefit from a formalized relationship through a written agreement that describes their roles, responsibilities and means of communication.

Recommendations

2.38 In order to ensure inspections are conducted as required by legislation, the Department should formalize their relationship in written agreements with the Public Health Regional Offices - Department of Health and Wellness and the Office of the Fire Marshal - Department of Public Safety. The agreements should clarify each department's roles and responsibilities and establish expected inspection frequencies, standard reporting requirements and designated follow-up responsibilities.

2.39 The Department should establish a formal working committee with each department and meet regularly to ensure that interdepartmental issues are identified and addressed promptly.

Departmental response

2.40 *The Department agrees that such written agreements or protocols are warranted, and has initiated discussions with the Office of the Fire Marshal and the Department of Health and Wellness. In addition we are in the process of forming working committees with the Office of the Fire Marshal and the Department of Health and Wellness for the purposes of identifying and addressing common issues of concern, with the initial meeting to be held in September, 2003.*

The Department's day care inspection was not always performed prior to issuing the Certificate or prior to the expiry of the previous Certificate

2.41 We examined the Child Day Care Facilities Inspection Forms, completed by the coordinators in the regional offices, to confirm that they were present and to ensure that inspections were performed prior to the Certificate dates.

2.42 We observed deficiencies in thirty-two of the forty items tested. Our observations included the following.

- The Department's inspection form, for measuring compliance with the day care standards, was not present for three of the forty items.

- In three other files, the inspection form was present but not completed. Only the first page of the inspection form, containing information on issuing the Certificate, was used for one first-time approval. In another first-time approval file, a partial inspection had been done; however, several standards were marked with a note to verify at the next visit. The third file involved a renewal Certificate and the inspection form was only partially completed.

- In one file, where the Department was issuing a renewal Certificate, an inspection form was present. However, the day care had changed locations, the inspection had been done at the old location and only a spot check had been done at the new location. The Department confirmed that a full inspection is required when a day care changes its location.

- Five of the files had a day care inspection form indicating that the inspection had been done only after the previous Certificate had expired. In one case, the inspection was done the day after the Certificate expiry date. In two cases, the inspection was done two and one half months after the previous Certificate had expired.

- Of the remaining 28 items, twenty of the inspection forms indicated that the facility had not complied with all of the standards. One of the most common infractions in our sample was non-compliance with the standard requiring that all staff members "comply with the terms of the Prior Contact and Criminal Record Check Policy". Other infractions that were common in our sample included the following. Day care personnel files lacked the required documentation of first-aid training and medical examination. An inspection plan for the outdoor play equipment was not present ensuring that the equipment was checked regularly. Records indicating the practice of monthly fire drills were not always maintained. Electrical receptacles did not always have protective coverings. And, indoor play equipment was not always clean and in good repair.

Not all of the approved day care facilities received the required inspections during 2002

2.43 In addition to the testing on the sample of Certificates, we also performed an analytical review of the inspections performed during 2002.

2.44 Using the inspection dates recorded in the Department's information system, we did an analysis of 369 day care facilities that were operating as of 31 December 2002 to determine if each facility had received the three required annual inspections (Public Health, Office of the Fire Marshal and the Department's) during the 2002 calendar year. While we did not validate the dates by reviewing file documents, we did confirm some of the older inspection dates with the coordinator in the regional office. The program's computerized information indicated the following:

- Only 266 of the approved day care facilities received the three required annual inspections during 2002 (28% did not).

- 92 day care facilities (25%) did not receive an inspection from the Office of the Fire Marshal during 2002. For 14 of these day care facilities, the last fire prevention inspection recorded occurred in 2000, indicating that two full years had passed without inspection.

- 16 day care facilities (4%) did not receive an inspection from Public Health during 2002.

- Five day care facilities (1%) did not receive an inspection from the Department during 2002.

2.45 While it is possible that Public Health and the Office of the Fire Marshal may have done inspections in some of these facilities, the Department's records did not show this. The Regulation clearly states that the Department must have a statement of compliance from both Public Health and the Office of the Fire Marshal before approving a day care facility.

Other findings

2.46 Other significant findings related to first-time approval Certificates and one specific renewal Certificate in our sample.

Additional observations on first-time approval Certificates

2.47 While we believe that complete and thorough inspections should always be performed prior to issuing a Certificate, we consider new facilities and new locations to be higher risk since compliance with the requirements has never been verified. In our testing of the sample, we were surprised to find that only one of the six first-time approval Certificates had appropriate documentation supporting the issuance of the approval. Three were missing the Department's inspection and one had an inspection form that was only partially complete. Another inspection form indicated non-compliance with the standard requiring criminal record checks on day care staff.

2.48 Since the sample was small and did not include all of the eight regional offices, we carried out additional work on the information in the Department's computer system. We reviewed the inspection dates on 43 first-time approval Certificates that were issued during the period April 2002 to February 2003. Eight of the 43 were approvals for "community day care homes" and neither a public health inspection nor a fire prevention inspection is required for this type of day care. The program information indicated the following.

- The Department's day care inspection date was before the Certificate date for each of the eight "community day care homes". This is a positive observation indicating that the homes were inspected for compliance with the standards prior to being approved.

- Only 19 of the 35 "day care centers" had all three of the required inspections dated before the Certificate date. (46% did not.)

- The public health inspection date was after the Certificate date for ten of the 35 "day care centers".

- The fire prevention inspection date was after the Certificate date for ten of the 35 "day care centers".

- The Department's day care inspection date was after the Certificate date for 15 of the 35 "day care centers".

Additional observations on one specific renewal Certificate in our sample

2.49 We consider large facilities to be higher risk since the number of children that could be affected is greater should a fire, health or safety incident occur. In our testing of the sample, we were surprised to find that a renewal Certificate had been issued to a large facility without appropriate documentation supporting its issuance. This day care facility was issued a Certificate on 22 January 2003. It is one of the largest day care facilities in the Province.

- There was no statement of compliance from Public Health within the previous twelve months. The last public health inspection on file was dated 7 December 2000. The inspection was over two years old at the time the renewal Certificate was issued.

- There was no statement of compliance from the Office of the Fire Marshal within the previous twelve months. The last fire prevention inspection on file was dated 28 March 2001. The inspection was over twenty-one months old at the time the renewal Certificate was issued.

- The day care facility had not complied with the Child Day Care Facilities Operator Standard 9.1. This standard requires a day care facility to ensure that "prior contact and criminal record checks" are conducted on potential staff members prior to their hiring. The day care facility must forward copies of the criminal record checks to the Department. Both the application form, remitted by the day care facility, and the Department's day care inspection form indicated that these records were missing for several staff members.

- And, the Department's day care inspection form indicated that the day care facility had not complied with nine other Child Day Care Facilities Operator Standards. Some of the infractions involved the standards for first aid kits, administering medication and documenting reportable incidents.

Recommendation

2.50 The Department should ensure compliance with all regulatory requirements prior to approving a day care facility.

Departmental response

2.51 *Although procedures are in place in memo format, it appears from your findings that we can do a better job at consistent application. To that end, the Department will begin the development of a Day Care Services Program Policy and Procedures Manual in the fall of 2003, in order to provide clear procedures for staff to follow prior to approving a day care facility. This manual will be further enhanced by the creation of procedures for the Quality Inspection Scheduling tool as they become available, as well as recommended revisions to the Day Care Regulation 83-85 respecting the issuance of temporary approvals.*

The Department is not complying with other sections of the Regulation

2.52 Our observations from testing the sample of forty items clearly indicated that the Department is not always complying with section 3(2) of the Regulation because the requirements of receiving an application from the day care facility, receiving statements of compliance from both Public Health and the Office of the Fire Marshal and ensuring that the day care facility complies with the standards are not always met prior to the Department issuing a Certificate to a day care facility. The following observations involve other sections of the Regulation with which the Department is not complying.

The Department is not verifying that the operator meets the requirements listed in Section 3(2)(f) prior to issuing a Certificate

2.53 Section 3(2)(f) lists six attributes the operator must meet.

3(2) Subject to subsection (3) and section 4, the Minister shall issue an approval or renew the approval of a day care center where...

(f) the Minister is satisfied that the operator of the day care center

(i) will operate the day care center in a manner that will maintain a spirit that is conducive to the development of a child;

(ii) will be willing to participate in training programs or workshops that are determined by the Minister to be advantageous;

(iii) will provide an atmosphere that is safe but non-restrictive to a child's development;

(iv) is aware of local community services that may be used to enhance the quality of programs and services available in the day care center;

(v) will maintain a working relationship with the officials of the department who provide consultation to day care centers; and

(vi) meets any other requirements respecting qualifications of an operator which the Minister may prescribe.

2.54 Through our review of the approval process, we could find no means by which the Minister obtained assurance that the operator met these requirements. The application form does not address these operator attributes. And, there are no guidelines that would aid the coordinators in determining if these requirements are met. Program staff agreed that the operator requirements in the Regulation are not well defined, have no supporting guidelines, are difficult to measure and are not formally verified as part of the approval process.

The Department is not verifying that the organizational requirements, listed in Section 3(3), are met prior to approving a day care centre

2.55 While Section 3(2) states the requirements for obtaining an approval, section 3(3) states conditions when the Minister shall not issue an approval of a day care center. It states:

> *The Minister shall not issue an approval of a day care center or a renewal thereof unless*
>
> *(a) the operator is a body corporate, and*
>
> *(b) the Board of Directors of a day care center which is non-profit in nature consists of not less than seven members who are elected at an annual public meeting.*

2.56 Only requirement (b) is incorporated into the standards. Requirement (a) has not been incorporated into the standards and is not part of the Department's approval process. Discussions with coordinators in the three largest regions confirmed that neither of these requirements was being verified.

The Department's policy regarding which day care providers require a Certificate of Approval is not consistent with the Regulation

2.57 The *Family Services Act* requires that any facility providing day care services, center or home, obtain the Minister's approval. Section 2 of the Regulation defines several terms including the following.

- It states, "*day care services* means the care and supervision of a child for a period of less than twenty-four hours in a day care facility." The Regulation defines a *day care facility* as a day care center or a community day care home.
- It states,

  > *"community day care home" means a home in which day care services are provided for a maximum of*
  >
  > *(a) three infants,*
  >
  > *(b) five children of the ages two to five,*
  >
  > *(c) nine children who are of the age six and over, or*
  >
  > *(d) six children where the children are of the ages five and under and six and over,*
  >
  > *including those of the operator;*
  >
  > *"day care center" means a facility in which day care services are provided for*

> *(a) four or more infants,*
>
> *(b) six or more children of the ages two to five,*
>
> *(c) ten or more children of the age six and over, or*
>
> *(d) seven or more children where the children are of the age of five and under and six and over,*
>
> *including those of the operator;*

2.58 The definitions for "day care services" and "community day care home" are very general. Our interpretation of the definitions is that they apply to most child care situations because what is commonly referred to as "babysitting" fits the Regulation's definition of "day care services". For example, our interpretation of the definitions would mean that a non live-in "nanny" caring for a child in the child's home is providing "day care services". And, our interpretation of the definitions would mean that a neighbour caring for even one child fits the definition of "day care services" and would need to be approved as a "community day care home".

2.59 There are no provisions in the legislation allowing day care services without the Minister's approval. However, the Department's *Policy Direction: Number of Children Permitted Without a Certificate of Approval* dated 18 August 1997 sets a "floor" below which approval is not required. It states:

> *The number of children for whom an individual may provide day care services without requiring a certificate of approval shall be in accordance with the following, that is,: i) two infants, ii) four children ages two to five, iii) eight children aged six and over, or iv) five children where the children are of the age five and under and six and over, including those of the operator.*

2.60 This *Policy Direction* is not consistent with the definition in the Regulation.

2.61 The impact of the Department's *Policy Direction* being different from the Regulation is that, in some cases, child care services that meet the definition in the Regulation, and hence require approval, do not require approval according to the Department's *Policy Direction*. Using the Department's *Policy Direction* results in fewer approved *"community day care homes"*.

2.62 The general definitions in the Regulation are not precise and the Department's current approval process is not consistent with all of the definitions in the Regulation. The *Day Care Regulation* was established in 1983. It is our understanding that while there have been two additions to the Regulation, the original terms have remained unchanged. In 1987,

the Office of the Comptroller reviewed this program and noted the need for legislation amendments.

2.63 Through our review, we found regulatory terms that were not being followed, Department practices that were not consistent with the Regulation and sections of the Regulation that were not being complied with. Given that twenty years have passed and there has been tremendous growth in the program due to society's changing needs for day care services, we conclude that the Regulation should be reviewed. The Department agreed that the Regulation is in need of review and likely in need of amendment.

Recommendation

2.64 The Department should review the *Day Care Regulation - Family Services Act* and current practices. Differences should be identified and appropriate changes made to the practices, the Regulation or both.

Departmental response

2.65 *The Department commits to reviewing the Day Care Regulation 83-85 against current practices and will immediately undertake discussions with the Department of Justice to request assistance with this task.*

Certificates are not always renewed on a timely basis

2.66 Section 26(2) of the *Family Services Act* states that the Minister's approval to operate a day care facility is required. And section 26(3) states, "Any person who contravenes subsection (2) commits an offence."

2.67 Certificates of Approval are issued for a one-year period. While day care facilities can have differing Certificate expiry dates, the expiry date remains the same each year for a facility. Interested in determining whether the Department had a timely renewal process, we looked for information that would show if there were any expired Certificates.

2.68 Our review showed that 23 operating day care facilities had expired Certificates at 31 December 2002.

2.69 We also did an analysis of "Past Due Approvals". We examined the number of approvals that were past due each month for the regional offices for the period 1 April 2002 to 31 December 2002. Observations from the analysis included the following:

- Four of the eight regions had at least one month during 2002 when there were no "Past Due Approvals". The other four regions had some "Past Due Approvals" each month during the year.
- The region with the most day care facilities (113) had the lowest percentage of "Past Due Approvals".
- The remaining seven regions each had at least 10% of their day care facilities with "Past Due Approvals" during at least one month during 2002.

- One of the seven regions had five of their fourteen day care facilities (36%) with "Past Due Approvals" for three consecutive months.
- Another one of the seven regions had nine of their twenty-one day care facilities (43%) with "Past Due Approvals" during one month.
- And yet another one of the seven regions had 11 of their 23 day care facilities (48%) with "Past Due Approvals" for two consecutive months. (Surprisingly, this region had the lowest average number of facilities per coordinator position.)

2.70 From these observations, we conclude that day care renewal Certificates are not always issued on a timely basis. By allowing day care facilities to operate without an approval, the Department is not enforcing section 26 of the *Family Services Act*.

Recommendation

2.71 The Department should determine why Certificates of Approval are not being renewed prior to their expiry dates and implement corrective actions to ensure their timely renewal.

Departmental response

2.72 *The Department will review this practice to ensure that renewals are completed prior to expiration of certificates of approval. The implementation of corrective actions will be clarified through the risk management approach of the Quality Inspection Scheduling tool and will also be set out in the Day Care Services Program Policy and Procedures Manual.*

Conclusion

2.73 This criterion is not met. The established approval process is not always followed and it does not incorporate all of the regulatory requirements. We found cases where Certificates of Approval were issued without verification of compliance with the *Day Care Regulation* and Child Day Care Facilities Operator Standards. We found evidence that approvals are not being issued consistently by all of the regional offices due to differing requirements. And, we found that some requirements of the *Day Care Regulation* are not incorporated into the Department's process of approving day care facilities.

Planning, conducting and using the results of inspections

2.74 While our first audit criterion involved the approval process, our second audit criterion involved the inspection process. Performing inspections to ensure day care facilities are complying with the Department's day care standards is a process that is critical to the approval process.

2.75 Our second criterion was:

Inspections of child day care facilities should be performed to measure compliance with legislation and the Child Day Care Facilities Operator Standards.

2.76 In assessing the effectiveness of the Department's inspection of day care facilities, we examined:

- the planning of inspections (how they are prioritized and scheduled);
- how inspections are conducted (the inspection form and how it is used); and
- how inspection results are used.

Planning - how inspection work is prioritized and scheduled

2.77 We were pleased to find that the Department maintains a master list of all approved day care facilities. We were also pleased to find that responsibility for all day care facilities has been assigned to the ten coordinators. Therefore, all approved day care facilities requiring inspection have been assigned to staff members who are responsible for their inspection and monitoring.

2.78 The approval requirements and standards differ for a "day care center" and a "community day care home". The risks also differ between different facilities. However, the Department's inspection process does not incorporate the differing risks. The Department does not use a risk management approach or have a standard method of prioritizing inspection work for the program. The inspection requirements are the same for all day care facilities. The inspection frequency is the same and the same inspection form is used.

2.79 The Department recognizes the benefits of having a risk management approach and has been looking at ways to improve inspection scheduling since the mid 1990s. In 2001, the Department performed a pilot project called Quality Risk Based Assessment in one regional office.

2.80 The Department's information system serves as a scheduling tool. It is programmed to notify the coordinators in advance of when inspections are due. While all coordinators use the system for recording day care information, they do not use it as a scheduling tool. Coordinators do not have inspection schedules to guide their work.

2.81 We believe the following audit observations are the result of inadequate scheduling of inspections.

Not all day care facilities were inspected during 2002

2.82 As noted earlier, our analytical review of inspection dates recorded in the information system indicated that five of the 369 approved day care facilities did not receive an inspection from the Department during 2002**.**

2.83 Proper scheduling of inspections could ensure that all approved day care facilities are inspected annually.

Inspections were not always complete

2.84 When examining the Child Day Care Facilities Inspection Forms completed by the coordinators in the regional offices, we found that 14 of the 36 inspections were not complete.

2.85 In some situations there are valid reasons why a complete inspection may not be possible in one visit. For example, the annual inspection is not complete when it is performed during the winter months, when snow prevents inspection of the outside play area. While it may be the intent that a spot check done at a later date would include these uninspected areas, this is not always the case. In many cases in our sample, there was no documented evidence that the uncompleted portions of the inspection had been verified afterwards.

2.86 Proper scheduling of inspections and spot checks could ensure that all standards get verified annually at each approved day care facility.

The timing of the annual inspection is predictable

2.87 Normally inspections are more effective when notification is not given prior to inspection. The element of surprise is important when performing inspections in order to obtain a true representation of operations. While day care inspections are unannounced, their timing is predictable. Annual inspections almost always take place during the month that the day care's Certificate expires. The annual expiry date is fixed. This reduces the element of surprise because day care facilities can expect the inspection during the month that their Certificate expires.

2.88 It is our opinion that inspections could be performed during any of the three months prior to the Certificate's expiry. Inspections during the last quarter would still provide timely and relevant verification of compliance with the standards. And, by making the timing of the inspection less predictable, the inspection results should be more reliable.

Some inspections were performed after the Certificate expired

2.89 As we reported earlier, five of forty items tested had a day care inspection form indicating that the inspection had been done after the previous Certificate had expired.

2.90 Proper scheduling of inspections could ensure that each approved day care facility is inspected prior to the expiry of its Certificate.

The actual inspection frequency did not meet the Department's requirement

2.91 The Department's requirement is that every day care facility will receive one annual inspection and three spot checks throughout the year. A spot check is a planned, but unannounced, visit to a day care facility to verify the staff to child ratio and to quickly make observations regarding compliance with the standards. There is a standard form for documenting the spot check visit. We were pleased to see that the Department had developed the practice of performing and documenting spot checks. We believe that spot checks provide the opportunity for better monitoring of a day care facility's performance.

2.92 We performed an analysis of the number of day care facilities receiving spot checks and the number of spot checks performed at each

day care facility during the calendar year 2002. Our observations included the following.

- None of the regional offices are meeting the Department's requirement of having three spot checks performed annually at each day care facility. The region with the highest coverage had 74% of the day care facilities receiving three or more spot checks during 2002. The region with the second highest coverage had 43% of the day care facilities receiving three or more spot checks during 2002. And, the region with the third highest coverage had 15% of the day care facilities receiving three or more spot checks during 2002. There were four regions that had no day care facilities receiving the required three spot checks during 2002.

- Over 90% of the day care facilities in the Fredericton, Moncton and Saint John regions received at least one spot check during 2002.

- More than 60% of the day care facilities in the Chaleur, Miramichi and Acadian Peninsula regions did not receive any spot checks during 2002.

- All but one region had some day care facilities that received more than one spot check. (In one region, no facility received more than one spot check in 2002.)

- In the region with the greatest frequency of spot checks, 49% of the day care facilities received four or more spot checks in 2002.

2.93 In the 1987 Office of the Comptroller's program review, a deficiency in performing spot checks was reported. The Department's response indicated that a computerized system would improve the timing of spot checks and Certificate issuance. Since the Comptroller's report, the system was implemented. However, the required number of spot checks is still not being done.

Recommendations

2.94 The Department should use a risk management approach or have a standard method of prioritizing inspection work for the Day Care Services Program.

2.95 The Department should ensure that coordinators have an inspection schedule to guide their work. The inspection schedule should ensure that:

- **all day care facilities are inspected regularly;**
- **all required components of inspections are completed;**
- **the timing of the inspection is not predictable;**
- **inspections are performed before the Certificate expires; and**
- **the inspection frequency meets the Department's requirement.**

2.96 The inspection schedule should include both routine annual inspections, and spot checks, and non-routine inspections arising from public complaints and follow-up of identified deficiencies.

2.97 The Department should ensure that the required number of inspections and spot checks is performed annually for each approved day care facility.

Departmental response

2.98 *The Department is currently developing a risk management approach for the inspection and monitoring of day care facilities, which will be implemented province-wide by March 2004. This Quality Inspection Scheduling tool will ensure that coordinators have an inspection schedule to guide their work, and the tool has already been piloted and validated in one the Department's regions.*

2.99 *The Department will have the capacity within its new NB Families computer system to generate timely reminders to staff as to when inspections and spot checks and renewals are required and will track their completion via monitoring reports. The new system will automatically generate a "task" to the staff reminding them of the date that all approvals, inspections and spot checks are due. If not acted upon, another "task" will automatically be generated for the supervisor indicating that an inspection or spot check is "overdue".*

Conducting - the inspection form and how it is used

2.100 We were pleased to find that the Department has a consistent method for documenting inspections. Inspections are documented using a form that combines a checklist with areas for comment. We were also pleased that the inspection form indicates results that are in compliance, as well as those that are non-compliant. Documenting all of the attributes where compliance is measured provides better evidence that a thorough inspection was performed. The inspection form is understandable, relevant and substantially complete when compared to the standards. It serves as an efficient and effective tool.

2.101 However, while we found that all regions use the inspection form, we were disappointed to find that only eleven of the 36 inspection forms that we examined were properly completed. Inconsistencies in the completion of the inspection forms impair the usefulness of both the information and the work performed. The major deficiency that we observed was that the compliance schedule was not used properly. The compliance schedule provides space to concisely document the standards that were not met, the required actions, the compliance date, the date the correction was verified and additional comments. None of the 36 inspection forms that we examined had used the compliance schedule for follow-up (verification of corrections made by the day care facilities).

Recommendation

2.102 The Department should ensure that the inspection form is properly completed for every annual inspection performed at each day care facility.

Departmental response

2.103 *A directive will be sent to regional staff by fall, 2003 that will request the proper completion of the inspection form. This directive will then be incorporated into the Day Care Services Program Policy and Procedures Manual.*

Using the results of inspections

2.104 We were disappointed to find that inspection results are not always linked to the approval process or enforcement actions. While positive inspection results do indicate compliance with the Province's Regulation and standards and do contribute to the approval process, negative inspection results are not always pursued. We found evidence that Certificates are issued regardless of the inspection results and enforcement actions on negative inspection results are rare.

Certificates are issued regardless of the inspection results

2.105 Legislation integrates the inspection function with the approval process by requiring a day care facility's compliance with the Regulation and standards prior to the Minister approving the day care facility. However, our audit observations indicated that compliance was not always required prior to issuing the Certificate. While performing the annual inspection is definitely considered an important step in the approval process, it appears that the next step is to issue the Certificate, regardless of the inspection results.

2.106 In our review of 36 inspection forms supporting Certificates that had been issued within the past year, we made the following observations relating to non-compliance with the standards.

- Twenty-three day care facilities had not complied with the terms of the Prior Contact and Criminal Record Check Policy.

- There were four files where 20-25 infractions were recorded, yet a regular renewal Certificate was issued.

2.107 One day care facility, with 20 infractions noted on the inspection form, was not complying with the standards relating to: health (hand washing, diapering, first aid); fire safety (emergency procedures, fire drills, protective coverings on electrical receptacles); play equipment (inspection plan for outdoor play equipment); and administration (posting of the daily schedule and evacuation procedures; having statements of service regarding child illness, child guidance, parental involvement and complaints).

2.108 Another day care facility, with 23 infractions noted on the inspection form, was not complying with the standards relating to: staff employment criteria (medicals, first aid, criminal record checks); the program (written weekly plan, outdoor play); health (hand washing, first aid); fire safety (emergency procedures, protective coverings on electrical receptacles); play equipment (inspection plan for outdoor play equipment); and administration (child records; personnel records; posting requirements for the daily schedule and the individual in charge; statements of service regarding child abuse and complaints).

2.109 Another day care facility with 25 infractions noted on the inspection form was not complying with many of the same standards as the previous example. The inspection form also indicated non-compliance with three other standards relating to effective supervision, the indoor play equipment and the arrangement of the play environment.

2.110 The fourth day care facility had 22 infractions noted on the inspection form. It was not complying with the standards relating to: staff employment criteria (medicals, first aid, criminal record checks); health (diapering, medication documentation); general safety (emergency lights, exit doors); potty chairs; play environment (indoor play equipment; outdoor play equipment); and personnel records.

2.111 The Department is not complying with the legislation when it issues a Certificate without ensuring that the day care facility is complying with the standards. Inspections should contribute more toward the enforcement of the legislation.

Negative inspection results are not always pursued

2.112 While there was evidence of follow-up on negative inspection results in some files in the sample of 36 inspection forms tested, there was not in others. Since none had used the compliance schedule, we reviewed subsequent spot check forms to determine whether follow-up had been done. We found several files where there was no evidence of follow-up of infractions that we felt should have been followed-up based on the importance of the non-compliance. Examples included the following:

- missing evidence of staff employment criteria including criminal record checks, medicals and first aid training;
- the indoor play equipment not being safe, clean and in good repair;
- program plans not being developmentally appropriate;
- diapering equipment, disposal and changing procedures being inappropriate; and
- missing protective coverings on electrical receptacles and other standards relating to safety.

Enforcement actions are rare

2.113 There have been only three closures of day care facilities by the Department in over twenty years of the program. Because the program is decentralized, enforcement responsibilities are with the regional office; however, closing a day care facility requires the Minister's authority and thus involves central office. We found that the Department has not established and documented a process for enforcement of the standards and legislation. Therefore, the coordinators in the regional offices have little guidance on when to proceed with an investigation or closure.

2.114 The Regulation provides for the issuance of a Temporary Certificate to a day care center when the Minister is satisfied that the

approval requirements will be met within a designated period of time, not to exceed six months.

2.115 A Temporary Certificate can be used as an enforcement tool. It serves as a "conditional certificate" allowing the day care facility time to correct performance and comply with the standards.

2.116 We were pleased to find that the Department has developed a process for issuing Temporary Certificates and the information system has the capability of recording, identifying and tracking Temporary Certificates. However, we found that there was very limited use of Temporary Certificates, there was inconsistency in the coordinators' understanding of their use, and, we saw two cases where we believe their use was inappropriate. In the following two cases a Temporary Certificate was issued; however, we believe proceeding with more aggressive enforcement actions would have been more appropriate.

2.117 In the first file, we believe more aggressive enforcement actions would have been appropriate because of the following.

- No application form had been received. Remitting an application form is a legislative requirement for the approval process.

- The fire prevention inspection on file was ten months old. It indicated that there were infractions and did not have a recommendation for the day care center's approval.

- The Department's day care inspection form indicated that 23 standards were not being fully met and it indicated that corrective action was required. The infractions involved the standards relating to: staff employment criteria (medicals, first aid, criminal record checks); safety (keeping toxic products in the original labelled containers, practicing fire drills monthly, protective coverings on electrical receptacles); play equipment (inspection plan for outdoor play equipment); bathrooms; mattresses; and administration (child records; personnel records; statements of service regarding child abuse and complaints).

2.118 In a second file, we observed that the coordinator had re-issued Temporary Certificates repeatedly, and the day care had been issued a Temporary Certificate for the third time. The first Temporary Certificate was for one month. The second was for a two-month period. And the third was still active during the time of our review. The reason for the Temporary Certificate was to give the facility time to comply with a public health infraction. We believe that once a Temporary Certificate expires, the Department should either issue the renewal Certificate (if the day care is now complying) or proceed with enforcement actions (if the day care is still not complying).

2.119 We also reviewed files where a Temporary Certificate was not used and we thought it should have been. For example, we reviewed files where the day care inspection form indicated that there were several infractions, yet a regular renewal Certificate was given. A Temporary Certificate would have been appropriate until verification of the necessary changes at the day care facility took place. Also, we reviewed files where no Certificate was issued as the coordinator awaited a statement of compliance from Public Health or the Office of the Fire Marshal. Then, once the statement of compliance was received, the Certificate was backdated and issued. A Temporary Certificate could have been issued instead of waiting and backdating a Certificate.

2.120 The current process of inspecting day care facilities only verifies whether or not the standards are being met. It does not enforce compliance. The follow-up of infractions and the enforcement of the standards and legislation are two other important components of ensuring compliance. In 1987, the Office of the Comptroller's review of this program reported, "There is no application of sanctions in respect of non-compliance with the Act, Regulations and Standards. Day Care facilities are licensed regardless of the findings." Our findings indicated that this statement still holds true.

Recommendations

2.121 The Department should ensure appropriate follow-up is done when inspections are incomplete or when infractions are detected.

2.122 The Department should establish a process for enforcement of the standards and legislation. The process should be documented and clearly communicated to the coordinators.

2.123 The Department should update the guidance on when to use a Temporary Certificate and monitor their usage to ensure that all the coordinators use Temporary Certificates appropriately.

Departmental response

2.124 *The Department agrees with these recommendations and will address them through the development of the Day Care Services Program Policy and Procedures Manual to be completed within the fiscal year 2003-2004.*

Conclusion

2.125 This criterion is partially met. While the program has a standard form that, when used properly, would result in effective inspections being performed efficiently, the Department does not have established processes for prioritizing and performing inspections and for enforcing the standards. As a result, we found that inspection coverage is not adequate; inspections are being effectively performed at some day care facilities but not completely performed in others; and inspection results are not always linked to the approval process or enforcement actions.

Policies and procedures

2.126 Policies and procedures establish rules to help ensure that a program is provided in accordance with legislation and that the program is delivered consistently throughout the Province.

2.127 Our third criterion was:

> *Policies and procedures for approving child day care facilities, monitoring the facilities and enforcing the legislation should be documented and easily accessible by staff. There should be quality control practices to ensure that the policies and procedures are followed and updated as needed.*

2.128 The Department does not have a policies and procedures manual for the Day Care Services Program. Hence, coordinators are not guided by documented procedures for approving and inspecting child day care facilities and enforcing the legislation. The Department recognizes the need for these.

2.129 The Department has issued a number of Policy Direction memos to staff. These cover such topics as issuing Certificates and their covering letter, issuing Temporary Certificates and collecting approval fees. These memos could serve as a useful reference for specific issues. However, their usefulness is limited since they have not been collected and organized for the coordinators. They have been given to staff via inter-office memo in the past, as the need arose, without guidance on their retention. The coordinators may not be aware of all of the Policy Directions because they have been issued over time and several are old, some dating back to 1986. During this time, the number of coordinator positions has increased and there has been turnover in the position in some regions.

2.130 There is a higher risk for inconsistencies in program delivery without formal policies. This risk is further increased with a decentralized program, such as Day Care Services. We observed the following inconsistencies during our review.

- Some of the coordinators believe that a fire prevention inspection is required every twenty-four months, rather than the actual twelve-month requirement.

- One of the coordinators believes that their inspection of a first-time approval is required sometime during the twelve months following the issuance of the Certificate. The actual requirement is that the Department's inspection be performed before the day care facility is approved.

- Other inconsistencies that we described earlier include: timeliness of issuing Certificates; spot check frequency; completeness of inspections; follow-up of non-compliance with the standards; and the use of Temporary Certificates.

2.131 We believe that these differing interpretations and inconsistencies indicate the need for formal policies and procedures.

2.132 In 1987, the Office of the Comptroller reviewed this program and reported the need for a policies and procedures manual. Our findings indicated that this need is still present. In addition to developing a policies and procedures manual, it is imperative that it is properly delivered to staff with training where necessary. And, to ensure that the policies and procedures are followed and updated as needed, quality control practices need to be implemented.

Recommendations

2.133 The Department should develop documented policies and procedures for approving child day care facilities, monitoring the facilities and enforcing the legislation. The policies and procedures should be easily accessible by staff.

2.134 The Department should train staff, as necessary, to help ensure the policies and procedures are understood and followed.

2.135 The Department should develop and implement quality control practices to ensure that the policies and procedures are followed and updated as needed.

Departmental response

2.136 *Although there have been a series of previous memos sent to inform relevant staff about policies and procedures, the Department agrees to formalize these through the development of a Day Care Services Program Policy and Procedures Manual and will begin development of such a manual in fall, 2003. Training of staff will be a large component of the roll-out of the policy and procedures manual. Monitoring of the Day Care Services Program will include reviewing the implementation of the new policy and procedures manual, as well as the development of quality control practices to ensure that the manual is updated as required.*

Conclusion

2.137 This criterion is not met. The Department has not established formal policies and procedures for the Day Care Services Program.

Being accountable - Monitoring and reporting on the program

2.138 Appropriate monitoring and reporting procedures provide information for determining whether a program is meeting its objectives.

2.139 Our fourth criterion was:

> *The Department should have appropriate procedures in place to measure and report on the effectiveness of the program for approving and monitoring child day care facilities.*

2.140 Any government program should have program goals and performance monitoring procedures, and government should report on the effectiveness of the program. We assessed each of these in determining whether this criterion was met.

Program goals

2.141 The Department does not have goals or targets for the program, against which they can measure results.

Recommendation

2.142 The Department should establish goals and targets for the Day Care Services Program, against which they can measure results.

Departmental response

2.143 *The Department will begin to develop goals and targets for the Day Care Services Program within the current Program Standards within the next twelve months.*

Performance monitoring

2.144 An adequate monitoring system has not been established for the program, monitoring responsibilities have not been assigned and regular monitoring procedures are not being performed.

2.145 Without monitoring of the program, problems may not be identified (and hence not corrected) in a timely fashion. We believe that the following problem areas may have been avoided with proper program monitoring:

- program delivery is not fully complying with the legislation;
- there are inconsistencies in program delivery between the regional offices; and
- incomplete inspection reports indicate a quality control issue.

2.146 In 1987, the Office of the Comptroller reviewed this program and reported a deficiency in monitoring procedures for the coordinators and the approval process, including inspection reports. Our observations indicate that this weakness still exists.

Recommendation

2.147 The Department should establish a performance monitoring plan for the Day Care Services Program with specific monitoring procedures.

Departmental response

2.148 *The Department agrees to begin the development of a formal performance monitoring plan for the Day Care Services Program within the next twelve months. This plan will be in line with the monitoring roles and responsibilities of the Department's new Program Development and Monitoring Division.*

Reporting on the effectiveness of the program

2.149 With program goals and monitoring lacking, the Department does not receive relevant and accurate reporting on the effectiveness of the inspection and approval of day care facilities.

2.150 The only reporting on the program, in the Department's annual report, is very limited, stating only the number of approved day care facilities and spaces.

2.151 The government and Legislative Assembly are not being provided with information that is useful in determining whether the day care standards are being met or whether the program is meeting expectations.

2.152 We were disappointed in the lack of action on the government's 1994 Policy titled, *New Directions – Child Care Reforms* that states the following:

> *In order to improve the quality of child care provided by regulated child care facilities, the following enhancements are being introduced:*
>
> - *Policy to strengthen the enforcement of existing regulations and standards.*
> - *Regulatory requirement for operators to post, on site, notice of infractions, in order to inform parents.*

2.153 The Department confirmed that these two enhancements have not been implemented.

2.154 By not implementing the suggested recommendations and enhancements, including those made by the Office of the Comptroller as long ago as 1987, the Department did not accept the opportunities to improve the program and report on their success.

Recommendations

2.155 The Department should report on the effectiveness of the Day Care Services Program both internally and publicly in its annual report.

2.156 The Department should review the report prepared by the Office of the Comptroller in 1987 to determine which findings and recommendations are still relevant, decide what action is to be taken and establish an implementation plan.

2.157 The Department should review the 1994 Policy titled New Directions – Child Care Reforms to determine which long-term strategic directions are still relevant, decide what action is to be taken and establish an implementation plan.

Departmental response

2.158 *The Department will review the documents as requested for relevant recommendations. The Department agrees to report on the effectiveness of the Day Care Services Program internally and publicly.*

Conclusion

2.159 This criterion is not met. The Department does not have appropriate procedures to measure and report on the effectiveness of their program for approving and monitoring child day care facilities.

Summary

2.160 The Department of Family and Community Services recognizes the importance of day care facilities providing quality care. They have developed approximately one hundred and forty standards for day care facilities to follow.

2.161 We believe there are two key challenges to the Day Care Services Program. A proper decentralized program structure needs to be developed and the program's growth needs to be addressed.

A proper decentralized program structure needs to be developed

2.162 When the program decentralized in 1985, it consisted of four regional staff members and 67 facilities. The program was small and a proper decentralized program delivery structure was not established prior to assigning the program delivery responsibility to the regional offices. The following observations summarize the weaknesses in the program's delivery structure and the problems that have resulted.

- There are no formal communications between the Department and the Public Health Regional Offices - Department of Health and Wellness or between the Department and the Office of the Fire Marshal - Department of Public Safety. Both of these other departments are responsible for inspecting day care facilities. This has resulted in inconsistencies with the frequency of inspections, the documentation received from different inspectors and the follow-up of infractions observed by the other two departments.

- The Department has not established and documented a process for enforcement of the standards and legislation. We observed cases where day care facilities were issued Certificates without complying with the standards and cases where day care facilities were operating without valid Certificates.

- The Department has not established formal policies and procedures for the program. We observed several inconsistencies in the issuance of Certificates and the inspection of day care facilities.

- There is no formal program monitoring. This has resulted in situations involving non-compliance with legislation, unaddressed training needs and inadequate quality control.

- Program reporting is lacking. As a result the government and Legislative Assembly do not know whether the day care standards are being met or whether the program is having a positive impact.

- Program delivery enhancement opportunities have been missed.

2.163 Addressing these weaknesses will undoubtedly improve the program.

The program's growth needs to be addressed

2.164 There has been substantial growth in the program since 1985 when the standards were introduced and the program was decentralized. On 31 March 2002, there were 359 approved day care facilities. This is an increase of 292 day care facilities (436%) since 1985. The following observations suggest that the Department is not properly managing the growth in the program.

- The number of day care facilities within the program is growing steadily but the human resources assigned to the program are not.

  There was growth in the number of departmental staff assigned to the program until 1994; however, there have not been any increases since 1994. While the number of coordinator positions has remained the same, the number of day care facilities requiring annual renewals and ongoing monitoring has increased by 56% since 1994. Several of the coordinators with whom we spoke told us that they were overwhelmed with their caseloads. Some coordinators expressed concerns of increased risks to children due to the lack of time coordinators can spend at the facilities.

  There have not been any changes to the number of central office staff assigned to the program since 1985. There is only one central office staff member for this program, and this individual has other program responsibilities in addition to the Day Care Services Program.

  As already mentioned, all eleven of the individuals responsible for the Day Care Services Program have other program responsibilities as well. This means that only a portion of their work time can be assigned to inspecting day care facilities, issuing Certificates, responding to complaints, providing advice to the day care facilities and all the other tasks involved with the Day Care Services Program.

- There has been no change to either the program or the program's delivery. The legislation is unchanged.

- We did a caseload analysis comparing the number of day care facilities assigned to the coordinators in each of the eight regions. While all coordinators are assigned the same responsibilities, there are substantial differences in the number of day care facilities assigned to the coordinators.

  The average number of day care facilities per coordinator position ranged from 23 to 57. (Using the provincial totals, the average number of day care facilities per coordinator position is 42.) We also observed that while both the Edmundston and Campbellton regions have approximately the same number of approved day care facilities, 23 and 21 respectively, the Edmundston region has a full position, while the Campbellton region has only a half position.

2.165 It appears that the Department is not properly managing the growth in the program since there have been no changes to the program's expectations and resources since 1994.

Recommendation

2.166 The Department should re-examine the number of day care coordinator positions needed and the basis for their allocation to the

eight regional offices. The Department should make changes as necessary to ensure that sufficient resources are effectively assigned to the regional offices.

Departmental response

2.167 *The Department will re-examine its staffing needs and allocations.*

Conclusion

2.168 While the Department of Family and Community Services does have established processes for approving and inspecting day care facilities, it is our opinion that they are not adequate and they do not always ensure compliance with the Province's legislation and standards for child day care facilities.

2.169 Legislation provides for an appropriate system to protect children in approved day care facilities. It states that all day care facilities must be approved; and, they must comply with the Regulation and standards prior to being approved. And further, it states that it is illegal to operate a day care facility without an approval. When Certificates of Approval are issued without ensuring compliance with the Regulation and standards, the system breaks down. When day care facilities are allowed to operate without a valid Certificate of Approval, the system breaks down. When the system breaks down, the public is let down as the children in day care facilities are not provided with the promised protection.

2.170 The legislation and the standards were established to ensure a certain quality of day care service. If the approval and inspection processes do not ensure compliance, then the expected and required quality will not be achieved. We have made several recommendations that we think will help the Department ensure that the legislation is followed and quality day care services are provided.

Chapter 3
Department of Finance
Tax Expenditure Programs

Contents

Department of Finance Tax Expenditure Programs

Background

3.1 We typically associate government programs with the expenditure budget. But not all government programs are offered in this manner. Governments are also offering programs using various tax revenues. Ever since the introduction of personal income tax, there have been deductions and exclusion programs that have reduced the tax revenue.

3.2 These programs have the effect of reducing taxes paid by certain taxpayers and, as such, reducing the tax revenues otherwise due to the Province. These types of programs are commonly referred to as *tax expenditures*.

3.3 There is no universally accepted definition of tax expenditures, although there appears to be general agreement on the concept. The Department of Finance of Canada has defined tax expenditures as follows.

> *Tax expenditures are foregone tax revenues, due to special exemptions, deductions, rate reductions, rebates, credits and deferrals that reduce the amount of tax that would otherwise be payable.*

3.4 Tax expenditures can be viewed as providing financial assistance to certain groups of taxpayers or as providing economic incentives that encourage specific taxpayer behaviour.

3.5 Some examples of provincial tax expenditure programs and the benefits to the affected taxpayers are identified in Exhibit 3.1.

3.6 Tax expenditures affect the financial position of the Province in the same way as direct spending programs. A dollar in forgone revenue has the same impact on the Province's surplus or deficit as a one-dollar increase in direct expenditure. We believe that tax expenditure programs can have economic effects that are identical to government direct spending programs. In some situations, tax expenditures can be viewed as an alternative to direct expenditures.

Exhibit 3.1
Examples of provincial tax expenditure programs

Tax	Program	Benefits to affected taxpayers
Personal income tax	New Brunswick low income seniors' tax benefit	$100 per year for seniors in receipt of either a Guaranteed Income Supplement, Allowance for Survivor or Extended Spouse's Allowance
Gasoline and motive fuel tax	Exemptions for aquaculturists, farmers, fishermen and silviculturists	Provides for point of sale tax exemptions on motive fuel and refund of tax on both gasoline and motive fuel
Real property tax	Assessment reduction program	Partial exemptions for qualifying properties owned by charitable and qualifying non-profit organizations
Personal income tax	Political contributions tax credit	Maximum $500 tax credit • 75% of the first $200 of contributions • 50% of the next $350 of contributions • 33.33% of the next $525 of contributions
Corporate income tax	Labour incentive film tax credit	For corporations whose principle business is the production of films, a tax credit equal to a maximum of 40% of eligible salaries paid to New Brunswick residents. Wages in excess of 50% of the total costs of production are not eligible for consideration.

3.7 However, tax expenditure programs and direct expenditure programs are not presented to the Legislative Assembly in the same way in the annual budget approval process. As well, there is currently no information available publicly on the cost of the tax expenditure programs offered by the Province. There is no means of knowing whether these programs are achieving what they set out to accomplish. It is possible that a program could have achieved its purpose and is no longer a useful program for taxpayers.

Scope

3.8 Because of the number of tax expenditure programs, and the accountability issues surrounding them, we decided to focus our attention on this area.

3.9 Our objective for this project was as follows:

To examine and assess the processes of approving, monitoring, evaluating and reporting provincial tax expenditure programs.

3.10 We developed four audit criteria to use as the basis or standard for our audit. These were discussed with the Department of Finance and it was agreed that they were reasonable.

3.11 We reviewed in detail a sample of four representative tax expenditure programs to examine the government process from the perspective of the four audit criteria.

3.12 The following are the four programs reviewed:

Tax	Program	Benefits to affected taxpayers
Gasoline and motive fuel tax	Tax exemptions on motive fuels for various classes of consumers	Provides for point of sale tax exemptions on motive fuel and refund of tax on both gasoline and motive fuel
Real property tax	Assessment reduction program	Partial exemptions for qualifying properties owned by charitable and qualifying non-profit organizations
Real property tax	Farm land identification program	Allows for the deferral of real property tax on registered farm land and real property
Personal income tax	Labour sponsored venture capital tax credit	Taxpayers who purchase shares of prescribed New Brunswick labour sponsored venture capital corporations are eligible for a 15% non-refundable provincial tax credit up to a maximum credit of $750

3.13 We obtained audit evidence by reviewing documentation, conducting interviews and performing compliance testing of various departmental processes. We compared audit evidence against audit criteria to develop findings, recommendations and conclusions. We also reviewed practices in jurisdictions outside of New Brunswick.

3.14 The majority of the work we conducted was in the Department of Finance. Given the broad nature of the responsibilities of the Department and its role in the taxation revenue programs, we concluded that such an audit focus was appropriate.

Results in brief

3.15 Tax expenditure programs are not subject to the same stringent scrutiny of the Legislative Assembly that is applied during the process of approving the yearly expenditure budget. The Legislative Assembly approves the establishment of these programs, but does not receive sufficient information on a regular basis to assess their continuing relevance and value.

3.16 The tax expenditure programs we examined did not have measurable objectives that would indicate what the program was expected to achieve.

3.17 There is no formal process in place to guide the monitoring and evaluation of tax expenditure programs.

3.18 There is no public reporting on the effectiveness of tax expenditure programs.

Approval of tax expenditure programs

3.19 Our first criterion was:

Tax expenditure programs should be properly approved.

3.20 Under long-established practice in the Province of New Brunswick, the Legislative Assembly is required to provide its prior approval for all expenditures of public money. It does this through appropriation acts. These acts are the major legislative control over government expenditures.

3.21 The approval process for tax expenditure programs is not the same.

3.22 The process required for the initial approval of a tax expenditure program appears to be quite rigorous. It involves enacting (or changing) legislation. This requires the sponsoring department to complete a Memorandum to the Executive Council using the procedures set out in the Procedures Manual for Executive Council Documents. The procedures require the completion of a policy analysis, which according to the manual is to include:

- why the proposal for the new or amending act is being made;
- what is being proposed;
- how the objectives will be accomplished;
- advantages and disadvantages of the proposal; and
- a description of the enforcement methods.

3.23 The above procedures appear reasonable. However we are unable to confirm that they are performed because we have been refused access to all Executive Council documents.

3.24 Senior Department of Finance staff advised us that revenue programs, including tax expenditure programs, cannot be created or changed without supporting statutory authority.

3.25 Although we could not directly examine the approval process in support of the decision to create the tax expenditure programs, we were able to locate the legislative authority for all four of the programs we selected for review. While this satisfied us that appropriate approval had been given, we were concerned over the supporting information given to the Legislative Assembly. While we were informed that cost estimates underlying the foregone revenue are often received by the Legislative Assembly, there is no requirement that this information be made available at the time of approval. Another cost that should be reported, if it is significant, is the cost to administer the program.

3.26 Each year the Main Estimates set out the estimated revenue amounts for the year. Although the revenue may be discussed, the legislators do not vote upon these amounts at budget time. Unless there is a requirement in the supporting legislation, tax expenditure programs

are not subject to the same stringent scrutiny of the Legislative Assembly that is applied during the process of approving the yearly expenditure budget.

3.27 Other jurisdictions have found that tax expenditure programs are subject to less budget scrutiny than direct expenditures. Funds spent through tax reductions are often insulated from competition with other spending priorities. Delivering programs using tax revenues can hinder the government's ability to assess accurately the value of such programs relative to other needs. And not treating tax expenditure programs in the same manner as direct expenditures can obstruct the formulation of a co-ordinated and consistent budget plan.

3.28 Other jurisdictions have also found that once a program has been approved as part of the tax system, its ongoing relevance may never be challenged. The process of curbing tax expenditures programs is more difficult than for direct expenditures, in many cases, because the necessary financial information is not available to prompt and support the appropriate action.

Recommendations

3.29 Government should provide financial information to the Legislative Assembly at the time when legislative approval is sought for a tax expenditure program.

3.30 Government should prepare information for the Legislative Assembly that would facilitate its scrutiny of tax expenditure programs on a regular basis.

Departmental response

3.31 *While there is no formal process that specifically states that financial information must be provided, financial information is always available when tax measures are introduced in the legislature and is almost always provided. There are mechanisms whereby cost projections are provided during the legislative process such as the introductory statement, at second reading or at the Committee of the Whole stage. However, the manner in which this information is provided is a decision of government. The Department has no jurisdiction in dictating what information is to be provided to the Legislative Assembly or when.*

3.32 *The Department agrees in principle that more information should be provided on those tax expenditures that are most similar to expenditure programs. However, we would like to point out that the monitoring, evaluation and reporting of such programs requires resources and time. Therefore, the establishment of a reporting process should strike a reasonable balance between the costs and the benefits of conducting such evaluations.*

Conclusion

3.33 Based on the representations made by the Department of Finance and results of the audit sample, we conclude that this criterion has been met. However, always providing cost projections to the Legislative

Assembly at the time of the initial approval of the programs would improve the approval process. And accountability would be strengthened if there were a means of approving the continuation of tax expenditure programs, following their initial implementation.

Objectives of tax expenditure programs

3.34 Our second criterion was:

Tax expenditure programs should have measurable objectives.

3.35 There are a number of considerations when one is establishing a program. One of the most fundamental of these considerations is establishing measurable program objectives. The program objectives guide the program activity and are the reference point for dealing with challenges and changes to the program as it evolves. The objectives must be stated in terms that allow the comparison of actual results to the intended results, and they must facilitate a useful measurement of the performance of the program.

3.36 Full accountability for performance requires those responsible for delivering government programs to be aware of what measurable objectives they are expected to achieve.

3.37 As previously discussed, the Procedures Manual for Executive Council Documents requires the establishment of program objectives. The manual requires a description of the objectives and how they will be accomplished. We inquired about the existence of any provincial or departmental policy that outlines a requirement for tax expenditure programs to publicly disclose measurable program objectives (or expected outcomes). Senior Department of Finance staff advised us that there is no such policy.

3.38 We reviewed available documentation and supporting legislation for four tax expenditure programs in an attempt to identify any measurable objectives.

3.39 We found that in all four cases there is responsibility assigned for the delivery of the program. There are also eligibility criteria established to qualify for the tax expenditure programs. However, there are no clearly documented, measurable objectives that would indicate what the program was expected to achieve.

3.40 For example, the Department of Agriculture, Fisheries and Aquaculture is responsible for delivering the Farm Land Identification Program. Based on discussions with departmental staff, we were able to identify that the purpose is to maintain agriculture land for agricultural use, and to prevent encroachment on agricultural land by urban and residential development. While we were encouraged to see that staff is aware of the thrust of the program, measurable objectives were not formally established. For example, the program could have an objective

related to the percentage of farm land that is registered in the Province, or an objective of increasing the percentage of farm land area in the Province as compared to total land area.

3.41 In the absence of measurable objectives, we believe that program administrators and legislators are not receiving sufficient information to allow them to develop a complete understanding of what to expect from the program.

Recommendation

3.42 Government should establish measurable objectives for all tax expenditure programs.

Departmental response

3.43 *The Department agrees with this recommendation to the extent that program objectives are measurable and that the measurement can be conducted at a reasonable cost, such as in the case of the New Brunswick Film Tax Credit. However, for some programs, establishing measurable objectives and measuring the performance of the program are not easily quantifiable and may not be cost effective. In addition, most tax programs are easily measured using administrative objectives, but policy results are more difficult to quantify.*

Conclusion

3.44 The criterion has not been met. There is no requirement that tax expenditure programs have measurable objectives, and we found that measurable objectives are not clearly documented for the programs examined.

Monitoring and evaluating tax expenditure programs

3.45 Our third criterion was:

Tax expenditure programs should be properly monitored and evaluated.

3.46 In identifying the existing monitoring and evaluation processes we noted the following:

- There is no government definition of a tax expenditure program. It is necessary to define what is meant by the term, to ensure there is a clear understanding by administrators, legislators and taxpayers.
- The cost of the tax expenditure programs in terms of foregone revenue is not normally established. Knowledge of the ongoing costs of a program in terms of both its administration cost and its impact on tax revenue is an important factor in its monitoring and evaluation.
- There is an absence of documented government policies and procedures that address the management of tax expenditure programs, specifically in the areas of monitoring and evaluating.
- There is no central body within government or within the Department of Finance to ensure monitoring and evaluation procedures are properly performed for all tax expenditure programs. The Department of Finance stated that they monitor and evaluate tax

expenditure programs for which they are responsible, but they do not have a formal program in place.

Monitoring process

3.47 Receiving information on performance on a regular basis gives the opportunity to take action where performance has not met expectations. To reach a decision on whether programs are properly monitored, we asked a number of questions for each of the four programs that we tested.

Is it clear who has the responsibility to ensure beneficiaries qualify for the program?

3.48 We found that although there are no documented monitoring procedures, staff assigned to deliver the tax expenditure programs are taking steps to ensure that the beneficiaries of the program continue to qualify. For example, under the Labour Sponsored Venture Capital Program (LSVC) there are six individual LSVC funds. An individual within the Department of Finance has been assigned the responsibility to ensure that each of the funds continues to qualify under the program.

Is there a systematic review of whether progress has been made towards meeting measurable objectives?

3.49 We did not find any evidence of performance indicators being used or reports being produced to effectively monitor the programs we reviewed. It was not clear, in any of the four programs we reviewed, if anybody was responsible for monitoring the program for the purpose of comparing results against objectives.

3.50 For instance, under the Gasoline and Motive Fuel tax there are certain exemptions on both gasoline and motive fuel, for specified classes of consumers. The Department of Finance administers these exemptions and refunds. There are no reports being produced that measure the value of the exemptions to each exempted class of consumers (aquaculturists, farmers, fishermen, wood producers, vessel operators, etc).

Is there a process in place to estimate the foregone revenue and the administrative costs of the program and to compare these estimates to actual results?

3.51 In only one case of the four programs reviewed were yearly estimates made of the impact that these individual programs would have on the provincial tax revenue. The administration costs were projected or measured in only one of the four programs.

3.52 In all four cases the department responsible assured us that they were capable of determining the actual amount of foregone revenue for each tax expenditure program, however it is not routinely calculated. In no cases are projections of the costs of foregone revenue made for the year nor was a comparison made between actual and projected foregone revenues.

3.53 As an example, Service New Brunswick (SNB) is responsible to administer the assessment reduction program under the *Real Property Tax Act*. An individual employed with SNB carries out the responsibilities on a part time basis. The costs of administering the program are neither projected nor measured. The amount of the foregone revenues is not projected. The actual revenue foregone is not

calculated although sufficient information appears to be available to produce such information.

Evaluation process

3.54 One of the keys to the successful management of any program is the use of an appropriate evaluation process. The evaluation process should act as a means of ensuring that each tax expenditure program continues to perform at an acceptable level.

3.55 The Department of Finance confirmed that there is no documented evaluation process in place for any of the tax expenditure programs that they administer. They stated that an informal evaluation is performed on some of the tax expenditure programs for which they are responsible.

3.56 There are a number of important questions that should be asked in evaluating government programs, including tax expenditure programs.

- Is the program designed to serve an important public purpose?
- Is the program actually helping to achieve its goals?
- Are the benefits fairly distributed to those who need or deserve the assistance?
- Is the program well administered?
- Are there other programs in existence that would mean this particular program is not required?
- Is the level of service provided by the program satisfactory?
- Are there adequate documented sources of information available that the decision-makers can draw upon to complete an evaluation?
- Is there a clear process to renew the program?
- Why does the program continue to exist?
- Is program performance acceptable in view of the objectives?

3.57 The Department of Finance did not have a documented program evaluation process in place. As well there was no recent program evaluation performed for the four programs that we reviewed. As a result we did not attempt to obtain answers to these types of questions.

Recommendations

3.58 Government should clearly identify its criteria for defining tax expenditure programs.

3.59 Government should commit to a process of regularly monitoring and evaluating the tax expenditure programs.

Departmental response

3.60 *The Department acknowledges that establishing criteria for a tax expenditure definition is a necessary first step in order to determine which programs are true tax expenditure programs to ensure there is a clear understanding between administrators, decision-makers and the public. There is not a common definition across jurisdictions and it is important that Government determines what is important and significant to New Brunswick.*

3.61 *Various aspects of the tax system are reviewed on an ongoing basis, including tax concessions. These reviews are conducted with the objective of continued improvement to the fairness, transparency and efficiency of the tax system and to meet the priorities of government. The on-going monitoring and evaluation of all tax programs is an essential component of tax policy work. It would be inaccurate to assume that the monitoring and evaluation of tax expenditure programs is not done because there are no formal processes in place, or because the results are not made public.*

Conclusion

3.62 Since there are no formalized procedures to guide the monitoring and evaluation of tax expenditures, and there are no organized and consistent approaches being followed in this regard, this criterion was not met.

Reporting on effectiveness

3.63 Our fourth criterion was:

> *The effectiveness of the tax expenditure programs should be reported publicly.*

3.64 A requirement of a sound accountability process is the appropriate reporting of results in comparison with the planned targets or standards.

3.65 Government's policy on annual reports states:

> *To the degree possible, departments and agencies should give a clear account of goals, objectives and performance indicators. The report should show the extent to which a program continues to be relevant, how well the organization performed in achieving its plans and how well a program was accepted by its client groups.*

3.66 It is our view that tax expenditure programs should be subject to the same reporting requirements as other government programs.

3.67 Our review of the four tax expenditure programs found that there is no public reporting on the effectiveness of the programs. For example the Labour Sponsored Venture Capital tax credit was introduced in 1993 effective for the 1993 to 1997 taxation years. In

1998, the *Income Tax Act* was amended to allow for the extension of the program by regulation on an annual basis. The effectiveness of this program has not been publicly reported. The need for public reporting is particularly critical for tax expenditure programs because the full costs of such programs is not placed before the Legislative Assembly for approval on an annual basis, as is the case for direct expenditures. Nor are the results reported at the end of each year in the Public Accounts, as is the case for direct expenditures.

Tax expenditures reporting outside of New Brunswick

3.68 We reviewed practices followed by governments outside New Brunswick. We found that a number of other Canadian jurisdictions have implemented reporting on tax expenditure programs, although most restrict themselves to reporting estimates of the tax revenues foregone.

3.69 For example, British Columbia publishes estimates of tax expenditure programs. It is published with their budget documentation, and it is called a "Tax Expenditures" report. As well as defining tax expenditures and their role, the report estimates the cost of each tax expenditure program. The report also addresses the criteria that British Columbia uses to choose features of the tax system that should be reported as tax expenditures. The 2000 report stated: "the emphasis is on tax reductions, exemptions and refunds that are close equivalents to spending programs. … By implication, the list does not include tax measures designed to meet broad tax policy objectives such as improving fairness in the tax system, or measures designed to simplify the administration of the tax."

3.70 The Government of Canada and the Province of Saskatchewan also publish documents which estimate the value of individual tax expenditures. In the United States thirty-seven of the fifty states publish tax expenditure budget reports.

3.71 Our research indicated that one of the most advanced jurisdictions for managing tax expenditures is the state of Oregon. They not only estimate tax expenditures, they also produce a report which evaluates individual tax expenditure programs.

3.72 The Oregon philosophy is to manage tax expenditures in a similar manner to direct expenditures "because they (tax expenditures) provide special benefits to favoured individuals or businesses, and thus result in higher tax rates for all individuals...". The state prepares a biennial report on tax expenditures that allows the public and policy makers to identify and analyze tax expenditures and to periodically make criteria-based decisions on whether the tax expenditures should be continued. The report allows tax expenditures to be debated in conjunction with direct expenditure budgets. The result is the elimination of inefficient and inappropriate tax expenditures and a greater accountability by government.

Recommendation

3.73 Government should report publicly on the effectiveness of tax expenditure programs. This reporting should be consistent with the Province's annual report policy, particularly with respect to addressing the programs' continuing relevancy and the achievement of planned performance.

Departmental response

3.74 *The Department agrees with the principle underlying this recommendation and feels that it may be appropriate for those tax expenditures that are most similar to direct expenditures. However, reviewing the effectiveness of all tax expenditure programs and reporting annually may not be cost effective. The provision of public estimates and analysis on an annual basis would require significant additional resources.*

Conclusion

3.75 The criterion was not met. The effectiveness of tax expenditure programs is not reported publicly.

Chapter 4
Department of Health and Wellness
Accountability of Psychiatric Hospitals and Psychiatric Units

Contents

Department of Health and Wellness Accountability of Psychiatric Hospitals and Psychiatric Units

Background

4.1 According to the Canadian Mental Health Association (CMHA), studies indicate that approximately 20% of the general population has had some form of mental illness in the previous year and approximately 3% of the population is affected by serious mental illness causing profound suffering and persistent disablement. If we add family members, who carry a major burden of care, the figures of those impacted by mental illness in Canada would be multiplied two to three times.[1]

4.2 The CMHA goes on to say that the extent of mental illness can also be understood by the following data:

- one out of every eight Canadians can expect to be hospitalized for a mental illness at least once in their lifetime;
- mental illness is the second leading condition requiring hospital use among those aged 20 - 44; and
- in a recent study of general medical practice in Canada, psychiatric illness was found in one-quarter of patients.

4.3 The Mental Health Services Division (the Division) is one of five divisions within the Department of Health and Wellness (the Department). According to the Department, the Division's primary role is to provide central leadership and accountability for the effective,

1. Canadian Mental Health Association. Submission to the Commission on the Future of Health Care in Canada, 2001.

efficient, and equitable delivery of all formal mental health services in the Province.

4.4 The Division oversees the operation of 13 Community Mental Health Centres (CMHCs). It also administers psychiatric services agreements with eight Regional Health Authorities (RHAs) in seven regions covering eight psychiatric units, one child and adolescent unit, and two institutions - the Restigouche Hospital Centre in Campbellton and Centracare in Saint John.

4.5 The Division's budget for the 2002-03 fiscal year was $55.3 million. With this budget, the Division funds the operations of the CMHCs ($24.2 million) and, through psychiatric services agreements with the RHAs, the costs related to the clinical delivery of programs of the psychiatric hospitals and units ($26.5 million).

4.6 Data for fiscal year 2002-03 regarding the number of psychiatric beds, occupancy rates (%), and average length of stay in days (ALOS) at the psychiatric hospitals and units is as follows:

	Number of Beds	Occupancy[3]	ALOS
Adult Psychiatric Units (Regional Hospitals)	191[1]	81%[2]	15[2]
Centracare (Psychiatric Hospital)	50	97.7%	3,209
Restigouche Hospital Centre (Psychiatric Hospital)	150	93.5%	N/A[4]

Notes: [1] The number of beds that are approved is 191 but the actual number of beds being used is 169. The reduction in beds is due to RHA diversion strategies aimed at reducing the need for hospitalization, while keeping the funds within the mental health area. Examples include the diversion of funds into the Day Hospital Program and for the placement of additional nurses in the emergency room. Beds are closed only after approval has been obtained from the Division.

[2] Occupancy and ALOS are based on information available from six out of eight psychiatric units.

[3] Funding provided by the Division to both the psychiatric hospitals and units is based on a 90% occupancy rate. Less than 100% occupancy rates, as shown for the psychiatric hospitals, can be due to an accumulation of very short vacancies because any vacancy is filled as soon as the person at the top of the waiting list can be transported.

[4] No ALOS data was provided. The forensic unit performs 30-day court-ordered psychiatric assessments and the majority of other units have a combination of people who have been there for many years and others who have been there for shorter terms.

4.7 Over the past fifteen years, the mental health services sector in New Brunswick has undergone significant change. In 1988, a ten-year plan was proposed for a reformed mental health system. The plan was essentially completed in 1996, two years earlier than planned. New Brunswick is recognized across Canada for employing some best

practices in mental health reform. Among the key ingredients identified for success, according to the Clark Institute of Psychiatry, were the creation and management of an integrated funding envelope, regionalization, and adoption of a mental health policy committed to reallocating resources from institutions to the community.[1]

4.8 With growing control at the regional level and with more money being distributed to support regional operations, it becomes increasingly important to have central mechanisms in place to ensure the government is achieving its objectives. At the present time, many health services are under the management of the RHAs. Examples include addiction services, extramural hospital, mental health services provided by the psychiatric hospitals and units, and all health services offered by the hospitals in the RHA (cancer care, cardiac care, rehabilitation, etc.). As a reflection of this, the Department issued contributions, grants, and subsidies to hospitals totalling $826.1 million in 2001-02 representing approximately 59% of the entire Department of Health and Wellness expenditures for that year. The need for a strong accountability structure is extremely important.

4.9 Such a structure would allow the Department to maintain control over quality standards of care and consistency across regions. We decided to focus our audit on the accountability processes the Department has in place over the RHAs with regard to the performance of the psychiatric hospitals and units. We focused our efforts on the mental health sector due to both its importance to New Brunswickers and the significant amount of change that has occurred in this sector over the past fifteen years.

4.10 Although mental health is a relatively small component of the total contributions, grants, and subsidies issued to RHAs by the Department, we believe that the recommendations that result from this audit will be applicable to other decentralized accountability relationships in which the Department is involved.

Scope

4.11 The objective for our audit was as follows:

To assess whether the Department of Health and Wellness has appropriate accountability processes in place for the operations of the psychiatric hospitals and psychiatric units under the direction of the Regional Health Authorities.

4.12 We developed three criteria to assist us in conducting the audit. These were discussed with departmental staff and staff from the RHAs to ensure there was understanding and agreement. Our comments in the report are organized by the criteria and we conclude on whether the Department has met each of them.

1. Clark Institute of Psychiatry. Best Practices in Mental Health Reform Discussion Paper, 1997.

4.13 Our audit consisted of interviews with staff from the Mental Health Services Division and mental health staff at three of the seven regions. These regions are responsible for both of the psychiatric hospitals and three of the eight adult psychiatric units. All Mental Health Services Division Directors, with the exception of the Director of Child and Adolescent Services, were interviewed. We excluded the six-bed child and adolescent psychiatric unit from the scope of our audit as it only represents 3% of the total psychiatric unit beds. Other interviews included staff from the Department's Financial Services Branch, the Patient Advocate Services Co-ordinator, and the Director of Adults With Disabilities and Senior Services Branch within the Department of Family and Community Services. We conducted research and carried out documentation reviews. We also conducted audit testing (involving all seven regions) at the Mental Health Services Division. We used all information gathered to support our findings, conclusions, and recommendations that are presented in this chapter.

Results in brief

4.14 We found that the performance targets currently in place are insufficient to enable the Department to properly assess the performance of the psychiatric hospitals and units. We also found that the Department is not receiving sufficient accountability reporting information from the RHAs. We concluded that, given the current level of reporting, it is not possible to properly evaluate the performance of the psychiatric hospitals and units.

4.15 Our overall audit conclusion is that the Department of Health and Wellness does not have appropriate accountability processes in place for the operations of the psychiatric hospitals and psychiatric units under the direction of the Regional Health Authorities.

4.16 We commend the Department for the recognition New Brunswick has earned for employing some best practices in mental health reform. It has achieved this recognition while focusing more on process feedback and qualitative information than quantitative information. We feel the Division's data collection and reporting processes require improvement since both are important components of an effective accountability relationship.

4.17 We recognize the mental health system is an integrated system that includes services provided through the psychiatric hospitals and units as well as the community mental health centres. One component of the system can not be measured in isolation from the other components. Although the focus of our audit was on the psychiatric hospitals and units, the Department should consider all services within the mental health system when implementing our recommendations.

4.18 The *Regional Health Authorities Act* sets the stage for an effective accountability framework between the Department and the

RHAs. We recognize the legislation is fairly recent and acknowledge that steps to implement the provisions of the Act are underway. Grants issued to RHAs should be managed wisely and prudently by the Department to achieve value for money in the operations of the psychiatric hospitals and psychiatric units. Accountability elements that should be in place include: defined expectations that focus on measurable results, signed agreements that state RHA reporting requirements, and a commitment by the Department to monitor results and take corrective action in cases of RHA non-compliance with the agreements.

Accountability

4.19 Prior to discussing our detailed findings, it is important to highlight the term "accountability". The three audit criteria we have chosen are all components of an effective accountability relationship.

4.20 CCAF/FCVI Inc., a national non-profit organization with more than twenty years experience in researching public sector governance and accountability, provides the following guidance:

> *Accountability is the obligation to render an account for a responsibility conferred. … Accountability involves an obligation to explain or justify specific actions.*[1]

4.21 The essential components of an effective accountability relationship are as follows:

- define and agree on roles and expectations;
- choose performance measures;
- report on results; and
- evaluate results and take corrective action where necessary.

4.22 We will be addressing the first two components under our first criterion and the others under our second and third criteria respectively.

Performance targets and standards

4.23 Our first criterion was:

> *The Department of Health and Wellness should have performance targets and standards in place for the psychiatric hospitals and psychiatric units.*

4.24 Responsibility for the operations of the psychiatric hospitals and psychiatric units rests with the RHAs. The Mental Health Services Division funds the costs related to the clinical delivery of programs such as the observation, examination, assessment, care, treatment, rehabilitation, and maintenance of persons suffering from mental disorders. During the 2001-02 fiscal year, the Division issued $26.6

1. CCAF/FCVI Inc. Accountability, Performance Reporting, Comprehensive Audit – An Integrated Perspective, 1996.

million of its total mental health budget to the RHAs for clinical costs. The mental health budget is "protected", meaning that RHAs can only use the funding for mental health expenditures. The Division does not fund physical plant expenditures such as infrastructure and utilities nor does it fund support costs. These expenditures are funded by the Hospital Services Branch within the Institutional Services Division of the Department.

4.25 Given the amount of funding the Department provides the RHAs, and the direct effect it has on the wellbeing of the people of the Province, it is reasonable to expect the RHAs to be able to demonstrate their accountability in a clear and organized manner.

Performance expectations and performance measures

Defining and agreeing on roles and expectations

4.26 A first and necessary step to an effective accountability relationship is to define the roles of the parties involved, that is, what each of their respective responsibilities will be and how the relationship is to be managed. It is important to have agreement among the parties regarding expected results. They should be clear, understandable, and realistic. This enhances the commitment of the parties to the relationship and allows for parties to be held properly accountable.

4.27 The importance of realistic expectations to an effective accountability relationship should be highlighted. Without a reasonable balance between expectations and available resources, the effectiveness of the relationship is undermined. Expectations that are perceived as unreasonable or unachievable with available resources and capacity will not be taken seriously. On the other hand, meeting expectations with resources that are more than sufficient would not earn much credit; meeting expectations should require some effort.

4.28 References in the remainder of this criterion are made to McEwan and Goldner's 2001 study entitled, "Accountability and Performance Indicators for Mental Health Services and Supports - A Resource Kit" that was commissioned by the Federal/Provincial/ Territorial Advisory Network on Mental Health. The purpose of the study was to develop a resource kit of performance indicators for provinces and territories to facilitate ongoing accountability and evaluation of mental health services and supports. Members of the Federal/Provincial/Territorial Advisory Network on Mental Health played a key role in directing the project to ensure its relevance to governments, regional health authorities, and mental health program managers concerned with performance monitoring. All provinces and territories were involved in the study.

4.29 Performance expectations can take the form of targets and standards. McEwan and Goldner define targets as commitments made in advance to achieve a stated level of performance. They went on to say that target setting should be based on past performance information, consider comparative performance data from international or national

jurisdictions, reflect the input of stakeholders, and challenge the organization to strive for higher quality.

4.30 A standard is a basis for comparison or a reference point against which performance can be evaluated. Benchmarks can be used as standards. McEwan and Goldner pointed out that the concept of benchmarking involves identifying best practice or best performance in a certain area and using this as a standard for comparing local performance.

Choosing performance measures

4.31 Once expectations have been set and agreed upon by all parties, the parties should then choose and agree upon performance measures. Actual performance is evaluated against performance expectations to determine if performance achieved is satisfactory.

4.32 Performance indicators are a type of performance measure. McEwan and Goldner state that performance indicators are markers or measures which convey quantifiable information about progress toward goals and objectives. They go on to say that, ideally, indicators should be compared to performance targets or benchmarks.

4.33 McEwan and Goldner found that performance monitoring efforts in most jurisdictions tend to focus on inputs and processes as opposed to outcomes when measuring and reporting on activities. They went on to say that the primary input reported and used at the political level is that of spending or what the spending purchases in terms of beds. They feel that more dollars does not necessarily produce more or better services and that analyzing spending alone does not give an indication of the volume or quality of services delivered or about outcomes achieved.

4.34 McEwan and Goldner define indicators as input, process, or outcome-based:

> *Input*
>
> *Resources put into mental health care and thereby relate to the structural or organizational characteristics of a system or setting. Inputs are often expressed in terms of financial resources or numbers and types of personnel, facilities, etc.*
>
> *Process*
>
> *Key activities of a service or system in the provision of care to persons with mental illness. Commonly reported process measures are service contacts, in terms of numbers of clients, client visits, admissions, etc.*
>
> *Outcome*
>
> *Considered by many to be the most important indicator category yet it is also the most complex and challenging to measure. Outcomes reflect the total contributions of all those*

who fund, plan, and provide service as well as those of clients and their families.

4.35 McEwan and Goldner feel that, ideally, a clear policy logic should link inputs, processes, and outcomes and that reporting on indicators within only one category is one-sided and can be misleading. Examples of mental health outcome-based indicators (taken from McEwan and Goldner's resource kit) for those persons served by the Province's mental health programs include:

- consumer/family satisfaction - satisfaction with level of services received;
- quality of life - sense of overall fulfilment, purpose, overall satisfaction with life;
- functional status - managing money, managing personal hygiene and appearance, utilizing skills such as grocery store and public transportation, maintaining a home environment;
- employment status - engaging in meaningful daytime activities such as volunteer activity, maintaining a job;
- housing status - living in satisfactory independent or supported housing;
- financial status – earning adequate income, receiving disability benefits; and
- clinical status - relief of clinical symptoms, associated distress, and degree of interference in daily life.

4.36 Measuring and reporting on outcome-based indicators will give a greater sense as to whether the services delivered met the needs of the mentally ill.

Audit findings – Performance targets and standards

4.37 The performance standards the Department has in place for the psychiatric hospitals and units include accreditation standards and provincial standards of care. The only performance target in place is a financial budget comparison. There are no outcome-based performance targets by which the Department measures performance. The new *Regional Health Authorities Act* provides the authority for the Department to establish an outcome-based performance measurement system but there is still work to be done before it is complete.

Accreditation standards and provincial standards

4.38 The RHAs are responsible for implementing the standards of care in accordance with both the Canadian Council of Health Services Accreditation Standards and the provincial standards of care.

4.39 Although it is not mandatory, all RHAs (previously Regional Hospital Corporations) in the Province are accredited every three years. The accreditation process includes a separate mental health component. According to the Canadian Council of Health Services Accreditation Standards, "The Mental Health standards allow an organization to assess and evaluate its activities in the areas of anticipating, planning, providing, and evaluating service to a population accessing mental health services in an institutional or clinic setting." The standards are divided into nine sections that include: being a learning organization, achieving wellness, being responsive, addressing needs, empowering the clients, setting goals, delivering services, achieving positive outcomes, and maintaining continuity. The accreditation standards include standards that are outcome-based (i.e. client satisfaction, number of complaints, and whether clients achieve their set goals and expected results).

4.40 As part of the accreditation process, a team within each RHA with mental health responsibilities performs a self-assessment against the mental health standards. An independent team comprised of qualified individuals from across Canada also assesses the RHA against the same standards with information they obtain through interviews, meetings, and documentation reviews. Recommendations are made as a result so that improvements can be made.

4.41 The accreditation results are not submitted to the Division unless a request is made. Although the Division places considerable reliance on the accreditation process, it does not review the results of this process to ensure positive outcomes are being achieved in all standards by all regions.

4.42 The provincial standards for psychiatric hospitals and units can be found in Chapter XII of the Standards for Hospitals in New Brunswick, entitled Standards for Psychiatric Services in Hospitals (1998). The document states that the purpose of the provincial standards "is to advise on standards for hospitals that will promote quality care for the people of the Province." The provincial standards have been developed as guidelines and are felt to be complementary to the accreditation standards. The Department does not have any formal means of verifying if the RHAs are in compliance with the provincial standards and whether desired outcomes (i.e. quality of life and functional status) have been achieved; instead it relies on the accreditation process, qualitative information, and open communication with the RHAs.

Annual budget

4.43 The financial target in place for the psychiatric hospitals and units is the annual budget. The Division compares budgets to actual results on a quarterly basis. A budget is an input-based target which, when taken by itself, does not give an indication of the volume or quality of services delivered.

Authority for establishing performance targets and standards

4.44 The *Regional Health Authorities Act*, which became effective on 1 April 2002, includes provisions that establish an accountability structure between the Department and the RHAs. The Minister's authority for establishing performance targets and standards is also reflected in the Act.

4.45 Section 7(1) of the Act states that the Minister shall establish an accountability framework that describes the roles of the Minister and other government ministers and the Regional Health Authorities and that specifies the responsibilities each has towards the other within the provincial health system.

4.46 Section 9 of the Act gives the Minister the authority to establish performance targets for Regional Health Authorities. It states:

> *The Minister may establish performance targets for a regional health authority with respect to:*
>
> *a) its development as an organization,*
>
> *b) its financial management,*
>
> *c) ensuring access to the health services provided by the regional health authority,*
>
> *d) achieving satisfactory patient outcomes,*
>
> *e) the level of patient satisfaction with the services provided by the regional health authority, and*
>
> *f) any other matter prescribed by regulation.*

4.47 We were pleased to see the provisions noted in d) and e) above. These provisions could assist the Department in assessing whether the needs of the mentally ill are being met. According to McEwan and Goldner, health and non-health client outcomes relevant to the care of persons with serious mental illness are encompassed by the concept of quality of life. They state that consumers see quality of life as the ability to achieve what many others take for granted including housing, social support, meaningful activities, and an adequate standard of living. They further state that satisfaction is an indication of the extent to which services and supports meet the needs of consumers and families, and is considered a key dimension of service quality.

4.48 This new legislation gives the Department the authority to establish an outcome-based performance measurement system for the RHAs. The Act has been in effect for just over a year now. We were informed that the provincial health plan, regional health and business plans, and the accountability framework, as required by the Act, are not yet in place. The regional health and business plans and the

accountability framework flow from the provincial health plan, which is currently in draft form.

Recommendation

4.49 We recommended the Department develop performance targets, with a focus on outcomes, against which it can evaluate the activities of all psychiatric hospitals and all psychiatric units.

Examples of the benefits of performance targets

4.50 Two situations were brought to our attention that could have been prominently identified for appropriate action by using performance targets.

Shortage of community housing

4.51 During our audit work we found there is an urgent need for appropriate community housing for the mentally ill population of New Brunswick. There are patients in psychiatric unit beds that have been medically discharged and there are patients in psychiatric hospitals who have completed their rehabilitation programs. According to the Chiefs of Psychiatry representing all the health regions in New Brunswick, these patients should all be moved into the community but there are few, if any, community placements available. Housing these individuals in hospital beds limits access by others who need these programs and services. We learned that this has been a problem for approximately two years.

4.52 As of December 2002, there were forty patients in psychiatric hospitals awaiting community placement and ten patients in psychiatric units awaiting community placement. Twenty per cent of psychiatric hospital beds were being occupied by patients who should be placed in the community. We were told by the Department that the average length of stay at the active rehabilitation unit at Centracare should be approximately six to eighteen months but it is often as long as five years as a result of the housing problem.

4.53 While a patient is in the care of a psychiatric hospital or unit, the responsibility for the patient lies with the RHA. While the patient is in the care of a community mental health centre (CMHC), responsibility for the patient lies with the Division. Once the patient is placed in a community residence, the responsibility for the patient lies with the Department of Family and Community Services.

4.54 The Department of Health and Wellness is fully aware of the shortage of community housing as the Division is regularly in contact with the RHAs regarding their mental health issues and problems.

4.55 Having appropriate performance targets in place and having a public reporting of results may have highlighted the need for resolving this issue. An example of a target might be to have patients, on average, released within a specified number of days. If patients are remaining in hospital for a period extending beyond the targeted number of days, it could be an indication of a problem such as limited community placements. Having performance targets and reporting on them could

bring issues such as this to light. Such types of reporting could also help to highlight and resolve problems associated with programs that cross departmental lines.

Patient advocate services

4.56 A review of utilization statistics in the Patient Advocate Services Annual Report for 2001-02 shows that two regions have a high number of patient advocate cases compared to other regions of comparable size in the Province. The role of the patient advocate is to inform those patients being treated on an involuntary basis of their rights, to represent them at Tribunal or Review Board hearings, and to ensure that the *Mental Health Act* is appropriately applied. Region 1 (Moncton) had 400 cases and region 6 (Bathurst) had 299 cases while there were only 139 cases in region 2 (Saint John) and 129 cases in region 3 (Fredericton). The annual report noted that these numbers merit more attention and further analysis by the Department. This observation was also documented in the previous year's annual report but a response to the issue has not been issued.

4.57 A performance system that incorporates the use of targets would bring forward such information in a reliable manner and would highlight items for necessary action. The number of cases per region should be calculated on a per capita basis to enable comparison among regions as well as to a provincial target.

Conclusion

4.58 This criterion was partially met. One target was noted, the financial budget comparison, however, it does not provide information on outcome-based results. Standards for performance exist in the form of provincial standards of care, and accreditation standards. Although the provincial standards of care and accreditation standards impact directly on client care, the Department does not have a review process in place to ensure planned outcomes have been achieved in all regions. The new *Regional Health Authorities Act* provides the authority for the Department to establish an outcome-based performance measurement system but there is still work to be done before it is complete. The one target currently in place is not sufficient to enable the Department to properly assess the performance of the psychiatric hospitals and units.

Accountability reporting information

4.59 Our second criterion was:

The Department of Health and Wellness should receive sufficient accountability reporting information from the Regional Health Authorities to allow it to evaluate the performance of the psychiatric hospitals and psychiatric units.

Reporting of results

4.60 Reporting of results is the third step of an effective accountability relationship. All parties in accountability relationships need to understand what information is to be reported by whom, to whom, and when. In this case, the two main relationships are between the Department and the RHAs and between the RHAs and the psychiatric hospitals and units.

4.61 The RHAs should report in a manner that allows actual results to be compared to agreed upon expectations which would enable the Department to determine if performance achieved was satisfactory. Measuring and reporting on outcome indicators, such as those listed previously, would give the Department some insight as to whether the needs of the mentally ill are being met. Explaining shortcomings in performance and the reasons behind them would also be helpful to the Department.

Accountability reporting requirements currently in place

4.62 During our audit, we learned that provincial standards exist for the quality improvement, risk management, and utilization management activities of hospitals that perform psychiatric services. There is also a standard that requires a reporting system for these activities that involves the submission of reports to appropriate government divisions, sections, or departments.

4.63 We were very pleased to note the existence of these standards, particularly the standard which deals with the monitoring and evaluation of the quality and outcomes of psychiatric care and services and the standard which deals with the related reporting requirements. We were surprised to note, however, that the Department does not enforce the reporting requirements of the provincial standards of care.

4.64 During our audit, we found an abundance of performance information being generated at the regional level that is not being submitted to the Department. This includes performance indicators, quality improvement reports, quarterly reports to the Board, accreditation results, and annual mental health reports. The Boards of Directors of the RHAs utilize this information in the performance review process. The RHAs have not been asked to submit the performance information to the Division but some are doing so without being requested.

4.65 The Department has psychiatric services agreements with the RHAs that stipulate accountability reporting requirements. Among them is the requirement that RHAs are to implement the standards of care in accordance with the provincial standards.

Recommendation

4.66 We recommended the Department ensure the reporting requirements of the psychiatric services agreements are followed so that it receives appropriate reporting on the quality and outcomes of psychiatric care and services as set out in the provincial standards of care.

4.67 In addition to the requirement that RHAs implement the standards of care in accordance with the provincial standards, the agreements contain four other accountability reporting requirements. Compliance with these requirements is not enforced and the requirements are not sufficient to allow performance measurement.

Although the four other reporting requirements are not what we expected to see in terms of good accountability, we will address them in detail and provide some recommendations for improvement. The requirements are as follows:

- Regional health authorities must submit monthly financial statements and statistical information to the Mental Health Services Division no later than thirty calendar days from the end of the reported month. The reporting of financial and statistical information must identify only costs related to the clinical delivery of programs funded by the Division.

- Quarterly utilization reports must be submitted to the Division.

- Upon completion, reports on Suicide Internal Review must be forwarded to the Assistant Deputy Minister of the Mental Health Services Division.

- Reporting requirements in the budget letter from the Minister of Health and Wellness are to be followed (each year a new budget letter is prepared). The Minister's budget letter includes the following reporting requirements:

  a) Financial statements and statistics must be submitted no later than thirty calendar days from the end of the reported month to Hospital Services.

  b) There must be quarterly electronic submissions of financial and statistical data through HFUMS (Hospital Financial Utilization Management System) thirty days after the close of the quarter being reported.

RHA compliance with current reporting requirements

Financial statements

4.68 Only four RHAs out of eight have been submitting their psychiatric hospital and psychiatric unit financial statements to the Division during 2002-03. Three of the four submit their statements quarterly while one submits them monthly. Most statements are received more than thirty days after the quarter end. The result is that only one RHA out of eight is complying with the monthly reporting requirement.

4.69 One RHA that does not submit financial statements to the Division surprised the Division in February 2003 with a large deficit. A call that was made to the RHA the previous month did not identify this looming deficit. This shows the danger of RHAs not supplying financial information as required.

Recommendation

4.70 We recommended the Department ensure financial statements are submitted by the RHAs to the Division in accordance with the frequency and timing set out in the psychiatric services agreement.

4.71 We also found that the financial statements show costs related to the clinical delivery of programs as required, but they do not adhere to a common format. Of the four RHAs that regularly submit financial statements to the Division, three RHAs break the costs down by type and one RHA reports only total costs. This makes comparability of financial statements difficult.

Recommendation

4.72 To enhance comparability, we recommended the Department devise a common format for RHAs to follow for the financial statements submitted to the Division.

4.73 RHAs also electronically submit financial and statistical information to the Department on a quarterly basis to be uploaded to the Hospital Financial Utilization Management System (HFUMS). A database within the HFUMS contains financial and statistical information on the RHAs. Some RHAs feel the Division should access the HFUMS as it contains detailed financial and statistical information for the RHAs. However, no one in the Division is registered to access the HFUMS.

4.74 If the Department produced reports directly from the HFUMS, this could have the potential of eliminating the inefficiencies, inconvenience, and duplication involved with RHAs submitting multiple copies of manual financial statements in different formats to different branches of the Department. Financial statement users in the Department could have access to current and complete financial information and it would minimize the likelihood of unexpected developments.

Recommendation

4.75 We recommended the Department investigate the possibility of updating the HFUMS on a monthly basis and using it as the source of the required monthly financial statements from the RHAs.

Utilization reports and statistics

4.76 Utilization reports for the psychiatric units are manual forms that the RHAs must submit quarterly to the Division presenting such information as admissions, separations, occupancy rates, average length of stay, number of patients, total inpatient days and re-admissions. A common form has been designed by the Division for this purpose. There are no targets or standards incorporated into these forms for comparison purposes. Senior management told us that these reports do not provide much information by themselves. They provide information on outputs or processes as opposed to outcomes.

4.77 While six out of eight psychiatric units submitted their utilization reports quarterly during 2001-02, only four out of eight have been doing so during 2002-03. Three of these psychiatric units submit their reports on time. Staff at one of the psychiatric units, that does not submit utilization reports, told us they had not been asked to submit them since the summer of 2002. The reason given for not submitting them was that the Division's format did not coincide with the psychiatric unit's format.

Another psychiatric unit said they have been submitting their reports but the Division has no record of having received them.

4.78 Utilization reports for the psychiatric hospitals are also manual forms. We noted that these forms indicate that utilization reports are to be submitted monthly while the psychiatric services agreement states that they are to be submitted quarterly. The reports present such information as use of beds by unit, admissions, re-admissions, deaths and discharges. As is the case with the reporting for psychiatric units, a common form has been designed for this purpose that does not incorporate targets or standards for comparison purposes.

4.79 Both psychiatric hospitals have been very diligent in submitting their utilization reports to the Division on a monthly basis and on time, although this was not the case for one of the hospitals prior to February 2002.

Recommendation

4.80 We recommended the Department ensure utilization and statistical reports are submitted by the RHAs in accordance with the requirements of the psychiatric services agreement.

4.81 Although the HFUMS contains mental health statistics, we were informed that the Division does not access these statistics and it is unaware of the full statistical capabilities of the HFUMS. It would be important to know whether the HFUMS contains all the desired mental health statistics as required by the Division and Hospital Services.

4.82 This could eliminate the inefficiencies and duplication involved in having RHAs prepare and submit manual utilization and statistical reports to more than one branch of the Department. This could also eliminate the inefficiencies involved with Division staff entering the information from the manual reports into their system.

Recommendation

4.83 To eliminate the need for regional submission of manual utilization and statistical reports to the Department, we recommended the Department determine if the HFUMS contains the mental health statistics that would meet the statistical reporting needs of both the Mental Health Services Division and Hospital Services.

Suicide Internal Review Reports

4.84 The psychiatric services agreement states that Suicide Internal Review reports are to be forwarded to the Assistant Deputy Minister of the Mental Health Services Division upon completion.

4.85 We were informed that the only Suicide Internal Review reports forwarded to the Department are those prepared at the CMHCs. When a suicide occurs within a psychiatric hospital or unit, the unit manager informs the Department by phone and the RHA performs a review. We were told that if the Department wants to receive copies of Suicide Internal Review reports, the RHAs must comply with the request. Due

to the personal and confidential nature of these reports, they are not kept by the Department. Copies sent to the Department are destroyed once the Department is finished with them. Of the three regions visited during our audit, only one had any suicides in the past six years.

Recommendation

4.86 We recommended the Department ensure that the process for communicating Suicide Internal Review reports from the RHAs to the Division is conducted in accordance with the psychiatric services agreement.

Other accountability reporting issues

Sufficiency of current accountability reporting requirements

4.87 Funding should be linked to performance. The RHAs should be expected to demonstrate how their actual performance compared to what was expected. They have a duty to report both the financial and non-financial results they have achieved in relation to the authority they have been granted and the public funds entrusted to them.

4.88 As noted previously, the accountability reporting by the RHAs to the Department is not sufficient to allow performance measurement. We feel the Department should be receiving better accountability reporting information from the RHAs. Examples of sufficient information might include reporting actual performance compared to pre-established targets and standards (this would include the measurement of performance indicators) as well as reporting on the quality improvement, risk management, and utilization management activities as noted in the provincial standards of care. The psychiatric services agreement could be a useful tool in establishing mutually agreed and understood expectations as well as setting out and clarifying the accountability reporting requirements.

Recommendations

4.89 We recommended the Department improve the accountability reporting requirements of the RHAs to enable it to properly evaluate the performance of the psychiatric hospitals and units.

4.90 We recommended the Department consider using the psychiatric services agreement as a means of identifying and enforcing improved accountability reporting requirements.

Agreement on performance expectations

4.91 The *General Regulation – Mental Health Act*, states that "The administrator of a psychiatric facility shall furnish such returns, reports and information to the Department as the Minister considers necessary." Legislation requires RHAs to abide by the reporting requirements of the Minister.

4.92 Signing of the psychiatric services agreement is the step that links the legislative requirements to the RHAs. The psychiatric services agreement is only signed by the Division. It is important to have mutual agreement on the expectations of all parties. Having RHAs also sign the agreement is a sound business practice.

Recommendation

4.93 We recommended that each psychiatric services agreement be signed by both the Division and the RHA to ensure mutual agreement and understanding of expectations.

Conclusion

4.94 This criterion was not met. The accountability reporting requirements the Department has in place for the RHAs are not sufficient to allow the Department to properly evaluate the performance of the psychiatric hospitals and units. The only reporting required pertains to the submission of financial statements and utilization reports. Reports of financial performance and operational performance are not routinely linked and the depth of information required to make such a comparison is not currently available. RHAs are not expected to demonstrate how actual performance compared to expectations with the exception of the budget to actual comparison.

Performance evaluation and corrective action

4.95 Our third criterion was:

The Department of Health and Wellness should evaluate the performance of the psychiatric hospitals and psychiatric units and take corrective action where necessary.

Evaluating results and taking corrective action

4.96 Evaluating results and taking corrective action is the fourth step of an effective accountability relationship. Effective accountability not only involves reporting of performance but also evaluating the performance and taking appropriate corrective action where necessary.

4.97 Evaluating performance involves comparing actual performance with agreed upon expectations. The use of performance indicators allows the comparison of results with targets, standards, or benchmarks. Both achievements and failures should be recognized and feedback on performance should be provided to the individuals responsible for that performance. Performance evaluation is an integral part of the accountability process as it provides an ongoing means of determining whether satisfactory performance levels have been achieved.

4.98 Corrective action is the process of addressing and rectifying unsatisfactory performance. It could involve such initiatives as modifying unrealistic or simplistic performance expectations, making appropriate program adjustments, and setting appropriate consequences for those responsible for performance (whether they are rewards based or penalty based). To properly hold those responsible to account, effective reporting, evaluation, and adjustment must be occurring.

The Department's evaluation process

4.99 According to the Department, the responsibilities of the Division (with respect to the performance of the CMHCs, psychiatric hospitals and units) include:

- defining priorities for service development and implementation in accordance with the provincial mental health policy;

- defining and ensuring implementation of core programs and service standards;
- defining and monitoring expected outcomes for all levels of service;
- ensuring the full implementation of the requirements of the *Mental Health Act* and the *Mental Health Services Act*;
- allocating financial and human resources and monitoring their use; and
- directly managing the Community Mental Health Centres and ensuring the effective fulfilment of psychiatric services agreements with RHAs for in-patient services (psychiatric units and hospitals).

4.100 Despite the fact that these responsibilities have been assigned, the Department does not have a formal evaluation process for the performance of the psychiatric hospitals and units. As noted earlier, the Department is not receiving sufficient accountability reporting information on the performance of the psychiatric hospitals and psychiatric units. As a result, it is not possible to properly evaluate performance. In this section, we identify the Department's current management and performance evaluation processes for the psychiatric hospitals and units and the tools used for performance evaluation.

Current management processes

4.101 The mental health system in New Brunswick is well known across Canada for employing some best practices in mental health reform. It earned this recognition while employing the same or a similar management style that is in existence today. As part of the reform process, the Division relied heavily on qualitative information as opposed to quantitative information. Although the Division recognizes that both are important, it has focused more on processes and has been less aggressive with data collection and reporting.

4.102 Generally, the RHAs monitor themselves and inform the Division of issues, challenges, and pressures they are facing with respect to the psychiatric hospitals and units. The Division is in regular contact with the RHAs via telephone, email, and face-to-face meetings. The Division considers itself to be a source of support for the RHAs on a continuous basis.

4.103 The Division holds regular meetings with regional staff regarding the performance of the psychiatric hospitals and units. Problems are often shared and addressed at these meetings.

4.104 All RHAs are required to have a Management Liaison Committee with representation from psychiatric services of the RHA as well as the CMHCs. These committees operate separately from the Department. Committees meet on a periodic basis to ensure effective co-ordination among mental health programs, to jointly identify strategies

to intervene with specific target groups, and to monitor overall service utilization and outcomes. These committees, by working together, resolve regional mental health issues and/or pressures. Committees are in regular contact with the Department to keep them abreast of any pressures, challenges, or opportunities they are facing. The Management Liaison Committee is a collaborative management structure that helps to ensure the continuous care of the individual.

Performance indicators

Provincial performance indicators

4.105 During our audit work, we noted that a draft document has been prepared by the Department in an effort to identify key performance indicators for mental health. The document, entitled "MHS Performance Indicator Working Group Working Document", was updated as recently as 16 November 2001 but the indicators have yet to be adopted. The document identifies seventeen possible indicators and discusses potential means of measurement. The seventeen indicators cover the entire mental health system which includes the CMHCs, the psychiatric hospitals, and the psychiatric units; however, many of the indicators are directed at the CMHCs. The document includes four input indicators, seven process indicators, and six outcome indicators.

4.106 The Department has not developed targets or standards with which to compare the indicators. The logical flow of steps in the accountability process is to first define and agree on roles and performance expectations (which includes performance targets and standards) and then to choose performance measures (which includes performance indicators). It is premature to choose performance measures before performance expectations are known.

Recommendations

4.107 We recommended the Department adopt a common set of mental health indicators that cover the performance of all operational sectors of mental health.

4.108 We recommended that the indicators have a clear linkage with organizational goals and pre-established targets and standards.

Data collection for provincial performance indicators

4.109 We were informed the performance indicator working document remains in draft form due to data collection restraints. While information for some indicators is available now, a management information system is required to enable the Department to obtain information on others. For example, information is needed for resources used versus outputs attained for the CMHCs. A feasibility study was recently conducted and feedback will be brought before the Department's Management Committee in the near future.

4.110 Hospitals have their own information systems that enable them to measure their own indicators. As noted previously, the hospitals electronically submit financial and statistical information to the Department. We learned that the Division is aware of the financial data that is available in the system but not what statistics are available. A

properly designed information system that includes data required for appropriate performance measures is essential for the Department.

Recommendation

4.111 We recommended the Department implement systems that are capable of generating information to support the measurement of mental health performance indicators.

RHA performance indicators

4.112 RHAs are required to have performance indicators as noted under the provincial standards; it is not an option. The Canadian Council of Health Services Accreditation Standards requires that indicators be selected to monitor the goals, objectives, and desired results or outcomes of the mental health program within the RHA.

4.113 Performance indicators are currently used by the RHAs. These indicators have been developed independently by the RHAs and each carries out its own measurement procedures. The indicators being measured are not consistent from region to region. All three regions visited compare their performance indicators to expectations. While the total number of indicators varied from region to region, we noted that several of them are outcome-based indicators. Because the indicators vary from region to region, a composite benefit of the information generated by the individual processes cannot be realized at the provincial level.

4.114 The Department could look to the RHAs for examples of performance indicators currently in use for the psychiatric hospitals and psychiatric units (e.g. consumer/family satisfaction with the program which could be calculated in terms of total individuals satisfied as a percentage of total individuals surveyed).

Psychiatric Services Agreement

4.115 The Department's primary tool for ensuring the flow of information, which facilitates evaluating the performance of the psychiatric hospitals and units, is the psychiatric services agreement. However, as noted earlier, many requirements of the agreement are not enforced.

Financial Statements and Utilization Reports

4.116 We noted earlier that the Department's primary requirement is that RHAs submit their financial statements and utilization reports to the Division quarterly. If attempts to obtain this information are unsuccessful, the Division formulates its projections using the information that is available.

4.117 Financial statements are reviewed by the Division on a quarterly basis to determine how actual financial performance of the psychiatric hospitals and units is faring compared to budget, particularly with regard to the overall surplus or deficit. The Financial Services Branch uses these financial statements to accrue regional surpluses and deficits and to highlight items for the Division to follow up on.

4.118 Utilization reports present statistical information on the psychiatric hospitals and units. They are reviewed quarterly, primarily for diagnostics and occupancy rates.

4.119 It is a fragmented approach to examine financial information without also examining operational information. Because a RHA is under budget or over budget, does not mean its performance is satisfactory. It could be over budget and provide excellent service or it could be under budget and provide poor service. There are similar concerns in only using utilization information. For example, the average length of stay may be short but it could be the result of discharging patients before they are ready, resulting in compromised quality of care and possibly re-admissions. The Division will not be able to properly evaluate the performance of the psychiatric hospitals and units using this information in isolation.

Recommendation

4.120 We recommended the Department incorporate both financial and operational performance information into the performance evaluation process of the psychiatric hospitals and units.

Accreditation process

4.121 The Department relies on the accreditation process as a means of ensuring quality standards of care. Although considerable reliance is placed on the accreditation process, we were surprised to learn that accreditation results are not submitted to the Division unless requested. The Division does not review the results of the accreditation process to ensure positive outcomes are being achieved in all standards by all regions nor does it compare the accreditation results by region or report on the results of the accreditation process on a province-wide basis.

Recommendations

4.122 We recommended the Department require all RHAs to submit their mental health program accreditation results to the Division.

4.123 We recommended the Division utilize the mental health program accreditation results as a tool in evaluating the performance of the psychiatric hospitals and units.

Provincial standard*s*

4.124 The Department relies on the RHAs to "monitor themselves" regarding the provincial standards of care. If the requirements of the provincial standards of care were actually enforced, the RHAs would be submitting the necessary performance information to the Department for the performance evaluation process.

Recommendation

4.125 In evaluating the performance of the psychiatric hospitals and units, we recommended the Department utilize the performance information identified as a requirement in the provincial standards of care.

The Department's approach to corrective action

4.126 If the Department learns the performance of a psychiatric hospital or unit is unsatisfactory, it will meet with the RHA to address the problem or discuss it over the telephone. Often, the discussions are financial in nature, for example, if the RHA has a large deficit. Since the Division has not established expectations for performance, with the exception of the budget, RHAs are not held accountable for falling short of non-financial expectations (e.g. unacceptable re-admission rates, unusual average length of stay, number of complaints, and consumer satisfaction rates).

Recommendation

4.127 Once performance targets and standards have been established for the RHAs, we recommended the Department take corrective action where actual performance falls short of expectations.

Reporting of results of performance evaluation process

Departmental annual report

4.128 The Department measures and reports publicly on ten performance indicators in its annual report but only one relates to the psychiatric hospitals and units. This indicator shows the number of patient days of hospitalization for all psychiatric hospitals and units combined, with a year-by-year comparison and a target. This same indicator also presents information on the number of referrals to community mental health centres (CMHCs). The Department's interest in this indicator results from the shift to community services. It is expected that patient days of hospitalization in psychiatric hospitals and units would decrease, and that more demand would be put on CMHCs to provide alternative service.

4.129 This indicator is a process indicator as opposed to an outcome indicator; it gives no indication as to whether the needs of the seriously mentally ill are being met or whether quality service is being provided. Also, by reporting all psychiatric hospitals and units combined, it is impossible to highlight regional problems.

Recommendation

4.130 We recommended the Department report comprehensive performance indicators for psychiatric hospitals and psychiatric units in its annual report.

Patient Advocate Services annual report

4.131 Patient Advocate Services prepares its own annual report that presents several statistics such as the number of patient advocate cases, number of admissions, and number of tribunal/review board hearings by region. From this, we were able to identify, for example, that two regions are using the services of the patient advocate much more than other regions of similar size. By reporting performance information by region, this annual report is a useful source of information to the Department which could be used in assessing performance and highlighting problems.

Recommendation

4.132 We recommended the Department utilize the Patient Advocate Services annual report as a source of performance

information in evaluating the performance of the psychiatric hospitals and units.

RHA annual reports

4.133 According to the *Regional Health Authority Act,* RHAs are required, in their regional health authority annual reports, to report on their performance in relation to the performance targets set by the Minister. Performance targets referenced under the Act have not yet been implemented for Hospital Services or Mental Health Services. We examined all current RHA annual reports and noted that they present very little if any information on mental health performance and mental health performance targets are not used.

Recommendation

4.134 Once the Minister establishes and implements RHA performance targets, we recommended the Department ensure the RHAs report on their performance in relation to these performance targets in their annual reports.

Conclusion

4.135 This criterion was partially met. The Department is not receiving sufficient accountability reporting information on the performance of the psychiatric hospitals and psychiatric units. As a result, it is not possible to properly evaluate performance.

4.136 With the existence of the draft mental health performance indicators document, the potential exists for an improved performance evaluation system. We also noted the existence of several good performance reporting and evaluation processes within the regions.

Departmental response

4.137 The Department provided the following response to our report:

Thank you for the Audit Report on the Accountability of Psychiatric Hospitals and Psychiatric Units. I found the report to be accurate and we are in general agreement with your recommendations. As a result of the extensive background information provided we will be able to use the report with key stakeholders in the mental health system to meet our goal of reporting expenditures and outcomes in a comprehensive and transparent manner.

Your acknowledgement that mental illness is found in one-quarter of all general medical practice in Canada and that 12.5% of Canadians can expect to be hospitalized for mental illness at least once in their lifetime underscores the importance of an effective and efficient mental health system. In New Brunswick we are committed to a balanced network of institutional and community based mental health services that ensure timely delivery of the most appropriate and least restrictive mental health services.

The scope of the audit was defined, "To assess whether the Department of Health and Wellness has appropriate

accountability processes in place for the operations of psychiatric units under the direction of Regional Health Authorities."

The first criterion of the report assessed the degree to which the mental health services (MHS) division has performance targets and standards in place. It was determined that the MHS division partially met this criteria and later the report commended New Brunswick's mental health system's national reputation and management style in the employment of some of the best practices in mental health reform. It was acknowledged that the management style relies on qualitative information and open and integrated communication across all service delivery sectors. The report went further and underscored the need for a balance between qualitative and quantitative information and recommends that an outcome-based performance measurement system, which was lacking, be realized.

We are in agreement with the recommendation that the Department develop performance targets, with a focus on outcomes not only for the psychiatric units and hospitals but the entire mental health system. The report acknowledges that work in this area has been on-going and the foundation pieces are in place.

The second criterion of the audit assesses reporting of information and recommends improvement in both the data collection and reporting processes. We are in agreement with the recommendations to receive consistent, timely, relevant and non-redundant data from all RHAs, ideally in electronic format, and will begin work on improving these processes.

The third criterion of the report covers the interpretation of performance data and corrective action where necessary. In the absence of performance measures providing the required data for interpretation as noted under the first criteria, the mental health system has successfully relied on an integrated system with open communication and sharing of information. There are consistent provincial and regional meetings of MHS directors, head nurses and chiefs of psychiatry. Most importantly on a regional level there are on-going Management Liaison Committee meetings where both the Community Mental Health Centres and the in-patient psychiatric services meet and work together to monitor overall service utilization and outcomes, and resolve regional mental health issues and/or pressures. These committees remain in regular contact with the Department's central office and keep them abreast of any pressures, challenges or opportunities.

As stated, we agree with the report's findings and recommendations and are striving to implement an effective accountability framework that reports our expenditures and outcomes in a comprehensive and transparent manner. We have already begun work in this area, and are committed to continuously improve both the accountability and service delivery system in a responsible manner to the benefit of New Brunswickers.

Chapter 5
Department of Supply and Services
Management of Insurable Risks to Public Works Buildings

Contents

Department of Supply and Services Management of Insurable Risks to Public Works Buildings

Background

5.1 It is important that assets be well managed and protected to ensure they maintain their value. We, as auditors of the Province of New Brunswick, have, on occasion, picked audit projects to see how those charged with that responsibility are doing in achieving this objective. For example, in 1993 we examined how the Department of Transportation managed the provincial road system, including protecting the existing roads. And in 2002 we examined how the Vehicle Management Agency managed government vehicles, in particular the repair and maintenance services for these assets.

5.2 One of the most valuable classes of assets owned by the people of New Brunswick is our provincial buildings. Although government does not track the cost of its buildings, some personnel we spoke to during our audit estimated the value at $4 billion or more. In order to manage and protect our provincial buildings, government should have a formalized and structured approach that identifies and assesses significant risk (i.e. fire and liability). The approach should ensure that appropriate strategies are designed for managing these risks.

5.3 In the late 1980s Board of Management considered a report on the insuring of provincial buildings. We were told that the report showed that for a period of over 10 years (1979 to 1989) the annual cost of insurance was significantly higher than the total insurance claims over the same period. As a result, government made the decision to no longer insure provincial buildings, making the taxpayers of New Brunswick liable for all claims arising from risks that had been previously covered through insurance.

5.4 The 2002 annual report of the Department of Supply and Services (DSS) states that "The Facilities Management Division (the Division) *is responsible for the operation of provincially owned buildings*, ... *risk management*, building maintenance audits and roof inspection" *(emphasis ours)*. The Division manages approximately 500 provincial buildings. It is not responsible for schools and hospitals.

5.5 DSS has had to face a number of practical constraints in recent years. One of the most serious is the reduction in maintenance dollars DSS has been given by government to address, among other things, identified risk factors in its buildings. Generally speaking, these dollars come from two sources; one is the capital improvements budget and the other is the ordinary budget.

5.6 Over the last decade cuts to the ordinary budget have decreased the funding available for maintenance expenditures. In 1993-94 DSS spent over $3.1 million, excluding salaries, but in 2002-03 it spent only $2.1 million. This represents a drop of over 32%, not allowing for inflation. If inflation were taken into effect, the real decline would be over 38%.

5.7 Over the last five years, the capital improvements budget for DSS buildings has been reduced from nearly $5.5 million in 1998-99 to only $3 million in 2003-04. This represents a drop in funding of over 45%.

5.8 Both of these cuts impair DSS's ability to address identified problems in a timely manner. At the same time as funding is decreasing, the age of many buildings is increasing. Older buildings, like older assets of any type, usually have more things go wrong and, consequently, more expenditures are required to keep things right. DSS management also noted that staff available to manage its buildings has declined over the last five to ten years. And while DSS is responsible for risk management of buildings, it has no full time risk manager.

5.9 However, it should be noted that despite the pressure on the Facilities Management Division, insurable risk losses have been minimal. Liability claims charged to DSS through the Province's financial accounts for the last five years total less than $71,000. In fact, the two most recent years (2001-02 and 2002-03) total less than $1,000. The largest recent loss from fire was in 1996 at the Bouctouche Fisheries Building and cost the Province approximately $525,000 to replace. This certainly appears to indicate that DSS has done a credible job of mitigating problems in the past, even in light of the challenges faced by it. Of course, this does not mean that problems are absent. In fact if resources are not adequate to identify and address problems it may be only a matter of time before these problems become significant and losses from insurable risks occur. We believe the members of the

Legislative Assembly need to know what process is in place to manage these risks.

Scope

5.10 Given the significant value of our buildings, the reduction in maintenance dollars, and because government no longer mitigates risks such as fire through insurance, we decided to do an audit in this area of risk management. The focus of our project was on how government manages risks previously managed through insurance. We decided, for reasons of practicality and time constraints, to limit our scope to only those buildings DSS is responsible for. But our findings may be applicable across government.

5.11 Our audit objective was:

> *To determine how the Department of Supply and Services manages significant insurable risks for the public works buildings it is responsible for.*

5.12 We developed nine audit criteria to assist us in determining if DSS was meeting the audit objective. These criteria were focussed on procedures used to manage insurable risks, systems used for documenting building information and qualifications of personnel responsible for the buildings. This chapter is organized by these criteria.

5.13 Our work consisted of interviews with DSS staff and risk management personnel in two other provinces, reviews of various building files, and a review of various publications covering risk management.

Results in brief

5.14 In the late 1980s government decided to no longer insure provincial buildings, making the taxpayers of New Brunswick liable for all claims arising from risks that had been previously covered through insurance. This increased the government's responsibility for identifying and managing these risks.

5.15 In 2001 the Department of Supply and Services was assigned responsibility for 400 buildings formerly the responsibility of the Departments of Transportation (DOT) and Natural Resources and Energy (DNRE). This responsibility includes the identification and management of risks associated with these buildings as well as those that were its responsibility at the time. DSS was given no additional resources to meet this added responsibility. DSS management noted that staff available to manage its buildings has declined significantly over the last five to ten years and, at the same time, maintenance funding available to address any problems identified by DSS has been reduced. The lack of resources could impact the ability of DSS to address many of our findings.

5.16 DSS does not have a documented risk management plan in place that identifies the major risks to each building, and the

corresponding procedures to identify any factors that could significantly affect these risks. As there are many different procedures, including inspections, that DSS could use to identify risk factors in the buildings, and since each building has different levels of risk associated with it, a risk management plan is necessary to ensure all buildings are adequately protected. A plan is also necessary to use limited resources to the best advantage.

5.17 There is a lack of documentation surrounding many of the procedures that DSS relies on to identify, and manage, risks. Because of this we found it challenging to determine if DSS was meeting many of our criteria. The lack of documentation also makes it difficult for DSS to determine if procedures it relies on are performed in a timely manner, or that problems are addressed in a timely manner.

5.18 When DSS was assigned responsibility for DNRE and DOT buildings in 2001 it agreed with the departments that DSS would perform various procedures related to risk management for these buildings. At the same time it was agreed that the departments would continue to manage the buildings on a day-to-day basis. DSS is not carrying out all of the procedures it agreed to, including the inspecting of these buildings to identify all significant risk factors.

DSS management of DNRE and DOT buildings

5.19 Government assigned DSS responsibility for DNRE and DOT buildings in 2001. As a consequence, DSS became responsible for identifying and managing risks for over 400 additional buildings, raising its total portfolio to over 500 buildings. However, DSS management noted that its staff complement was not increased.

5.20 When DSS was given responsibility for the DNRE and DOT buildings, it arranged for each department to continue to "operate and fund the day to day operational activities at each of its facilities", including minor maintenance. However, DSS also agreed to accept many of the responsibilities for these buildings. These included:

- establishing an inventory of all buildings and facilities and integrating them into the Supply and Services Buildings Group Information System;
- carrying out building inspections on a regular basis;
- identifying maintenance and health and safety issues that need to be addressed;
- identifying and prioritizing capital project requirements in cooperation with DOT;

- implementing a fire safety program with all DOT facilities and ensuring ongoing compliance with the program requirements;

- providing technical/administrative assistance related to building operation/maintenance issues (provide advice, prepare specifications, tenders, etc.); and

- liaison with authorities having jurisdiction (e.g. Fire Marshal, boiler inspector) and coordinating follow-up activities.

5.21 We were pleased to see that DSS planned on putting these procedures in place, as they constitute the beginnings of a good risk management program for these buildings.

5.22 However, in performing our audit work we found that DSS was not meeting several of the responsibilities it agreed to with regards to these buildings. For example DSS is not carrying out building inspections on a regular basis. This subjects DNRE and DOT buildings to additional risk as many of DSS's responsibilities might identify risks which otherwise may go undetected.

5.23 We are aware that DSS faces resource issues. It is important that, if DSS is unable to meet these responsibilities, it should bring this to the attention of government so that government is aware of the added risk it is accepting in the wake of the building transfer. DSS management stated that they have brought the resource issue to the attention of government in the past.

Recommendation

5.24 We recommended that the Department of Supply and Services fulfil the obligations it agreed to with DNRE and DOT. If DSS does not have the resources to fulfil these obligations, it should communicate the implications of this to government.

Building information

5.25 Our first criterion was:

> *The Department of Supply and Services should be aware of each building under its responsibility including its location, purpose and value.*

5.26 The Department of Supply and Services uses a computerized information system called the Supply and Services Buildings Group Information System (SBGS) to store information on all government buildings. To test the completeness of SBGS building data, we traced a few buildings on the provincial assessment system to those on the SBGS. We found no discrepancies. We also noted that DSS uses two key controls to ensure SBGS completeness. The first is that a building must have a SBGS building number before expenditures can be charged to it in the provincial Financial Information System. The second is that DSS annually obtains building listings from departments and compares them

to SBGS information. Any discrepancies are resolved. It appears then that DSS is certainly aware of each building it is responsible for.

5.27 SBGS contains such information as building number, address, property assessment number, description of building use (e.g. garage), and name. However, it does not track building cost or value.

5.28 We were surprised that cost was not tracked. Government policy requires departments to track "actual cost" for moveable capital assets "with a cost of $200 or more". Given this policy, it would seem logical that government should also be tracking the cost of buildings, which are much more valuable.

5.29 Value is an essential part of risk management. An insurer would not take on a building portfolio without knowing the value of what was being insured. Further, if value is not established, how can management determine whether to repair a particular asset? Or, how much effort is warranted to identify risks to that asset? And can management expect government to allocate funds to identifying and addressing risk factors in buildings if the value of the assets at risk is not known?

5.30 Value is also information that legislators need to know in order to make an informed decision as to what funds to allocate to manage the assets. Knowing value clearly shows legislators the significance of assets that are at risk.

Conclusion

5.31 The criterion is partially met. DSS is aware of each building under its responsibility and SBGS documents building location and purpose. However, SBGS does not contain information on building value.

Recommendation

5.32 We recommended that the Department of Supply and Services establish value for each building it is responsible for and update these values on SBGS on a regular basis.

Assignment of appropriate personnel

5.33 Our second criterion was:

> *The Department of Supply and Services should assign appropriate personnel the responsibility for managing insurable risks associated with the buildings it is responsible for.*

5.34 Ultimately, responsibility for all of its buildings is assigned to the Director of the Division, including responsibility for managing risks. However in the past, the Division had staff dedicated to risk management, including a risk manager who, while primarily responsible for managing fleet insurance, was able to help manage building risks. This staff has now been reduced to less than 15% of one person's time.

DSS-managed buildings

5.35 DSS has assigned responsibility for buildings in each region to a regional manager. In the Fredericton region the responsibility for some buildings has been further assigned to building superintendents. We found that superintendents have a variety of different qualifications, but all regional managers are either qualified engineers or technologists.

5.36 To help identify risk factors, central office supplements regional staff experience and expertise with specialized technologists or outside contractors for specific areas such as fire, elevators and air quality. These technologists do not participate in risk factor identification in each building on a regular basis. Instead they conduct a cursory review of a building when they are on the premises, usually only after regional staff request help with another problem.

5.37 Our audit tests showed that when DSS performed formal building audits or when special building reviews were performed, risk factors or problems affecting fire or liability risk were often found. For example, DSS audits identified instances where roofs needed to be replaced, a drainage system was inadequate, wiring needed to be upgraded and fire alarms and extinguishers had not been inspected in years. DSS reviews also identified factors such as ventilation problems and various fire code violations. This would support the conclusion that regional staff may need other qualified personnel to help them in identifying risks in their buildings.

5.38 One positive development in this regard is the creation of a new position known as the Emergency Risk Management Technologist (ERMT). This staff member is planning to inspect all DSS-managed buildings in the near future, identifying and documenting risk factors related to fire. These inspections should add a significant, and regular, level of experience and training to the process of identifying risk factors in these buildings.

DNRE/DOT managed buildings

5.39 When DSS was assigned overall responsibility for managing DNRE and DOT buildings, DSS staff decided that day-to-day operations should remain with DNRE and DOT personnel. They did this for two reasons. The first was that DSS received no added resources to manage the additional 400 buildings. The second was that DNRE/DOT personnel were already in place, on site and familiar with the buildings.

5.40 DSS did not determine the qualifications of DNRE/DOT staff assigned to manage these buildings. As DSS is responsible for these buildings it should ensure DNRE and DOT building management staff are appropriately qualified to identify and manage responsibilities DSS has assigned them, including the management of insurable risks.

5.41 The Division assigned some central office specialized technologists the responsibility of providing some consulting help in assessing risk or correcting identified risk factors in these buildings,

usually after a problem is identified. However, we found that DSS was not meeting several key responsibilities, including carrying out building inspections on a regular basis and identifying maintenance and health and safety issues that need to be addressed.

5.42 The more than 400 additional DNRE/DOT buildings have placed a significant burden on DSS's scarce technical resources, one that DSS has not been able to address.

Conclusion

5.43 The criterion is not met. While the Director of the Facilities Management Division has overall responsibility "for the operation of provincially owned buildings, ... risk management, building maintenance audits and roof inspection facilities", the Division has no resource person dedicated to oversee managing of insurable risks associated with all of its buildings.

5.44 Technical staff needs to supplement the work of the regions on a regular, periodic basis rather than on the current problem-based intervention basis. The new ERMT position is a positive addition in this regard.

5.45 The Department of Supply and Services should ensure that DNRE/DOT staff it relies on to manage risks are appropriately qualified. And it should ensure that DNRE and DOT devote enough qualified resources to managing these risks. DSS has not done this. Moreover DSS needs to determine the staff it needs to manage risks in these buildings and to fulfil the responsibilities it agreed to.

Recommendations

5.46 We recommended that the Department of Supply and Services determine the personnel it requires to manage risks in buildings it is responsible for. As part of this process, DSS should determine if it needs to establish a full-time position for a Risk Manager. If DSS establishes that existing resources are inadequate to protect provincial buildings it should present these personnel needs, and the implications of not having appropriate personnel, to government.

5.47 We recommended that the Department of Supply and Services ensure that all staff it relies on to help manage its buildings are appropriately qualified.

Procedures to identify risk factors

5.48 Our third criterion was:

The Department should have procedures in place to identify risk factors.

5.49 DSS identified fire and liability as significant risks to buildings it is directly responsible for and has many procedures in place to identify factors affecting these risks. These procedures include inspections, contracts for preventative maintenance, and reports from users.

However, DSS has not determined what, if any, procedures DNRE and/or DOT perform to identify problems in buildings they manage for DSS.

5.50 With respect to its buildings, inspections are the most pervasive procedure DSS uses to identify risk factors. There are two sources of inspections that DSS might rely on. The first source is external agency, or regulatory, inspections and these are normally performed by authorities to meet responsibilities established under legislation or policy. The parameters surrounding these inspections such as timing, procedures and staff qualifications are set by the authority responsible for the inspection and not DSS. For example, the Office of the Fire Marshal may, through inspection, identify factors that affect the risk of fire. Or Workplace Health and Safety may, through inspection, identify factors that can affect both fire and liability risk.

5.51 The second source is internal, or DSS-controlled, inspections. These are performed directly by DSS, by DNRE or DOT staff responsible for managing DSS buildings, or by companies or individuals contracted by DSS. These inspections are controlled by DSS and include roof inspections, fire risk inspections, fire alarm inspections, sprinkler inspections, informal building reviews by regional staff, and reviews by central office staff.

5.52 The question then becomes which procedures are "best" for DSS to identify all factors that would significantly affect risks. That is, to ensure all of its buildings are adequately protected, and protected using limited resources to the best advantage, DSS should have a documented risk management plan in place. Part of developing this plan would include a review of existing procedures and a determination of the specific procedures required for each building. As each building is different (e.g. constructed of brick, wood or metal, old or new), it may be necessary for DSS to establish different procedures to identify different risk factors in each building.

5.53 DSS does not have such a documented risk management plan. And many procedures that DSS relies on to identify risk factors are informal. It would be prudent for DSS to document the procedures to avoid any misunderstandings as to what is required. This would better assure DSS that staff understand the procedures and perform them consistently.

5.54 We were also disappointed to see that DSS no longer performs formal building condition audits on any buildings. Regularly scheduled building condition audits by qualified inspectors can be most effective in the timely identification of risk factors. And they complement the experience of regional staff in identifying these factors.

Conclusion

5.55 The criterion is partially met. The Department has many procedures in place that identify risk factors in its buildings. Examples are inspections done by external agencies such as the Office of the Fire Marshal or inspections done, or contracted, by DSS such as roof inspections, fire risk inspections, fire alarm inspections and sprinkler inspections.

5.56 At the same time DSS does not have a documented risk management plan. Nor are all procedures documented or known. As a result, it is not possible to determine if existing procedures are sufficient, or too many, to efficiently identify all significant risk factors in each building or whether existing procedures are the most effective way to do so.

Recommendations

5.57 We recommended that the Department of Supply and Services develop and document a risk management plan. The plan should identify all significant risks to each of its buildings, including buildings managed by DNRE and DOT, and document what procedures are required to identify risk factors in each building.

5.58 We recommended that the Department of Supply and Services communicate the procedures in the risk management plan to those managing DSS buildings.

5.59 We recommended that the Department of Supply and Services reinstate the formalized, documented, building condition audits.

Inspections should be performed periodically

5.60 Our fourth criterion was:

The Department should ensure each building is periodically inspected for the purpose of identifying risk factors.

5.61 The performance of inspections is often not well documented. We reviewed various building files trying to find evidence as to when various inspections had been completed. Our audit work revealed that some DSS-controlled inspections, for example DSS roof inspections, were well documented. And guidelines had been established as to when these inspections were to be completed. However, other internal inspections, including those performed by staff in DNRE or DOT, or those done on an informal basis, had little or no information in place to show when, or if, they were performed or when they were supposed to be performed.

5.62 External inspections by regulatory authorities often have no report unless problems are found. Even then, the problem may be corrected while the inspector is on site so no report may have been filed. If these inspections are relied on by DSS to identify risk factors, DSS should ensure that these inspections are performed often enough for

timely identification of these factors. At this time DSS does not track this information.

5.63 We also found information on inspections difficult to come by as different regions had different practices as to the filing of inspection reports.

5.64 We were pleased to see that the new ERMT is planning on establishing timeframes for completing various inspections, including preventative maintenance audits and sprinkler system inspections. The ERMT also plans on having a log to ensure that these inspections are completed when expected. A log or checklist, similar to the one envisioned by the ERMT, could be part of DSS's overall solution.

Conclusion

5.65 The criterion is not met. Although DSS does ensure some inspections occur periodically, it has no system to ensure each building is periodically inspected for the purpose of identifying all significant risk factors. Nor does DSS have a risk management plan that establishes and documents when the inspections it relies on to identify risks are to be completed. And procedures are not in place to ensure these inspections are completed on a timely basis.

Recommendations

5.66 We recommended that the Department of Supply and Services ensure its risk management plan includes establishing and documenting when inspections are to be completed.

5.67 We recommended that the Department communicate requirements for internal inspections to responsible personnel.

5.68 We recommended that the Department document completion of required inspections for buildings it is responsible for. Facilities Management Division personnel should ensure that required procedures have been completed on a timely basis and document that the procedures were completed.

Inspection program review

5.69 Our fifth criterion was:

> *The Department should periodically review its own inspection programs to ensure they are adequate to identify risk factors.*

5.70 DSS management noted they do review their own inspection programs on an ongoing basis. However, DSS has not established schedules for when the reviews are to be done and there is no documented information as to when, or if, they are carried out.

5.71 DSS staff does not review DNRE or DOT inspection programs. They rely on DOT and DNRE to ensure their inspection programs are adequate.

5.72 For inspections they contract by tender, DSS management stated they review these on a contracted period basis and changes to the conditions of the contract are made as required. Where contracted services are for small dollar amounts and not subject to tender, the contracts are reviewed informally in the regions. Unless a contract has changed though, there is no documented evidence that these reviews have been completed.

Conclusion

5.73 The criterion is partially met. DSS does review some of its inspection programs but these reviews are informal and not documented, making it difficult to determine what is done, or how often. DSS does not review DNRE/DOT building inspection programs.

Recommendations

5.74 We recommended that the Department of Supply and Services document its review of internal inspection programs to ensure the reviews are timely and sufficient.

5.75 We recommended that the Department establish and document a schedule for performance of inspection reviews and determine what the reviews should cover.

5.76 We recommended that the Department document the procedures necessary to ensure inspection programs performed by DNRE and DOT are timely and sufficient.

Qualifications of inspectors

5.77 Our sixth criterion was:

The Department should ensure qualified personnel or reputable and competent firms complete inspections.

5.78 DSS has assigned responsibility for inspections to both regional and central office staff. DSS staff that perform these inspections range from building superintendents to specialized technologists, with each of these having a mixture of experience and training. DSS managers stated that they make sure that those performing inspections have the relevant skill sets; in other words, they ensure qualified personnel complete inspections. From an audit perspective, however, we were unable to conclude as to whether all persons completing inspections were adequately qualified. This was due in large part to the varied mix of qualifications that DSS staff has. For example, one employee performing informal building inspections may have many years of experience. Another may have more formal training. To say that one is qualified and another is not because of either less experience or less formal training would be subjective. Further, as noted earlier, a large number of inspections are not well documented. This causes difficulty in determining who performed it. And not knowing who performed it makes it impossible to determine whether the person was qualified.

5.79 DSS appears to do a thorough job in ensuring contracted service providers it hires are reputable and qualified. For tendered inspection

contracts, DSS requires that contractors performing the inspections have appropriately "qualified" staff. This means that staff performing the work has the specific training and education required to complete the work. For smaller contracts, DSS regional staff ensure the persons hired are appropriately qualified.

Conclusion

5.80 We were unable to conclude on this criterion. We were unable to determine whether DSS personnel performing inspections are appropriately qualified.

Documenting inspection results in a timely manner

5.81 Our seventh criterion was:

Inspection results should be documented and forwarded to appropriate personnel in a timely manner.

5.82 When an regulatory authority, such as the Office of the Fire Marshal, conducts an inspection, it has the responsibility to ensure risk factors are identified, required changes are communicated to appropriate "client" staff, and that required changes are made in a timely manner. As such, these inspections and their results are the responsibility of authorities other than DSS and therefore outside of the scope of our audit. However, results from these inspections could help DSS determine what problems may be in, or developing in, other DSS buildings.

5.83 For inspections performed by DSS, documentation varies. For example, we found DSS roof inspection results were well documented, filed in the appropriate central office building files and delivered to appropriate departmental personnel on a timely basis. However, other results, such as those from informal building reviews, were not documented or filed and it is difficult to determine if these results were communicated to appropriate personnel in a timely manner.

5.84 DSS has no policy as to what to do with reports received from inspectors.

Conclusion

5.85 The criterion is partially met. DSS has no documented policy regarding the filing of inspection reports or results. As a result some internal inspection results are documented and communicated in a timely manner, but others are not documented or are informal in nature.

Recommendation

5.86 We recommended that the Department of Supply and Services establish a policy that ensures inspection reports are documented. Inspection results should be forwarded to appropriate personnel in a timely manner.

Address problems identified in a timely manner

5.87 Our eighth criterion was:

The Department should address risks identified in inspections in a timely manner.

5.88 The present system makes it difficult to determine if all significant problems identified in inspections were corrected in a timely manner. To begin, many inspections are not documented. Further, if repairs are funded out of the ordinary maintenance budget, determining when, or if, a repair was actually made is difficult as these repairs are not recorded by project and may not even be documented if made by departmental staff.

5.89 However, when risk factors such as damaged roofs or obsolete electrical wiring are identified and require capital funding to fix, they are communicated annually to Division management (or earlier if emergency or regulatory in nature). They then become projects and are added to the previous year's capital project listing of incomplete and/or unfunded projects. The Director of the Division reviews the updated listing of projects and re-prioritizes them. Projects in progress, and health and safety related projects, are given highest priority.

5.90 We conducted a test on inspection results documented and filed in the building files at central office to determine if factors identified as having a significant effect on buildings were addressed in a timely manner. As we have noted, these, of course, represent only a few of the internal inspections performed on buildings. However, this test gave us an indication of the speed at which major problems are addressed. Test results showed that DSS addressed most "high priority" problems, such as damaged roofs or poor electrical wiring, within one to three years. A few, such as grouting to fill mortared joints and foundation repairs, took five years or longer.

5.91 DSS inspections, principally roof inspections or building maintenance audits, on buildings managed by DOT or DNRE, also identified significant risk factors. Our building file test indicated these were addressed, but slower than on DSS-managed buildings. And we could not see where several "medium priority" projects, such as stairwell improvements or new concrete floors, which could affect liability, were addressed. Additionally, several years ago DSS made the decision to stop inspecting DOT building roofs because identified problems were not being corrected. Although roof inspections have just started again, there may be a backlog of uncompleted repairs.

5.92 "High priority " capital maintenance building projects identified on DSS's 2003-04 capital project listing total over $12 million. But government has given DSS less than $3 million to address the risks attached to these projects. Obviously, DSS is not able to meet these "high priority" risks on a timely basis.

Conclusion

5.93 The criterion is not met. DSS does not ensure risk factors, in buildings managed for it by DNRE or DOT, are addressed in a timely manner. For its own buildings DSS does ensure that most identified and documented "high priority" risk factors are addressed, but the present

system makes it difficult to determine if significant problems identified are corrected in a timely manner.

Recommendation

5.94 We recommended that the Department of Supply and Services have a documented process ensuring that all factors identified in DSS-controlled inspections that could significantly affect building risks are corrected on a timely basis. If resources are not sufficient to do this, DSS should communicate that fact to government.

Tracking insurable losses

5.95 Our ninth criterion was:

The Department should track and report losses related to insurable risks and use this information to identify opportunities for mitigating risks.

5.96 The Department of Supply and Services tracks liability losses arising from insurable claims on buildings it manages through the financial accounting system of the Province. We reviewed liability claims charged to DSS through the Province's financial accounts for the last two years (2001-02 and 2002-03) and, combined, they were less than $1,000. And there was less than $71,000 in liability claims charged to DSS's claims account over the last five years. The largest was a claim (2000-01) for approximately $45,000. However, liability claims originating from buildings managed by DNRE and DOT may not result in DSS being involved. As DSS is now responsible for these buildings it should ensure it obtains information on all liability claims to help it manage risks for these buildings.

5.97 DSS informally tracks fire claims information for buildings that it or DNRE and DOT manage. Any significant fire loss would likely be known to DSS, as it would result in the substantial loss of use of the building or repairs to it, both of which DSS would be involved in. DSS staff noted the largest recent loss from fire was in 1996 at the Bouctouche Fisheries Building. It cost the Province approximately $525,000 to rebuild the facility.

5.98 DSS noted that there is an informal, non-documented system that takes into account problems found in some locations and communicates these problems amongst staff. Staff stated that this is to ensure that if these problems exist in other locations, the causes are addressed in other locations before they become significant.

Conclusion

5.99 The criterion was partially met. DSS management stated that they are aware of major fire losses, as these result in considerable damage to a building. This results in the loss of use of the building or repairs to the building, both of which impact DSS directly.

5.100 The Department of Supply and Services does track liability losses for buildings it manages through the financial accounting system of the Province. However, it does not track liability claims for DNRE or DOT managed buildings.

5.101 DSS staff stated that they use this information to identify opportunities for mitigating risks, but only informally. However, because of the informal nature of the process we were unable to confirm this.

Recommendation

5.102 We recommended that the Department of Supply and Services ensure that it tracks information on losses from insurable liability risks on buildings managed by DNRE and DOT.

Departmental response

5.103 The Deputy Minister of Supply and Services provided the following comments on our report:

> *I agree with your overall premise that to manage and protect our provincial buildings from risk, Government should have a formalized structured approach that:*
>
> - *identifies the significant risks related to the buildings;*
> - *analyzes and assesses the risks;*
> - *designs strategies for managing the risks;*
> - *implements and integrates risk management; and*
> - *measures, monitors and reports.*
>
> *I believe these functions are generally carried out in a responsible manner by the staff of the Department of Supply and Services.*
>
> *You have, however, identified that documentation around the areas of the actual risk management plan, the procedures, and reports is not as complete as you would like to see. The Department, at the present time, is emphasizing the need for improvements in documentation efforts.*
>
> *I also note that you report on the budgetary pressures which have impacted upon the Department of Supply and Services over the last number of years. This has an impact on the initiatives we undertake and focuses the Department on the high priority items to ensure that the immediate risks are mitigated and the building stock is managed effectively within those resources available.*
>
> *The new emergency risk management technologist will address a number of your issues.*

In your report you emphasize the approach taken with respect to the management of the Department of Natural Resources and the Department of Transportation buildings, and whether the Department of Supply and Services is fully meeting its responsibilities. I would like to point out that the division of the responsibilities between the operational aspects and the capital aspects was approved by the Board of Management.

The Department will be following up with respect to your recommendations, on the issues of documentation, and also identifying resources required to address the resource deficiencies which you believe exist. However, I believe that the Department is effectively managing the risks within the resources available and that, as I indicated earlier, the principal issues are around the level of documentation, not the level of service.

I believe our loss ratios demonstrate that risks are being managed.

Chapter 6
Crown Agency Governance

Contents

Crown Agency Governance

Background

6.1 Our Office has performed five governance reviews over the past number of years. These have included:

- A general review of various Province of New Brunswick Crown agencies (1996)
- The Atlantic Lottery Corporation Inc. (1997)
- The eight regional hospital corporations (1998)
- The New Brunswick Liquor Corporation (1999)
- The Department of Finance - Pension Funds (2000)

6.2 At 31 March 2002 major New Brunswick Crown agencies held over $4.7 billion of government assets. Related liabilities were over $4.3 billion. Some $904.2 million in provincial funding was provided to those Crown agencies during the year ended 31 March 2002. During that year major Crown agencies generated an additional $1.9 billion in external revenues and their total expenditures exceeded $2.7 billion. The financial significance of New Brunswick Crown agencies, combined with many recent changes in best practices associated with good governance, and the lack of any overall support or guidance being provided to New Brunswick Crown agencies or their boards, led us to become heavily involved in the area.

What is effective governance?

6.3 Governance can be defined as the process and structure used to direct the business and affairs of a corporation with the objective of achieving the corporate mission. The process and structure define the division of power between the board and management. They also establish mechanisms for achieving accountability between management, the board of directors, and corporate shareholders. Putting it simply, governors (i.e. boards of directors) are to look out for the interests of the corporate shareholder (i.e. the Province of New Brunswick).

6.4 CCAF/FCVI Inc., a research organization focussing on public sector governance and accountability, has developed a list of the characteristics of effective boards. If a board truly exemplifies these characteristics, it will be providing effective governance and accountability. According to CCAF/FCVI, effective boards:

- are comprised of people with the necessary knowledge, ability and commitment to fulfil their responsibilities;

- understand their purposes and whose interests they represent;

- understand the objectives and strategies of the organization they govern;
- understand what constitutes reasonable information for good governance and obtain it;
- once informed, are prepared to act to ensure that the organization's objectives are met and that performance is satisfactory; and
- fulfil their accountability obligations to those whose interests they represent by reporting on their organization's performance.

6.5 We feel that effective Crown agency boards, as defined above, are best able to look out for the interests of the Province of New Brunswick and its citizens and act as major contributors to the success of their corporation.

Why is it important that governance be effective?

6.6 Ultimately governance is about performance. Boards of directors are set up in legislation to improve, in all respects, the performance of the Crown agencies they govern. Consequently, their activities as directors must be geared towards promoting appropriate corporate activities (i.e. those that move the Crown agency towards achieving its mission). If they are not achieving this goal, there is no reason for a board to exist.

6.7 The Conference Board of Canada made the following statement in their September 1997 Members' Briefing.

> *There is a widely held perception that good corporate governance leads to good corporate results. ... This subject has now taken on a much higher profile as shareholders ... and directors alike are putting the governance practices of our corporations under close scrutiny.*

6.8 The Canada Deposit Insurance Corporation included the following comments in the preamble to its own governance guidelines for financial institutions.

> *... The care, diligence, skill and prudence exhibited by ... directors has a critical influence on the institution's viability, safety and soundness, its ability to execute its business strategy and achieve its business objectives and its ability to engender confidence ...*
>
> *Good governance is not only essential to the operating effectiveness of any organization – it is good business. Studies show not only that ... institutions with good governance processes operate more effectively and respond more quickly to changes in the marketplace, but also that stakeholders*

> *increasingly recognize the relationship between governance and performance ...*

6.9 The following comments came from a study of seventy-nine major U.S. and Canadian pension funds, and a Dutch pension fund, as previously quoted in our 2000 Report chapter on pension plan governance.

> *We were able to find a statistically significant link between organizational performance and organizational design. Interestingly, and more specifically, we found the most important driver of organization performance ... to be the quality of the board...*

6.10 Conversely, there can be significant negative impacts when a Crown agency board is not governing effectively. These include:

- A lack of board strategic leadership in ensuring that the mandate for which the organization was created is being carried out.
- The losses and related political fallout that may occur because significant risks are not being managed appropriately due to lack of board scrutiny in this area.
- The loss of opportunity to improve services and/or financial performance because the board is not involved in an ongoing discussion of corporate strategy and ways to advance the corporate mission, and is therefore not encouraging management to constantly look for ways to improve performance.
- The failure of the board to provide a full accountability link between the Crown agency and the responsible Minister.
- The failure of the board to adequately monitor the performance of senior management and hold it to account for that performance.
- A lack of value for money from the direct corporate administrative costs associated with operating and supporting a board of directors if the board is not fulfilling its roles and responsibilities.

6.11 In our opinion, the Legislative Assembly, which is a forum composed of representatives of the citizens of New Brunswick, needs to ensure that New Brunswick Crown agencies are governed effectively.

Objective and scope

6.12 Our objective for this project was:

> *To summarize the results of our governance reviews over the past five years, review practices in other jurisdictions, and make major overall recommendations on steps the Province can take to improve Crown agency governance.*

6.13 In completing this work, we reviewed findings and documentation from our previous governance reviews and followed up where necessary. We also completed extensive research on best practices in governance in the private and public sectors both inside and outside New Brunswick. Additionally, we interviewed representatives of selected New Brunswick Crown agencies and the New Brunswick Executive Council Office. Finally, we reviewed various Crown agency documents and did some limited testing of recent appointments to New Brunswick Crown agency boards.

6.14 Recommendations in this chapter are directed to two distinct groups: central government (Executive Council, departments, and/or other organizations as applicable); and Crown agency boards of directors. The recommendations directed towards Crown agency boards of directors are primarily applicable to boards that have been assigned at least some responsibility for decision-making and therefore have some commensurate accountability for results achieved (i.e. Governing or Administrative Management boards as described in paragraph 10.12 of our 1996 Report). Where a board's activities are entirely advisory in nature, recommended practices may not be of value.

Summary of recommendations

Recommendations for central government (Executive Council, departments, and/or other organizations as applicable)

Appointments

6.15 Processes should be established to ensure that the expiry dates of board appointments are staggered to ensure continuity on Crown agency boards.

6.16 The level of compensation currently provided to board members should be reviewed to ensure it is sufficient to attract the best candidates to directorial positions and to adequately reward board members for their efforts.

6.17 Selection of a Crown agency board member should be primarily based on the demonstrated ability of a candidate to contribute to improved outcomes for the organization, and not their membership in a particular stakeholder or demographic group.

Corporate mandates and performance expectations

6.18 Responsible departments should develop memoranda of understanding with Crown agencies to ensure that there are common understandings of the mandate and performance expectations government has set for the Crown agencies.

6.19 As a minimum, government (represented by Board of Management, the Policy and Priorities Committee, or a similar body) should review all Crown agency strategic and business plans on a regular basis to ensure that Crown agency interpretations of legislation, mandate and government expectations are consistent with its own understanding.

6.20 Responsible departments should monitor Crown agency compliance with their own enabling legislation and other pertinent acts to reduce the risk of inappropriate actions being taken.

6.21 All Crown agency boards should be given responsibility for recruiting and hiring the CEOs for their agencies.

Guidance and support for Crown agencies

6.22 The Executive Council Office's coordinating role should be expanded to include providing guidance and support to Crown agencies in some or all of the following areas:

- **setting and periodically updating governance standards for use by all New Brunswick Crown agencies;**
- **monitoring compliance with those governance standards;**
- **providing guidance to Crown agencies in the application of those governance standards;**
- **providing governance training opportunities for Crown agency directors;**
- **communicating the shareholder's perspective, government priorities, and emerging issues to Crown agencies;**
- **providing independent advice to Cabinet, Ministers, Boards and/ or CEOs on Crown agency mandates, direction, plans, and performance, as requested; and**
- **identifying and coordinating major Crown agency policy issues and projects as required.**

Accountability reporting

6.23 The Executive Council Office should be monitoring Crown agency annual reports to ensure that the government annual report policy is being complied with.

6.24 The government annual report policy should be amended to include the following two additional requirements.

- **That Crown agency annual reports include, where applicable, reference to the Crown agency's involvement in supporting the success of current government priorities and initiatives.**
- **That Crown agency annual reports include a statement of governance practices similar to that shown in the 2002 NB Power Corporation annual report.**

Recommendations for Crown agency boards of directors

6.25 Crown agency boards of directors should be providing the responsible departments with selection criteria against which to evaluate candidates for board appointments.

Appointments

Best practices for boards of directors

6.26 All Crown agency boards should ensure that ethical standards have been established for their agency and that there is a system in place to monitor compliance with those standards.

6.27 All Crown agency boards should seriously consider establishing an audit committee to provide additional focus to the board's review of the integrity of the agency's internal control and management information systems.

6.28 All Crown agency boards should prepare a governance statement for their agency that describes:

- **the governance and accountability structure of the Crown agency;**
- **governance processes and standards that are being followed, including the requirements made of individual board members; and**
- **the roles and responsibilities of government, the board of directors, and management.**

6.29 The governance statement should be reviewed regularly and updated as necessary.

6.30 All Crown agency boards should negotiate and document a memorandum of understanding between their Crown agency and the responsible Minister as to how important aspects of governance are to be handled, the relative responsibilities of key governance players, etc.

6.31 All Crown agency boards should conduct regular self-evaluations of their board's effectiveness. They should also consider conducting regular reviews of the performance of individual board members.

6.32 Periodically, all New Brunswick Crown agency boards of directors should look critically at reporting they receive regularly from management. Specifically, each board should ensure:

- **that reports presented are useful and sufficient to allow the effective discharge of all of the board's roles and responsibilities as Crown agency governors (For example, information used by the board to monitor corporate performance should address both financial and service goals and be clearly linked to approved plans.);**
- **that information that is not used by the board is deleted from management reporting; and**

- **that reports are organized for ease of reference by board members in their deliberations.**

6.33 All Crown agency boards should review the performance of their CEO on a regular basis.

Keys to effective governance

6.34 From the start, the goal of our work on Crown agency governance has been to try to improve the effectiveness of governance provided by the boards of New Brunswick Crown agencies. Based on five years of work in the area, we believe that there are a few key priorities that must be considered to ensure that governance is effective. They are:

- Ensure that members appointed to the board have the necessary skills to contribute to effective governance.
- Ensure that boards are renewed regularly while at the same time maintaining sufficient continuity of membership to allow a consistent knowledge base to be maintained.
- Ensure that the mandate of each Crown agency is clearly documented and agreed upon by both central government and the Crown agency.
- Ensure that the relative roles and responsibilities of Executive Council, Board of Management, responsible departments, Crown agency boards, and Crown agency management are clearly documented and agreed upon by appropriate parties.
- Ensure that board members get sufficient, appropriate training and guidance to understand and be able to apply current best practices of governance.
- Ensure that board members get sufficient information about the operation of their Crown agency to allow them to fulfil their roles and responsibilities.
- Ensure that board members understand to whom they are accountable and how that accountability obligation is to be discharged.

6.35 Central government (i.e. responsible departments, Executive Council and Board of Management), Crown agency boards, and corporate management all have important roles to play in the achievement of these seven priorities. We feel that if these key players keep the seven listed priorities in mind on an ongoing basis, it will result in Crown agencies that have well-qualified boards, armed with the right knowledge to be effective. It is then up to the boards to make the necessary efforts to govern effectively. Once this has been

accomplished, central government's primary role becomes one of monitoring Crown agency boards to ensure that they are adequately discharging their accountability obligations.

Board appointments

6.36 *"*They say the best companies have board members who ask the tough questions. In Crown corporations this is especially important because balancing public policy and commercial objectives is the toughest part of the job.*"* (Annette Verschuren, former member of the Board of Directors of Cape Breton Development Corporation and President, Home Depot Canada.)

6.37 It is well recognized in current governance thinking that to have effective governance, you must have the right people in place, people who are willing and able to ask the right "tough questions". This means that you must have a group of directors in place that can provide strong strategic leadership. However, the way in which appointments are made in both the public and private sectors is often not effective in appointing the best people to boards. John Carver, author of the key governance reference book "Boards That Make a Difference" said:

> *In twenty years' experience working closely with boards, my impression is that we are pretty sloppy about filling board seats, often putting people on boards for all the wrong reasons. Let's face it. The reasons board members are selected often come down to who has time, who fits some preset demographic description, or - in the case of politically appointed boards – who is owed a favor. Sometimes the only requirement is that a potential board member care about the organizational mission. Often the persons chosen are very accomplished in their fields but skilled in ways that may have little to do with proper board behavior. Most boards would fire their CEOs for filling staff positions as haphazardly as ... recruits for board positions....*

6.38 He goes on to say,

> *It has become politically correct to maintain that everyone is equally capable of discharging board responsibilities, but that is simply not true.*

6.39 The Conference Board of Canada, a leader in promoting effective corporate governance, has stated:

> *There ought to be a clear understanding of the corporation's and board's needs, then a proactive search for the right fit. Recruiters should be testing for independence of mind, common sense, collegial working, diversity and depth of experience.*

What happens in New Brunswick

6.40 The vast majority of directorial appointments to New Brunswick Crown agency boards are made by the Lieutenant-Governor in Council as specified in the legislation of individual Crown agencies. In practice, such appointments generally follow the following process.

1. The department responsible for a specific Crown agency identifies and approaches a candidate to fill a vacant position. The department may or may not consult with the current board of the Crown agency, stakeholder groups, or other interested parties when identifying and evaluating that candidate.

2. The department then prepares a Memorandum to the Executive Council as specified in the Procedures Manual for Executive Council Documents. It requires that departments include:

   - The address and qualifications of the individual(s).
   - The circumstances under which the position(s) became vacant… (e.g., resignation, death, dismissal, expiration of term.)
   - The names, addresses and dates of expiration of the terms of all other members of the board or commission.
   - A statement that the person(s) proposed for appointment meets all statutory requirements for the position.

3. Executive Council uses the information provided and other relevant input from members of Cabinet to determine whether the person being recommended is suitable for the position to be filled.

4. Once the appointment has been approved by Executive Council, as signified by the issuance of an Order in Council, the department is responsible for notifying the candidate of their appointment and providing them with any other necessary information.

6.41 There are no specific documented requirements provided by Executive Council to departments covering how to identify or evaluate potential directors, nor is there any requirement to identify the needs of the board in question. However, a representative of Executive Council indicated that it is understood by all departments that appointments should consider quality of the people, gender, linguistic balance, and geographic balance.

6.42 Each piece of enabling legislation provides a slightly different framework for recruiting new directors. It may specify the groups from which candidates are to be chosen, the terms for which individuals may be appointed, etc.

Best practices in appointing board members

6.43 A report prepared in 1998 by the Public Policy Forum entitled Protecting the Shareholder – A Review of the Governance Structure of Canadian Crown Corporations noted:

> *One place to improve Crown corporation governance is the process through which directors are appointed to serve on Crown boards. The issue is not whether the government should exercise the right to appoint individuals to these boards. .... Nor is the real issue the political affiliation of individuals appointed .... Competence and relevant experience must be the over-riding criteria for appointments to Crown corporation boards. ... Crown boards should communicate to their responsible ministers … the areas of expertise lacking on the existing board.*

6.44 Based upon our governance work, we believe there should be three distinct steps in selecting candidates for board membership:

- identify the skills required of new appointees (i.e. prepare selection criteria);
- identify the available individual(s) who best meet the requirements laid out in the selection criteria; and
- recommend their appointment to Executive Council.

6.45 The first step in selecting board members is to define and document exactly what general and specific skills are needed in new board members. Not surprisingly, individual Crown agency boards are in the best position to do this for their own board.

6.46 The second step is the identification of candidates who can provide the needed skills. Stakeholders, Crown boards, senior Crown agency management, and central government can all potentially take part in the identification of candidates. However, it is critically important that there be a process in which candidates are evaluated against selection criteria before they are recommended for appointment.

6.47 Having Crown agency boards prepare written selection criteria and then evaluating candidates against those criteria seems a logical way to select new board members. A Crown agency would not hire an employee without having some idea what skills they are looking to add. But perhaps more importantly, responsible departments should not recommend the appointment of a particular person to a board without knowing in advance that the person will provide the skill sets needed to be an effective member of the board in question. However, based on our previous work, our opinion is that Crown agency boards in New Brunswick have not been proactive in providing such selection criteria to decision-makers, nor have they been asked to do so by decision-makers.

6.48 We did note one case where a Crown agency board is providing useful information to aid in the selection of new board members. Most new appointees to the Workplace Health, Safety and Compensation Commission (WHSCC) board are recommended by stakeholder groups

and automatically approved by central government. To aid stakeholder groups in selecting good candidates, the directors of WHSCC have developed a document covering the duties and responsibilities of board members. The board does not provide selection criteria to the Department of Training and Employment Development at present but may do so in the future.

Remuneration

6.49 In general, serving on the board of directors of a New Brunswick Crown agency is seen as a public service. Remuneration is nominal and not an inducement to accept a board appointment, while duties are not dissimilar to those in the private sector, where directors are typically paid. We have been told by various representatives of Crown agencies that the lack of remuneration paid to directors does make it somewhat more difficult to attract people. It must be recognized that there is a trade-off between remuneration and the ability to attract the best available people to serve on Crown agency boards.

Representational appointments

6.50 As previously noted, one of the principles of selecting appointees for Crown agency boards in New Brunswick is that there be adequate regional, linguistic and gender representation on boards. This principle seems to be common in many jurisdictions we looked at during our work. However, we would caution that there is a trade-off in adopting this principle. Consider the following statement from John Carver.

> *... While gender, color, and ethnicity have a role to play in selection of members, choosing the "best" people has less to do with our ways of dividing up the human race than with the skills, personality and life experience that qualify a person for board leadership.*

6.51 We feel that the primary reason for appointing an individual to the board of a Crown agency must be because it is believed that individual will contribute to improved outcomes for the organization. New Brunswick citizens should expect no less. Inclusion for the sake of inclusion should not be a priority. Limiting particular appointments to specific groups of New Brunswick residents means limiting the field of potential appointees, thereby decreasing the chance that you will get the best person for the position being filled.

6.52 On the other hand, the inclusion of board members who represent particular stakeholder groups does bring important perspectives to the board table and may help boards better understand the needs of those groups. But this approach also means that the groups represented on the board are being given special status in comparison with other corporate stakeholders. In such a situation, boards must be careful to actively seek out the perspectives of unrepresented stakeholders, and not just assume that all important perspectives are already represented at the board table.

6.53 A related concern is created by the stipulation in certain enabling acts that some board members be selected by particular interest or stakeholder groups. The difficulty arises at the board table. Is the board member representing the best interests of the Crown agency (i.e. accountable to the responsible Minister) or the best interests of the group that appointed them (i.e. accountable to the appointing group)? Further, how can these conflicting accountabilities be reconciled? Board members might feel obliged to represent stakeholder interests rather than the best interests of the organization they serve. Consequently, these boards of directors may not be acting in the best interests of New Brunswick taxpayers.

6.54 A more qualifications-based, less representational, approach to selecting board members would put the onus on the board to get input from all stakeholder groups in governing the Crown agency. And indeed one of the key roles of any board of directors is developing a communication strategy for its organization, including strategies for getting feedback from stakeholders. In other words, a board that is governing effectively, no matter how its members are selected, will be reflecting stakeholder perspectives in the decisions it makes.

Recommendations - appointment of directors

6.55 We make the following recommendations related to the appointment of directors to Crown agency boards in New Brunswick:

- **Crown agency boards of directors should be providing responsible departments with selection criteria against which to evaluate candidates for board appointments.**
- **The level of compensation currently provided to board members should be reviewed to ensure it is sufficient to attract the best candidates to directorial positions and to adequately reward board members for their efforts.**
- **Selection of a Crown agency board member should be primarily based on the demonstrated ability of a candidate to contribute to improved outcomes for the organization, and not their membership in a particular stakeholder or demographic group.**

Timeliness and continuity of appointments in New Brunswick

6.56 As previously discussed, there is no central agency in New Brunswick that initiates Crown agency board renewal. Rather, individual departments must monitor the status of Crown agency boards for which they are responsible and take steps to fill board positions when necessary.

6.57 In our 2001 Report, paragraph 1.25, we noted that:

> *there were four government agencies that did not have a properly constituted Board of Directors. We found that the terms for the Directors of the New Brunswick Crop Insurance*

Commission and Kings Landing Corporation had expired. The Kings Landing Corporation Board however continued to operate. And the Boards of the Youth Council of New Brunswick and the New Brunswick Public Libraries Foundation did not have sufficient members to constitute a quorum.

6.58 With so many departments involved in the appointment process, and in light of our previous observation, we decided to check to see whether current board appointments were up to date and whether the expiry dates of current directors' terms had been staggered to ensure continuity on the boards. In effect, we were checking for consistency between departments. We selected nine of the largest Crown agency boards for testing and were able to make a number of observations.

6.59 On a positive note, we found four Crown agency boards for which appointments were completely up-to-date and for which expiry dates had been adequately staggered to ensure continuity at the board table. (New Brunswick Investment Management Corporation, NB Power Corporation, the Workplace Health, Safety and Compensation Commission, and Service New Brunswick).

6.60 However, two of the nine Crown agencies had members sitting on their boards whose terms had expired. In one case, a member's term had expired in 2002. In a second, more serious case, there were only seven up-to-date appointments. Full complement for that board was fifteen members. Of the additional eight board positions, three were being covered by members whose terms had expired (one in 2000 and two in 1998). The other five positions were vacant.

6.61 The enabling legislation for one of the Crown agencies stated, "a member of the Board shall remain in office, notwithstanding the expiry of the member's term, until the member resigns or is reappointed or replaced." The other Crown agency had an equivalent clause. However, we feel that it is important to ensure board appointments are up to date, even where current members are willing to be re-appointed. Board renewal gives Executive Council the opportunity to review appointments to consider whether they continue to be appropriate.

6.62 In relation to board continuity, we noted that four of the nine Crown agencies will have all board members' terms expiring at or near the same time. Establishing a continuity of process and knowledge base within these boards will likely be difficult in the circumstances. The wholesale turnover of boards tends to reduce the effectiveness of governance, for instance through a loss of continuity where best practices have been established, and is a situation to be avoided if possible.

6.63 Our understanding is that the results we found actually represent an improvement over the situation in the past. There has been a conscious effort on the part of the Executive Council Office and responsible departments to improve the timeliness of board appointments. We also note that the Executive Council Office is in the process of developing an enhanced tracking system for board appointments that, among other things, will provide reminders to departments when expiry dates are approaching.

Recommendation – timeliness and continuity of board appointments

6.64 We make the following recommendation related to the timeliness and continuity of Crown agency board appointments in New Brunswick:

- **Processes should be established to ensure that the expiry dates of board appointments are staggered to ensure continuity on Crown agency boards.**

Corporate mandate and performance expectations

6.65 Regardless of how well qualified the members of a board of directors are, they cannot be effective if they do not have a thorough understanding of the mandate of their organization, the expectations of those to whom they are ultimately accountable (i.e. the corporate shareholder), and the enabling legislation that established their Crown agency in the first place. In particular, organizational mandate and shareholder expectations will be the basis for strategic leadership provided by the board of directors. In approving corporate strategies and priorities, boards of directors of Crown agencies must strike a balance between public policy and business objectives. Without a clear understanding of what they are being asked to achieve, selecting strategies and priorities can easily become an exercise in guesswork.

Shareholder's role in establishing mandate and performance expectations

6.66 So who are the shareholders for Crown agencies? Ultimately, they are the citizens of New Brunswick. The citizens of New Brunswick are represented by the Legislative Assembly. Ministers of the Crown are assigned responsibility for holding specific Crown agencies to account for their performance. Those Ministers, who are also representatives of the government of which they are a part, are in turn accountable to the Legislative Assembly for that performance.

Enabling legislation

6.67 Enabling legislation sets general guidelines for a Crown agency as well as detailing what services it is to provide and in some cases how it is to provide them. It also establishes some parameters around how the Crown agency is to be governed including the relationship between the Crown agency and central government. It also assigns responsibilities, and identifies the means through which accountability obligations are to be discharged.

Corporate mandate

6.68 The mandate of an organization is quite simply its reason for being. What business is it in? What products and services must it provide? Who are its customers? What level of performance is expected from it? What limitations are imposed on it? We feel that government

should ensure that a clear statement of corporate mandate has been developed for each Crown agency, ensuring that the needs and interests of New Brunswick citizens are adequately reflected in each case.

6.69 Some would argue that enabling legislation provides sufficient guidance to Crown agency boards relating to mandate. However, we feel that enabling legislation cannot provide a comprehensive guide in this area. For example, enabling legislation:

- is typically quite general;
- in many cases was drafted a number of years ago and so may not be completely up to date;
- makes no mention of key requirements from other provincial legislation; and
- usually does not contain an explicit purpose statement.

6.70 We therefore feel that additional direction is needed to ensure that the mandate statement is current and sufficiently detailed.

6.71 For example the *New Brunswick Liquor Corporation Act* states:

> *The purposes of the Corporation are to carry on the general business of manufacturing, buying, importing and selling liquor of every kind and description.*

6.72 It goes on to say:

> *The Board shall administer the affairs of the Corporation on a commercial basis and all decisions and actions of the Board are to be based on sound business practices.*

6.73 So, while the enabling legislation clearly states what the corporation is to do, it is lacking in some areas. For instance, it doesn't specify limitations on New Brunswick Liquor Corporation's (NBLC) ability to accomplish its purposes as defined in its enabling legislation even though some such limitations may be appropriate (e.g. acceptable promotional activities or marketing techniques). Also, the enabling legislation does not specify the performance expected. (e.g. Is NBLC intended to provide a net return to the Province from its operations?) We would also note that despite the purposes section of the Act quoted above, NBLC is not involved in the manufacture of liquor. The board of directors needs a thorough understanding of what the government expects of it in order to develop appropriate strategies. We feel that this understanding is best obtained from a single, comprehensive mandate document.

6.74 We feel that government has another responsibility in terms of mandate. Specifically, government should ensure that Crown agency mandates are regularly reviewed for continued relevance, including their public policy and financial objectives. In our opinion, there must be a strong rationale for why a program or group of programs is being managed separately by a Crown agency. For example, there is no clear language in the *New Brunswick Liquor Corporation Act* explaining why the four activities listed must be performed by the public sector. For instance, one might question why a Crown agency needs to be involved in the manufacture of liquor, a business in which there are many private-sector participants.

6.75 We are pleased to note that the current government of New Brunswick recently conducted a review of the mandates of all existing agencies, boards and commissions in the Province (i.e. the Agencies, Boards and Commissions (ABC) Review). The ABC review led to the windup of certain Crown agencies whose mandates were no longer considered relevant or did not fit into the framework established by current government strategies and priorities. However, we understand that it was a one time review and there are no plans to conduct regular, periodic reviews of the mandates of established New Brunswick Crown agencies in future. This creates the risk that some Crown agencies that have no relevance to public priorities will again be operating and using scarce public resources.

Government expectations

6.76 When we refer to government expectations, we are referring to the outcomes government expects Crown agencies to achieve. Government expectations may reflect such factors as government policies and priorities, service levels to be achieved and financial performance targets. Again, if government is to fulfil its role as the representative of New Brunswick citizens, it should regularly specify what outcomes are expected of Crown agencies. Setting performance targets cannot be left to the Crown agencies alone and it is not covered in any enabling legislation that we reviewed. For example, the government of New Brunswick has created a Prosperity Plan. One of the pillars of that plan is innovation, an area in which the New Brunswick Research and Productivity Council (RPC) has been involved since it was set up in the 1960s. So, an important step for the government to consider in order to ensure the successful implementation of that plan would be to provide organizations like RPC with the government's specific expectations relating to their involvement in achieving that Plan.

Ensuring compliance with legislation

6.77 We feel that government, and in particular responsible departments, has a responsibility for ensuring compliance with Crown agency enabling legislation. However, to the best of our knowledge, no one in government is monitoring compliance with Crown agency enabling legislation at present. Therefore, there is a risk that inappropriate actions could be taken by Crown agencies and not picked up by government. We believe that government should take steps to manage this risk.

Board of directors' understanding of mandate and government expectations

6.78 It is very important for the central government to ensure that Crown agency boards of directors understand and accept the mandate and performance expectations that have been developed for their Crown agency. A practical way to do this, and one that has been utilized by a number of public sector organizations across Canada including the New Brunswick Workplace Health, Safety and Compensation Commission (WHSCC), is to develop a memorandum of understanding between the Crown agency and the department responsible for that Crown agency.

6.79 Despite the WHSCC example, the Province of New Brunswick has traditionally not done particularly well in communicating its understanding of the corporate mandate and performance expectations. Many representatives of Crown agencies we talked to indicated that communication with central government for purpose of determining government priorities has long been a problem area. In one case, a Crown agency representative indicated that they try to "read the tea leaves" to determine what government expects of them both in terms of mandate and performance.

Review of strategic and business plans

6.80 The development of a common understanding of mandate and government expectations by itself may not be effective in ensuring that government wishes are carried out by Crown agencies. Government should also ensure that Crown agency interpretations of legislation, mandate and government expectations are consistent with its own understanding. This may be done by reviewing and approving corporate strategic and business plans.

6.81 We feel that a review of Crown agency plans should include at least thorough consideration of the answers to the following questions:

- How has the agency interpreted its mandate and is it consistent with central government's understanding?
- Are the agency's objectives, strategies and targets appropriate?
- Have the agency's plans adequately reflected government policies and priorities?
- Does the agency's mandate still appear to be relevant in light of current government plans and priorities?
- Does the plan comply with Crown agency enabling legislation and other pertinent Acts?

6.82 There are a number of advantages to reviewing Crown agency plans on a regular basis.

- It allows government to have an ongoing dialogue with Crown agencies, thereby reducing the risk that a Crown agency will

misinterpret government priorities. A representative of the Executive Council Office indicated that the government advocates a top down approach to strategic planning within government. In other words departmental, and by extension Crown agency, strategic plans are to be based on provincial strategic priorities. The Executive Council Office also believes that performance measurement should primarily address government priorities like the Prosperity Plan. Therefore, it makes good sense for government to review Crown agency plans to ensure they reflect government priorities.

- It gives government an opportunity to revisit Crown agency mandates periodically to determine if they are still relevant.

- It may encourage Crown agencies, led by their boards of directors, to do a better job of corporate planning. In our governance work over the past number of years, we noted that some Crown agencies had strategic and business plans that were out of date and/or inadequate to meet their needs.

6.83 In our governance work, we have noted that while some Crown agency business plans were reviewed by the Board of Management, many were not. Crown agency strategic plans are not reviewed by Board of Management nor anyone else in central government.

6.84 Other governments are more proactive in reviewing the plans of their Crown agencies. For example, the federal *Financial Administration Act* includes the following requirement:

> *Each … Crown corporation shall annually submit a corporate plan to the appropriate Minister for the approval of the Governor in Council. … The corporate plan … shall include a statement of*
>
> - *the objects or purposes for which the corporation is incorporated, …*
>
> - *the corporation's objectives for the period to which the plan relates …*

6.85 We feel that government review of Crown agency plans is a necessary step in order to ensure that Crown agencies have properly interpreted government priorities, and have therefore planned activities that will adequately address current public policy and financial objectives.

Recommendations - corporate mandate and government performance expectations

6.86 We make the following recommendations related to mandate and government performance expectations for Crown agencies:

- **Responsible departments should develop memoranda of understanding with Crown agencies to ensure that there are**

common understandings of the mandate and performance expectations government has set for the Crown agencies.

- **As a minimum, government (represented by Board of Management, the Policy and Priorities Committee, or a similar body) should review all Crown agency strategic and business plans on a regular basis to ensure that Crown agency interpretations of legislation, mandate and government expectations are consistent with its own understanding.**

- **Responsible departments should monitor Crown agency compliance with their own enabling legislation and other pertinent Acts to reduce the risk of inappropriate actions being taken.**

Governance roles and responsibilities

6.87 In order to have effective Crown agency governance, it is important that key governance players clearly understand their roles and responsibilities, as well as other aspects of the governance regime within which they are working.

Roles and responsibilities of government

6.88 The following is a list of the key duties of the shareholder of Crown agencies (i.e. the government of New Brunswick as represented by responsible Ministers) based upon best practices observed in other jurisdictions.

- Passing enabling legislation to set up Crown agencies and establish their mandates.

- Ensuring that appropriate Crown agency governance structures are in place.

- Recruiting and appointing board members.

- Maintaining ongoing dialogue with Crown agencies with regards to government policies, priorities and performance expectations.

- Ensuring that enabling legislation is being complied with.

- Ensuring that Crown agency boards and management are appropriately interpreting government direction in their plans and strategies.

- Ensuring that the directors of Crown boards understand the government's expectations of them.

- Ensuring that directors are given the training, guidance, and support to be effective Crown agency governors.

- Ensuring that accountability obligations of Crown boards of directors are being adequately discharged.

6.89 These roles and responsibilities are discussed in greater detail elsewhere in this chapter.

Roles and responsibilities of Crown agency boards of directors

6.90 We feel that effective boards of directors will have a clear sense of what they are trying to accomplish. An important step in focusing their efforts is to establish their roles and responsibilities as a board and clearly document them.

6.91 The following list is a summary of what we believe should be the key roles and responsibilities of Crown agency boards of directors in New Brunswick. This list was developed by referring to related documents prepared by organizations such as the Toronto Stock Exchange (TSX), the Canada Deposit Insurance Corporation, the Conference Board of Canada, CCAF/FCVI, and others, along with our knowledge of New Brunswick Crown agencies.

- To approve corporate strategic and business plans and monitor management's progress in achieving them.
- To ensure that principal risks to the Crown agency have been identified and are being adequately managed.
- To recruit, hire, monitor, and evaluate the performance of the CEO.
- To approve and monitor compliance with the organization's ethical standards.
- To ensure the integrity of the corporation's internal control and management information systems.
- To measure Crown agency performance and report regularly to the government and other stakeholders on that performance.
- To prepare and maintain documents that explain key aspects of governance for their Crown agency.
- To continuously strive to improve the effectiveness of governance being provided by their board.

Best practices in corporate governance

6.92 Performance of Crown agency boards of directors in New Brunswick in fulfilling the roles and responsibilities listed above has been somewhat mixed. There are some improvements that we feel are warranted.

6.93 In the sections that follow we discuss a number of best practices that we feel should be followed by all New Brunswick Crown agencies.

Crown agency boards' relationship with CEOs

6.94 The recruiting and hiring of CEOs for Crown agencies is a bone of contention in most jurisdictions in Canada, and New Brunswick is no exception. Many of the CEOs for New Brunswick Crown agencies are recruited and hired by central government.

6.95 The appointment of Crown agency CEOs by central government makes establishing normal accountability relationships very difficult. If a board cannot hire or fire their CEO, is the CEO really accountable to the board, or is that person accountable directly to government? And, if a board of directors is excluded from the accountability chain, does it really have any relevance in the decision-making process? We believe that all Crown agency boards should be responsible for hiring and, if necessary, firing their CEO.

6.96 Further, we do not feel that CEOs should be voting members of Crown agency boards of directors, as currently occurs in some cases. CEOs with voting rights at the board table are essentially being asked to be both managers and directors, effectively putting them in a conflict of interest situation. If CEOs are to be truly accountable to their board of directors, they must be entirely separate from that board.

6.97 We also feel that, to ensure management accountability, Crown agency boards should be evaluating the performance of their CEO against preset performance objectives on a regular (e.g. annual) basis. Again, this is not the case for all Crown agencies in the Province.

Crown agency ethical standards

6.98 One of the recognized responsibilities of boards of directors is to ensure that ethical standards (e.g. conflict of interest) are in place and being complied with. Typically, this means the approval of a code of ethics and the ongoing monitoring of compliance with that code. In our reviews of various Crown agencies, we noted that not all boards of directors had approved ethical standards for their agency.

Audit committees

6.99 One of the key responsibilities of Crown agency boards of directors that we identified above is ensuring the integrity of the corporation's internal control and management information systems. This responsibility has also been described as a board's stewardship responsibility. In other words, Crown agency boards of directors have been entrusted by government with valuable assets for which they must be good stewards.

6.100 In order to act as good stewards, boards of directors need to assure themselves that management controls effectively reduce key risks (e.g. loss of assets) to an acceptable level. They must also assure themselves that the management information systems that produce the information on which they base their decisions are reliable. Finally, they must assure themselves that the third-party information and assurances on which they are relying are truly being developed independent of management.

6.101 A tool used by many boards of directors in both the public and private sectors is the audit committee. In fact, the federal *Financial Administration Act* requires that most federal Crown agencies have an audit committee. Also, TSX listing standards require that all publicly-traded companies have an audit committee in place, and further that all members of that committee be "financially literate." An audit committee allows for a more in-depth review of the effectiveness of controls in place than is possible at meetings of the full board.

6.102 There are a few New Brunswick Crown agencies that have audit committees including NB Power and Kings Landing Corporation. There may also be other Crown agencies with alternately-named committees that fulfil the same function. Most New Brunswick Crown agencies are required to have annual financial audits performed by independent auditors, and it is our belief that most Crown agency boards of directors in the Province rely heavily, and in many cases exclusively, on the assurances of their financial auditor in attempting to fulfil their stewardship responsibility. However, because of the limited effectiveness of external audits in identifying control weaknesses and other serious problems such as fraud and exposure to risk, additional steps should be taken.

6.103 Some Crown agencies, for example the New Brunswick Liquor Corporation, do have internal auditors that report directly to boards of directors, providing a more in depth look at control systems than would otherwise be the case. However, many Crown agencies do not have internal auditors on staff.

6.104 Consequently, we feel that Crown agency boards of directors should seriously consider establishing audit committees to provide additional focus on the boards' stewardship role. The initial focus of those audit committees might well be to find solutions to deal with the lack of stewardship information currently being provided to New Brunswick Crown agency boards, as discussed in the "Governance and Accountability Information" section later in this chapter.

Governance documentation

6.105 Most of the Crown agencies we examined in our governance work over the past number of years shared a common weakness: corporate documentation describing the following key aspects of Crown agency governance was weak or did not exist.

- The governance and accountability structure of the Crown agency.
- Governance processes and standards to be followed, including the performance requirements set for individual board members.
- The relative roles and responsibilities of government, the board of directors, and management.

- An agreement between the Crown agency and the responsible Minister as to how important aspects of governance are to be handled.

6.106 We feel that documenting these key aspects of governance is critical to the effectiveness of the board, as well as that of government and management in carrying out their respective roles and responsibilities for the Crown agency. There are several reasons for our opinion. First, there is constant and often rapid turnover of board members, government representatives and management of Crown agencies. Consequently, it is very important for continuity purposes to document understandings that have been achieved for the reference of newly appointed individuals. Second, the documents provide clarity to all key governance players. Third, documented understandings can become de facto performance contracts against which responsible parties can be held accountable.

6.107 We are aware of at least one Crown agency within the Province, the Workplace Health, Safety and Compensation Commission (WHSCC), that has created a comprehensive governance document. WHSCC also has a two-part agreement with the Department of Training and Employment Development that establishes the division of roles, responsibilities, and accountabilities between WHSCC and central government. However, to the best of our knowledge, most New Brunswick Crown agency boards have not developed such documentation.

Ongoing dialogue on governance issues

6.108 It is very important that boards of directors have an ongoing focus on governance issues at the board table. Further, we feel that it is critical that directors be very familiar with the documents on which board governance is based and consider their continued applicability often. The Bank of Montreal has provided the following advice:

> *Ensure frequent dialogue on governance with the full board. Continuously recognize that governance must constantly evolve, as the corporation changes and new stakeholder expectations arise.*

6.109 A WHSCC representative also advised that it is not enough to create governance documents. A board has to "live" the documents and review them regularly to ensure they still meet the needs of the board. We would note that there appears to have been more attention paid to governance practices at some New Brunswick Crown agencies over the past few years. However, it is our belief that few boards focus on governance issues as part of their regular deliberations.

Board evaluation

6.110 An area in which best practices have evolved significantly in recent years is in the area of board evaluation. Not only are boards of directors starting to perform regular self-evaluations of their effectiveness, but they are also starting to perform regular evaluations of

the performance of individual board members, i.e. peer reviews. The Conference Board of Canada recently indicated that "evaluating the performance of boards as a whole and the contribution of individual directors" is an emerging issue in the roles and responsibilities of directors.

6.111 We were pleased to note that the WHSCC is currently doing board effectiveness evaluations. However, most Crown agency boards have not yet begun to self-assess the performance of either their board as a whole or individual board members.

Recommendations - governance roles and responsibilities

6.112 We make the following recommendations related to governance roles and responsibilities:

- **All Crown agency boards should negotiate and document a memorandum of understanding between their Crown agency and the responsible Minister as to how important aspects of governance are to be handled, the relative responsibilities of key governance players, etc.**
- **All Crown agency boards should be given responsibility for recruiting and hiring the CEOs for their agencies. They should also review the performance of their CEO on a regular basis.**
- **All Crown agency boards should ensure that ethical standards have been established for their agency and that there is a system in place to monitor compliance with those standards.**
- **All Crown agency boards should seriously consider establishing an audit committee to provide additional focus to the board's review of the integrity of the agency's internal control and management information systems.**
- **All Crown agency boards should prepare a governance statement for the reference of board members that describes:**
  - **the governance and accountability structure of the Crown agency;**
  - **governance processes and standards that are being followed, including the requirements made of individual board members; and**
  - **the roles and responsibilities of government, the board of directors, and management.**
- **The governance statement should be reviewed regularly and updated as necessary.**

- **All Crown agency boards should conduct, as a minimum, regular self-evaluations of their board's effectiveness. They should also consider conducting regular reviews of the performance of individual board members.**

Guidance and support for Crown agency boards of directors

6.113 David Golden, the former Chairman of the Board of Telesat Canada, has related the following story about the difficulties that can be encountered by new board members:

> *One major shareholder asked a very experienced, very capable engineer who was part-owner and senior manager of a very successful privately owned construction company to become a director of a corporation. As an engineer and a successful businessman, everything was going just great. He came up to me after the first meeting and said, "I haven't the faintest idea of what is expected of me as a director of a company, and I am either going to have to brush up on it or maybe you will tell me what is expected of me. I am lost."*

6.114 We suspect that for many new appointees to New Brunswick Crown agency boards, this is also the case. It is not that they are not competent. It is simply the case that most people do not have any knowledge about what is required to be an effective director.

6.115 Serving as a member of a board of directors is not something that most appointees are prepared for by their previous experiences. As Crown agency directors, they must have a good understanding of their organization's mandate, business, and the needs of its shareholder, customers and stakeholders. They must clearly understand their roles, responsibilities, and accountabilities as directors. And they must have a good working knowledge of the principles of good governance, an area where many of the recognized best practices have changed a lot in recent years. If directors do not have adequate knowledge in all three areas, the effectiveness of governance they can provide is likely to be compromised. Appropriate knowledge of these three areas provides a basis for everything else that they will be doing as governors of the organization.

6.116 We have covered the ways in which directors inform themselves about the needs of their shareholders and their roles and responsibilities as directors. In the following sections, we cover the other types of knowledge they need.

Governance standards

6.117 Boards that have developed a comprehensive governance statement have often set most of the governance standards their board members need to know about. However, few New Brunswick Crown agency boards have governance statements. The situation is the same in many other jurisdictions.

6.118 In a number of cases outside of New Brunswick, governments and other organizations have tried to fill the void by establishing multi-organizational governance standards upon which board governance practices are to be based. Their goal is to provide a higher overall standard of governance by setting standards based upon accepted best practices. It is perhaps also an attempt to do some of the development work for boards of directors, thereby making it easier for them to adopt appropriate governance standards.

6.119 The Treasury Board of Canada recently published a document, Directors of Crown Corporations: An Introductory Guide to Their Roles and Responsibilities. This document was specifically developed for the benefit of new directors. It states:

> *This Guide addresses an important aspect of corporate governance – the roles and responsibilities of the Crown corporations director. As a Guide, it presents an introductory overview of a director's role and other general information primarily intended to meet the needs of new appointees to the boards of federal Crown corporations.*
>
> *Instead of addressing all of the director's roles and responsibilities, the Guide focuses on four primary responsibilities: establishing the corporation's strategic direction, safeguarding the corporation's resources, monitoring corporate performance, and reporting to the Crown.*

6.120 In 2002, the Treasury Board of the Government of Newfoundland and Labrador issued Excellence in Governance – A Handbook for Public Sector Bodies. Opening comments in that handbook included the following.

> *This handbook is designed to assist members of public bodies understand some of the key aspects of their role and the vital contribution boards, in general, make in all sectors of Newfoundland and Labrador society. For those who are contemplating accepting an appointment to a public body or running for election I believe this handbook will support you as you make your decision. For those who are already members this handbook should clarify the expectations of the role.*

6.121 The handbook covers the following key governance areas:

- governing body - provincial government relationships;
- overview of governance;
- orientation of board members;
- roles and responsibilities of board members;
- board decision-making;

- strategic planning;
- evaluation of the board and CEO; and
- board reporting.

6.122 Other organizations that have created governance standards include:

- the Toronto Stock Exchange (TSX);
- the Department of Health of the Province of Alberta;
- the Canada Deposit Insurance Corporation (CDIC); and
- the Crown Investments Corporation of Saskatchewan (CIC).

Crown agency coordinating organizations

6.123 Creation of a governance policy or framework is a good first step. However, unless the creator of the policy has some way to ensure compliance (e.g. as a final measure, TSX may de-list companies that do not comply with its guidelines) it may not result in improved governance practices. Certain jurisdictions have assigned Crown agency coordinating organizations the responsibility for overseeing the governance function at Crown agencies. Examples and some information on their roles follow.

The Crown Agencies Secretariat - Office of the Premier - Government of British Columbia

6.124 The Crown Agencies Secretariat (CAS) has been charged, "with responsibility for strategically overseeing the system of Crown agencies (Crown corporations and agencies, boards and commissions) in British Columbia and proactively providing government and Crown agencies with the advice, information, and support necessary to promote good governance, continuous improvement and accountability for results. CAS's goal is to develop (and maintain) a highly accountable, efficient and effective system of Crown agencies in British Columbia."

The Crown Investments Corporation of Saskatchewan

6.125 The current mandate of the Crown Investments Corporation (CIC) was established in 1993 by the *Crown Corporations Act*.

6.126 The main duties of the corporation are to:

- *establish the strategic direction for subsidiary Crown corporations through effective governance and performance management;*
- *manage prudently its diversified portfolio of commercially viable investments; and*
- *enhance Saskatchewan's long term economic growth and diversification through investments and Crown corporations.*

6.127 In meeting its objects and purposes, CIC is responsible to the Lieutenant-Governor in Council for all matters relating to the following:

- the review and evaluation of the objectives, goals, revenues, expenses, expenditures, investments and operating results of subsidiary Crown corporations;

- the administrative policy and management practices and systems of subsidiary Crown corporations;
- the accounting policies and practices of subsidiary Crown corporations; and
- the financial relationships between subsidiary Crown corporations and the Government of Saskatchewan.

Training – knowledge of governance best practices

6.128 In our work on New Brunswick Crown agency governance, we noted that many directors were not familiar with a lot of the new governance literature available or the best practices of modern governance. Also, in general, they were not being provided with any developmental opportunities that would have allowed them to increase their knowledge in this area. We understand that the NB Healthcare Association does provide governance training to the boards of NB Healthcare Association members (i.e. Regional Health Authorities). Also, the board of the WHSCC has access to governance training through the Association of Workers' Compensation Boards of Canada. However, in general, we feel that Crown agency board members in New Brunswick need better access to appropriate governance training opportunities and guidance to fulfil their potential as effective board members. Representatives of various Crown agency boards we have talked to have supported this opinion. In our opinion attendance at training sessions should be made a mandatory part of accepting a board appointment.

Guidance and support in the Province of New Brunswick

6.129 In New Brunswick, there is currently no central government organization providing support to, monitoring, or otherwise concerning itself with governance and accountability at provincial Crown agencies. Instead, individual Ministers and their departments are given responsibility for the governance and accountability of specific Crown agencies. As a result, consistency between Crown agencies in these areas is lacking.

6.130 The Executive Council Office has taken a coordinating role on initiatives relating to departments; for example, they recently sponsored a clinic on strategic planning that was open to all departments. They feel that this is in keeping with their role of serving ministers of the Crown. They plan to do more such sessions in the future, particularly as a communication tool for government policies and priorities.

6.131 In our opinion, given their stated responsibility of serving ministers, we feel that a strong argument could be made for extending the Executive Council Office's coordinating role to include guidance and support for Crown agencies. Some of the valuable functions they could provide might include:

- setting and periodically updating governance standards for use by all New Brunswick Crown agencies;

- monitoring compliance with those governance standards;
- providing guidance to Crown agencies in the application of those governance standards;
- providing governance training opportunities for Crown agency directors;
- communicating the shareholder's perspective, government priorities (e.g. the Prosperity Plan), and emerging issues to Crown agencies; and
- providing independent advice to Cabinet, Ministers, boards and/or CEOs on Crown agency mandates, direction, plans, and performance, as requested.

Recommendations - guidance and support for Crown agency boards of directors

6.132 We make the following recommendation related to guidance and support for Crown agency boards of directors:

- **The Executive Council Office's coordinating role should be expanded to include providing guidance and support to Crown agencies in some or all of the following areas:**
  - **setting and periodically updating governance standards for use by all New Brunswick Crown agencies;**
  - **monitoring compliance with those governance standards;**
  - **providing guidance to Crown agencies in the application of those governance standards;**
  - **providing governance training opportunities for Crown agency directors;**
  - **communicating the shareholder's perspective, government priorities, and emerging issues to Crown agencies;**
  - **providing independent advice to Cabinet, Ministers, boards and/or CEOs on Crown agency mandates, direction, plans, and performance, as requested; and**
  - **identifying and coordinating major Crown agency policy issues and projects as required.**

Information about Crown agency operations

6.133 In general, we have found that directors of New Brunswick Crown agencies are getting sufficient information about how their Crown agencies operate. Consequently, we will make no further comments in this area. However, we do have concerns about the clarity of Crown agency mandates as previously discussed. Additionally, weaknesses in the governance information provided by management to

boards of directors relating to ongoing operations of Crown agencies is discussed in the next section of this chapter.

Governance and accountability information

6.134 Evaluating the quality of board members, and the resulting effectiveness of the governance they provide, is difficult. However, we feel that one good indicator of the effectiveness of governance is the quality of annual reporting.

Accountability reporting in New Brunswick

6.135 Effective June 1991, the Province of New Brunswick adopted an annual report policy for government departments and Crown agencies. It establishes certain requirements regarding the form and content of annual reports. The policy defines the prime function of an annual report to be "the major accountability document by departments and agencies for the Legislative Assembly and the general public. It serves as the key public link between the objectives and plans of a government entity and the results obtained."

6.136 It goes on to state:

> *To the degree possible, departments and agencies should give a clear account of goals, objectives and performance indicators. The report should show the extent to which a program continues to be relevant, how well the organization performed in achieving its plans and how well a program was accepted by its client groups.*

6.137 Consequently, boards of directors may discharge their accountability obligation by providing an annual report to the responsible Minister. This seems to be well understood by all parties, as demonstrated by the fact that Crown agency annual reports are signed by the board chair and addressed to the responsible Minister. Annual reports are forwarded to legislators and made available to the public.

6.138 We feel that if Crown boards do not take ownership of the corporate annual report and ensure that it does serve as a comprehensive performance report, they are not adequately discharging their accountability obligation. This in turn can lead to a perception that the board may have little relevance in the success of its Crown agency.

6.139 Some of the best practices in annual reporting among New Brunswick Crown agencies are discussed later in this chapter. It is reasonable to assume that Crown agencies like the Workplace Health, Safety and Compensation Commission (WHSCC), NB Power, and the New Brunswick Research and Productivity Council (RPC), that have developed annual reports that serve as good accountability documents, also have reasonably effective board governance. However, that is not to say that other New Brunswick Crown agency boards do not govern effectively. They may just not be putting their best foot forward with the annual reports they are currently presenting.

6.140 The Crown Corporations Committee, representing all legislators in their role as reviewer of Crown agency annual reports and financial statements, needs to scrutinize the information presented by a Crown agency thoroughly and compare it with previously presented strategic plans, business plans, and performance targets. Where accountability for performance against plans cannot be clearly established with the information provided, Committee members should request that additional information be provided. And in fact, they have done this.

6.141 Our Office has conducted a number of reviews of annual reports prepared by Crown agencies since the annual report policy was adopted. In our experience, the quality of annual reporting by Crown agencies in comparison with the requirements of the policy has been mixed. Some Crown agencies have attempted to comply with the spirit of the policy, but many have not.

6.142 The Executive Council Office has been assigned responsibility for monitoring compliance with the policy. However, it only checks to ensure that annual reports have been tabled in the Legislative Assembly. It does not review the contents of those reports or otherwise enforce compliance.

6.143 We feel that Crown agency boards could improve the value of their annual reports as accountability documents by ensuring that they are fully complying with the annual report policy. We also feel that there should be better linkage between annual reporting by Crown agencies and government priorities and initiatives. Among other things, this would speak to the continued relevance of programs and services provided by the Crown agency. For example, a Crown agency board would go a long way to establishing its continued relevance by reporting the successes of its agency in supporting the achievement of the government's Prosperity Plan.

Description of corporate governance practices

6.144 Providing information on corporate governance practices gives the reader of an annual report a better understanding of what the board of directors has committed to do, thereby increasing the value of the annual report as an accountability document. There is currently no requirement in the New Brunswick annual report policy that such a statement of corporate governance practices be included in Crown agency annual reports. By comparison, federal Department of Finance and Treasury Board Guidelines do require that:

> *Each Crown corporation should include a description and assessment of its corporate governance policies and practices in its annual report.*

Best practices in performance reporting in New Brunswick

6.145 There are a few examples of New Brunswick Crown agencies that provide good models for other Crowns agency boards wishing to improve the value of their annual reports as accountability documents.

Workplace Health, Safety and Compensation Commission (WHSCC)

6.146 The most recent WHSCC annual report appears to capture the spirit of the annual report policy as well as any Crown agency in New Brunswick. The body of the report is divided up by strategic goal, rather than the typical functional area layout, and describes performance indicators, targets and actual results within that framework. This allows the reader to assess the success of the Commission in achieving individual strategic goals and in evaluating actual versus planned performance. In fact, a Commission representative indicated that they see their current annual report as fully satisfying their responsibility to be accountable to government.

New Brunswick Research and Productivity Council (RPC)

6.147 RPC was the first New Brunswick Crown agency to adopt the annual report policy in a comprehensive manner. As with WHSCC, the reporting focuses on performance measures and success in achieving strategic goals. Of note is the honesty of the reporting. Where targets have not been achieved, this is acknowledged openly. An often-cited concern of senior Crown agency officials that is that reporting bad results will only lead to sanctions from central government. However, we are not aware of negative repercussions to RPC as a result of this honesty.

NB Power Corporation

6.148 Again, this report is quite well laid out. What is refreshingly unique is that the annual report includes an entire section detailing the board's approach to corporate governance. This section provides a good summary of many of the current "best practices" in corporate governance that we have discussed in this chapter.

Information provided to boards by Crown agency management (CEO)

6.149 Information presented in annual reports is not created by boards of directors. It is typically a summary of information captured by corporate information systems under the control of management. A somewhat broader summary of that information is provided to boards of directors by management for their use in fulfilling their role as corporate governors. So, in general it can be assumed that the board of directors of a Crown agency with a good annual report will have access to good governance information as well. However, they do have to ask for it. They cannot assume that management will necessarily know the right information to provide. And, at the board table, having access to the right information is critical in allowing boards of directors to effectively carry out their roles and responsibilities.

6.150 We have noted a number of problems with governance information being provided to New Brunswick Crown agency boards of directors by management. For example:

- Information provided by management is often purely financial. Service-related information is rarely reported regularly, even though most Crown agencies have service-related and not financial or business mandates.

- There is typically little or no linkage between corporate goals, objectives and targets created in strategic and business planning exercises, and what is reported to the board.

- There is typically little or no regular reporting relating to management compliance with board policies.

- Superfluous information is often provided to boards, sometimes drawing them into decision-making that should be left to management.

- Too much information is provided to boards to allow them to easily identify and focus in on that which should be considered "key."

Recommendations re governance and accountability reporting

6.151 We make the following recommendations related to governance and accountability reporting:

- **The Executive Council Office should be monitoring Crown agency annual reports to ensure that the government annual report policy is being complied with.**

- **The government annual report policy should be amended to include the following two additional requirements:**

  - **that Crown agency annual reports include, where applicable, reference to the Crown agency's involvement in supporting the success of current government priorities and initiatives; and**

  - **that Crown agency annual reports should include a statement of governance practices similar to that shown in the 2002 NB Power Corporation annual report.**

- **Periodically, all New Brunswick Crown agency boards of directors should look critically at reporting they receive regularly from management. Specifically, each board should ensure:**

  - **that reports presented are useful and sufficient to allow the effective discharge of all of the board's roles and responsibilities as Crown agency governors. For example, information used by the board to monitor corporate performance should address both financial and service goals and be clearly linked to approved plans;**

  - **that information that is not used by the board is deleted from management reporting; and**

- **that reports are organized for ease of reference by board members in their deliberations.**

Comments from the Executive Council Office

6.152 We provided a copy of our summary report on Crown agency governance to the Executive Council Office. They provided a detailed response to our observations and recommendations. In addition, they made the following general comments:

> *We find that the report provides a thorough discussion of the characteristics and principles of good governance. We agree, fundamentally, with the conclusions drawn respecting the importance of good governance in the context of Crown agencies, and with the principles underlying many of the report's recommendations. In support of such principles, the Government has, already in place, a number of mechanisms intended to encourage good governance practices in Crown agencies. And, as resources allow, we continue to pursue improvements in the areas of accountability and effective board performance.*
>
> *We find that some of the report's recommendations make suggestions about how certain principles of good governmance might be operationalized. While we are able to support most of the objectives, we have concerns with respect to some of the recommended administrative or organizational methods for achieving the objectives. This is particularly the case as it related to recommendations for Executive Council Office to assume a more direct role in guiding and supporting Crown agency boards.*
>
> *We appreciate the report's value in identifying gaps and will consider how this information can be used to continue the Government's movement towards greater accountability, effective Crown agency performance, and the protection of the public interest.*

Chapter 7
Follow-up on Prior Years' Audit Work

Contents

Follow-up on Prior Years' Audit Work

Background

7.1 Our policy is to track the disposition of our recommendations for a period of four years after they first appear in our Report.

7.2 We do not prepare an update after the first year as we wish to provide the departments and agencies the opportunity to take action. After years two, three and four we prepare a status report, which shows the success achieved in meeting the recommendations.

7.3 This follow-up process provides us with the information necessary to measure our success in achieving one of the three goals we have set for the Office:

> *Departments and agencies accept and implement our recommendations.*

7.4 We believe that the actions taken in response to our recommendations are an indicator of the value that we add in promoting productive, open and answerable government.

7.5 In preparing the information in this chapter, we request written updates from the respective departments and agencies. We follow up on these updates by meeting with appropriate officials in each department or agency to review the action described in the updates.

Scope

7.6 This chapter includes an update on our 1999 and 2000 recommendations and for the first time we present an update on our 2001 recommendations. In prior years we disclosed that a number of recommendations from the 1999 and 2000 years had been accepted and implemented, or, in some cases recommendations had been disagreed with. The details of these recommendations are not carried forward to this Report.

7.7 There are three types of recommendations that will not be updated in this follow-up chapter:

- those that were accepted and implemented in the same year as the recommendation is made;

- those that require no specific future action on the part of the department or agency; and

- those that are now irrelevant due to changes in government or government programs.

7.8 The reason some recommendations do not require future action is that they are directed to a specific situation, time or event. Although the recommendations have a value in future decisions or actions, the time is past to address the specific situation identified in the audit. While these types of recommendations are not tracked in this chapter, it should be clear that they can have general application to government processes and can result in future improvements.

7.9 This chapter refers to the original recommendations made by our Office and provides a current update. We do not refer to recommendations in full detail. So in order to fully understand the issues that gave rise to our original recommendations, it may be necessary for the reader to refer to the Auditor General's Report where we first discussed the audit and our findings.

Summary of the audits covered in this chapter.

Department/Agency	Audit area	1999	2000	2001
Environment and Local Government	Tire Stewardship	x		
Various departments	Contract Administration	x		
New Brunswick Liquor Corporation	Governance	x		
Health and Wellness	Food Safety	x		
Agriculture, Fisheries and Aquaculture	Review of Legislation		x	
Environment and Local Government and Health and Wellness	Domestic Well Water Quality		x	
Natural Resources and Energy	Private Forest Lands		x	
Supply and Services	Land Management Fund		x	
Transportation	Engineering Consulting and Road Construction Materials		x	
Office of the Comptroller	Provincial Financial Accounting System		x	
Education	Pupil Transportation			x
Health and Wellness and Family and Community Services	Prescription Drug Program			x
Natural Resources and Energy	Crown Lands Management			x
Public Safety	High Risk Drivers			x
Supply and Services	Provincial Archives of New Brunswick			x
Supply and Services	Purchasing			x
Supply and Services	Contracts for IT Professionals			x
Agriculture, Fisheries and Aquaculture	Audit of Controls			x
Environment and Local Government	Local Service Districts			x
Finance	Review of Oracle Accounts Receivable System			x
New Brunswick Distance Education Network Inc.	TeleEducation			x

The following chart shows the total number of recommendations made for each year. It also shows how many have been implemented and partially implemented.

Audit year	Recommendations			
	Total	Implemented	Partially Implemented	Percentage
1999	99	42	20	63
2000	92	38	28	72
2001	190	100	37	72
Total	381	180	85	70

7.10 Responsibilities assigned to departments and agencies can change from time to time, as can their names. For the purposes of this chapter, we refer to the department or agency that is currently responsible for the audit area.

1999 recommendations

7.11 This is the last year we will be updating the outstanding recommendations from the 1999 Report. It is the third consecutive year in which an update has been presented. The emphasis on our reporting this year will be on the 1999 recommendations that have not been implemented.

Department of the Environment and Local Government

Tire stewardship

7.12 The environmental dangers associated with the storage or disposal of waste tires are well known. We examined the planning and implementation aspects of the Tire Stewardship Program in New Brunswick. We also examined the operation of the program up to 31 March 1999. Eleven recommendations were presented to the Department of the Environment and Local Government at the conclusion of the audit.

7.13 All but three of the recommendations have been implemented. An update on the three remaining recommendations has been prepared.

7.14 We recommended the Tire Stewardship Board initiate a study to analyse the issues surrounding the growing liability for accrued processing fees.

7.15 The accrued processing fees are to be paid to the Tire Recycling Atlantic Canada Corporation (TRACC) when products containing recycled materials are sold by the Board. As inventories of recycled materials grow, so does the liability. An effective recycling program would see the balance remaining constant. In our 1999 audit we saw evidence that the liability was growing rapidly.

7.16 The liability reported in the audited financial statements of the Tire Stewardship Board has declined steadily over the past few years. In 1999 we reported that the balance at one time had been valued in excess of $1,700,000. The latest information shows that the balance has now been reduced to $225,000.

7.17 However, there were other questions raised in our audit. For example, we were concerned that the amount of the liability was not consistent with the inventory levels. We also asked why the financial statement liability continued to grow when the number of tires remained fairly constant. As well the Board was actively working on HST requirements, a matter that could reflect on the existing fee. No study was conducted to address these issues. The Department indicated to us, this year, that they will conduct follow-up on these issues.

7.18 We recommended the Department and the Fire Marshal develop a comprehensive plan that identifies who will inspect TRACC for the various legislated and contractual requirements.

7.19 As reported last year, the Department indicated that it will continue to inspect the TRACC facility, as required, to ensure compliance with the approval to operate. It also indicated that the Fire Marshal's Office will continue to provide technical support. However, no comprehensive plan has yet been developed. Without a formal commitment in place for inspection, we conclude that the recommendation has not been fully implemented.

7.20 We recommended that the Department and the Fire Marshal work together to co-ordinate the scheduling, reporting and corrective action of all inspections of TRACC as required.

7.21 We reported in the past that there has been evidence of communication between the two parties in inspections. However, the organization of an established and co-ordinated plan for scheduling, reporting and taking corrective action on inspections did not take place.

Contract administration

7.22 It was readily apparent from our work and our findings in our 1997 and 1998 annual Reports that contracts between the Province and its suppliers are very important. More and more services were being delivered by the private sector and many contracts have lives extending over multiple fiscal years. The objective of this audit was to determine what systems were in place to ensure contracts were being administered in accordance with negotiated terms and conditions. We examined eight departments in making this assessment.

7.23 The following four recommendations remain only partially addressed, as we comment on the status of recommendations for the final time. The first recommendation is general in nature.

7.24 A registry of contracts should exist at either the responsibility centre or departmental level. This registry should include information on key financial and non-financial undertakings and be organized in a manner which permits effective review and follow-up.

7.25 As stated last year, we found that a mixture of practices existed in the departments. While we had hoped to see a requirement that all departments maintain a registry, this has not happened.

7.26 The remaining three recommendations relate to the Department of Family and Community Services.

7.27 The Department reported last year that a targeted implementation date of 31 March 2003 had been set for the following three partially implemented recommendations. This year we were informed that the implementation date has been moved to 1 April 2004.

7.28 Where a purchase of service contract is implemented, the Department should obtain relevant and complete information that can be used to assess contractor performance.

7.29 The Department should ensure that the information obtained from contractors for use in assessing performance is reliable.

7.30 The Department needs to implement a more structured, proactive approach to ensure that services being provided by suppliers meet quality and other standards as specified in its contracts. This would include providing regular feedback to contractors on the satisfaction with their services.

New Brunswick Liquor Corporation

Governance

7.31 We believe that promoting accountability is the most important part of our work. We also believe that appropriate accountability processes cannot be established in Crown agencies unless effective governance structures and processes are in place and functioning. We conducted an in-depth review of the governance and accountability structures in place at the New Brunswick Liquor Corporation (NBLC) and reported a total of nineteen recommendations at the conclusion of our work.

7.32 As reported last year, the Board of Directors agreed with only six of the recommendations but they promised to take the necessary action to adopt these. Due to unforeseen circumstances, we were unable to complete the follow-up work in time to report the results last year. The follow-up was subsequently completed and we can report that the following five recommendations have been implemented.

7.33 We recommended that the Board prepare Board member and chair profiles and provide them to decision-makers when Board vacancies are to be filled.

7.34 We recommended that the existing corporate Standards of Conduct policy be extended to cover Board members.

7.35 We recommended that the Board carefully consider its roles and responsibilities and document a Board position description that clearly summarizes them.

7.36 We recommended that Board members of NBLC familiarize themselves with at least some of the governance publications referred to in our audit report. This could be achieved by providing group presentations to the Board, or through individual review of these publications.

7.37 We also recommended that, as a minimum, summary level Internal Audit Group reports be provided regularly to all Board members for their review.

7.38 The following recommendation has been partially implemented.

7.39 We recommended that the Board take ownership of the NBLC annual report as the vehicle through which it discharges its accountability obligation to the Minister of Finance.

7.40 We were disappointed to learn that the Board disagreed with the following thirteen recommendations, which were made with the intent of improving the accountability and performance of the Corporation.

7.41 We recommended that consideration be given to having the CEO continue as an ex-officio member of the Board, but on a non-voting basis. This could be done by a change in legislation.

7.42 We recommended that the Board conduct formal annual self-assessments of its performance.

7.43 We recommended that it be clearly established what the Board of NBLC is accountable for, to whom they are accountable, and how that accountability obligation is to be discharged. This would be most appropriately done through legislation.

7.44 We recommended that the Board include in their roles and responsibilities document, a description of what they are accountable for, to whom they are accountable, and how that accountability obligation is to be discharged.

7.45 The Board should promote a strategic planning process that: develops a clear and concise mission statement; develops an explicit list of strategic objectives for the corporation; develops performance indicators for each of the strategic objectives; and develops a plan for how performance indicators are to be measured, evaluated, and reported.

7.46 Performance results should be reported through the corporate annual report.

7.47 The master operating plan should identify annual performance targets for each performance indicator identified in the corporate strategic plan.

7.48 We recommended that the Board reconsider its informational needs. It appears that additional or repackaged information would be appropriate to aid the Board in assessing management progress in achieving plans, in ensuring that corporate assets are not subject to undue risk, and in ensuring that corporate policies are complied with. Additional information needed should be requested of management.

7.49 We recommended that the Board select and recommend to the Lieutenant-Governor in Council, future candidates for the position of NBLC CEO, in compliance with the *New Brunswick Liquor Corporation Act*. Alternatively, the Act should be changed to reflect actual practice.

7.50 We recommended that the Board perform a formal performance appraisal of the CEO on an annual basis. All Board members should be given the opportunity to provide input into the process.

7.51 We recommended that a job description for the CEO be prepared.

7.52 We recommended that the annual report be modified to comply with the provincial annual report policy.

7.53 We recommended that the NBLC Board chair appear annually before the Crown Corporations Committee along with the CEO.

7.54 We have been recently informed by the chair of the current Board that in the past year the Board has approved a new mission statement and a five-year strategic plan with goals, objectives and specific strategies. He also informed us that they are planning further changes to promote effective board governance and provide greater accountability.

Department of Health and Wellness

Food safety

7.55 Following our theme of safety, we conducted an audit of the systems and practices in place that ensure food service establishments in the Province are complying with food safety standards. In total we made thirty-six recommendations to the Department.

7.56 While the Department's response to our recommendations was generally positive, only four recommendations have been implemented since the audit was conducted in 1999. No recommendations were implemented in the 2002-2003 year. This leaves a large number of recommendations that are still awaiting departmental action.

7.57 The Department reports that the completion of new legislation is delaying the advancement of the food safety program and the implementation of our recommendations. In 2001, when we first revisited the Department to discuss their progress in implementing the audit recommendations, the Department indicated that the changes to legislation were expected to be completed in the fall of 2001 and the Food Program Policy and Guidelines were expected to be implemented in 2002. In 2002, when we updated the Department's progress for the second time, the Department reported that they were not expecting the changes to legislation before the fall of 2002 and the implementation of the guidelines by January 2003.

7.58 This year, we have prepared our final report on the status of these recommendations. The Department's most recent update discloses that they are now anticipating the changes to legislation by fall of 2003. The Department has made it clear that implementation of the Food Program Policy and Guidelines will follow the legislation and the quality assurance work will be completed following the approval of the Guidelines.

7.59 As is our practice, we list all outstanding recommendations after we have updated them for the third and final time. There are thirty-two recommendations that have not been implemented, although we have determined that twelve of these have been partially addressed. We are dismayed with the lack of progress in making positive changes in this area, especially since the matter relates to public safety.

7.60 The Department should establish a training policy that encompasses both training of newly hired inspectors and continuing professional development of experienced inspectors. Among other things, the training for new inspectors should include an orientation to New Brunswick's legislation and specific training on Regulations, policies and procedures relevant to their work.

7.61 Current training needs should be identified and assessed. A training plan should be established to reflect these needs and it should be incorporated into the financial budget.

7.62 When the new Regulations are established, all Public Health Inspectors should receive training in order to ensure a consistent understanding and application of the Regulations.

7.63 In an attempt to reduce the risk of the loss of objectivity, the conflict of interest policy should be communicated and monitored.

Consideration should be given to ways of reducing the risk of impaired objectivity. We believe that rotating food service establishments amongst the inspectors would be helpful. A quality control/professional review system would be both practical and effective.

7.64 The inspection function should serve as a means of determining and enforcing compliance with the Act and Regulations relating to food service establishments. Enforcement actions should be used to ensure compliance with the Regulations. The enforcement policy should be updated to reflect the organization's changes - the accountability links and the reporting system. The amended policy should be distributed and monitored.

7.65 We encouraged the Department to continue its efforts to complete the Regulations as soon as possible, for the recently assented new *Public Health Act.*

7.66 The Department's enforcement policy states, "Our Food Service Establishment license must be treated with no less respect than is required for a driver's license or motor vehicle license. It is not a revenue producer but a control measure to protect the health of the public." With the same analogy to a driver's license in mind, we recommended that "ticketing" be considered as a means of enforcing compliance with the Regulations.

7.67 We encouraged the Department to explore other means of enforcement. For example, having the food service establishment post its most recent inspection report could be a requirement having enforcement benefits. The watchful eye of the consumer in this competitive environment could serve as a strong incentive for food service establishment operators to comply with legislation requirements.

7.68 Appropriate policies and procedures for the food control program should be clearly established, properly documented, effectively communicated and distributed to staff, and reviewed on an annual basis. In preparing a policy and procedures manual, the regions should be consulted as some regions have valuable information that is worth sharing and the inspectors know particular areas where guidance is needed.

7.69 Policies and procedures should address the following, among other things.

- **the goal of the food control program and the objectives of activities (inspections, food-handling courses, complaint response);**

- **the responsibilities of the inspectors;**
- **training procedures for newly hired inspectors and ongoing training for existing staff;**
- **the conflict of interest policy to promote objectivity;**
- **the inspection process including the enforcement of the Regulations, the inspection reports, and the means of handling complaints from the public;**
- **the accountability links and the reporting system; and**
- **the responsibility for monitoring adherence to policies and procedures.**

7.70 Inspections should measure compliance with the Act and Regulations relating to food service establishments. The inspection checklists should be reviewed and updated to ensure that all Regulations and legislated requirements are covered by the inspection. The checklist should not be so stringent that it eliminates the opportunity to use professional judgement in non-critical areas of the inspection.

7.71 All routine inspections should be unannounced. There should be a valid reason for giving the operator of a food service establishment advance notice of an inspection.

7.72 The issues concerning scoring should be resolved. If it is decided that scoring is beneficial and is to be used, then inspectors should be given guidance to ensure that it is used consistently.

7.73 The practice of self-inspection should be considered. We believe that self-assessments that are signed by food service establishment owners and submitted to the regional office for review could be an effective procedure for measuring compliance.

7.74 By doing risk assessments of food service establishments, inspectors will be able to determine the required inspection frequency, plan the necessary activities and then schedule them accordingly. Risk assessments should be updated on an annual basis.

7.75 Inspections should be done in accordance with the predetermined coverage plan. An inspection schedule should be compiled on an annual basis. It should be updated as needed to ensure compliance with policies throughout the year. To use resources more effectively, higher-risk food service establishments should be targeted as having priority in the schedule.

7.76 All violations that have been identified should be addressed. When appropriate, follow-up inspections should be done to determine if identified deficiencies have been corrected.

7.77 The practice of self-inspection and reporting should be considered as a means of follow-up to determine if identified deficiencies have been corrected.

7.78 Inspection reports should be complete. The reports should document all areas of non-compliance with the Regulations with dates for correction and have signatures of both the operator and the inspector.

7.79 The inspection report should be consistently prepared by all inspectors.

7.80 We recommended that licensing be used as a means of enforcing the Regulations. The licensing and inspection functions should work together. All new food service establishments should be inspected prior to being issued their first license. Inspection results should be reviewed as part of the annual license renewal process. Revoking a license for not complying with the Regulations should be practiced. To facilitate the integration of the licensing and inspection functions, the Department should consider staggered license expiry dates.

7.81 The Department should consider requiring daycares to comply with the Regulations for food service establishments. We believe that daycares have high food related risks and should be subject to the same rigorous inspection as schools and other food service establishments. The Department should consider whether there are other provincially licensed institutions, such as adult residential facilities, that perhaps should be required to comply with the food service establishment Regulations.

7.82 The form used by inspectors to guide their inspection of daycares should be standardized and used consistently by all regions in the Province. We are concerned with the limited inspection of the kitchen facilities that the current forms suggest.

7.83 The annual license fees, and in particular the annual license fee for a food service establishment with a seating capacity of greater than fifty, should be reviewed to determine whether the Department is recovering the targeted percentage of costs. The fees should be changed if appropriate.

7.84 Means of monitoring and reporting on the inspection function should be established and performed regularly. The

accountability links should be clarified and a reporting system should be established.

7.85 The responsibility for monitoring adherence to policies and procedures should be clearly assigned to one person at central office.

7.86 Quality control procedures should be established.

7.87 In the regions, an inspection schedule should be compiled on an annual basis, and updated as needed, to ensure that all food service establishments get inspected. The schedule, and all amendments, should be approved by the Regional Team Manager or Regional Director.

7.88 Public Health Inspector workloads should be examined and adjusted if necessary.

7.89 The Department should establish performance indicators and ongoing monitoring procedures for evaluating performance of the food service establishment inspection function at both the regional and provincial levels.

7.90 The food service establishment inspection function should attempt to lower the level of violations. The level of compliance with the Regulations should be monitored and evaluated.

7.91 A means of hearing and addressing "suggestions for improving performance" from staff and food service establishment operators should be established.

2000 recommendations

7.92 We are updating the recommendations we made in our 2000 Report for the second time. A detailed update was first prepared last year.

Department of Agriculture, Fisheries and Aquaculture

Review of legislation

7.93 Legislators have a responsibility to ensure that legislation they approve is effective in meeting its intended purpose. Legislation is assigned to government departments to administer and it is reasonable to expect the departments to be held accountable for the efficient and effective administration of the legislation.

7.94 We have reported our concerns, in the past, that legislation was not always complied with. In response to this we conducted a project with the objective of concluding whether appropriate systems and practices were in place:

- to ensure compliance with legislation;
- to measure and report on the effectiveness of the legislation; and
- to ensure that resources committed to the administration of legislation are managed with due regard for economy and efficiency.

7.95 While we chose one department, Agriculture, Fisheries and Aquaculture (AFA), in which to conduct our audit, our hope was that the results of the audit and the recommendations could be applied to all government departments, not just AFA.

7.96 We made ten recommendations to the Department at the conclusion of the audit. At this stage two of the recommendations have now been implemented and two have been partially addressed. At the same time last year none of the recommendations had been implemented.

7.97 The Department agrees with all of the other recommendations. As mentioned last year, the Department responded that since we had proposed that three of the matters be considered for all legislation and departments, it would be appropriate that they be submitted to government for their consideration and appropriate action rather than looking just to AFA for action. The three recommendations read as follows.

7.98 We recommended that a clear statement of purpose be included in all proposed new legislation. We further recommended that a statement of purpose be included for existing legislation whenever such legislation is being amended.

7.99 We recommended that the Department provide the Legislative Assembly with regular (e.g. every three or four years) written reports on the effectiveness of the legislation it administers in meeting intended purposes.

7.100 We recommended that the Department develop performance indicators that it can use to evaluate administrative activities undertaken by the Department in support of legislation.

7.101 There is a fourth recommendation which is worthy of consideration by departments other than AFA.

7.102 We recommended that reviews of legislation under departmental administration be conducted periodically (e.g. every four years) to ensure it is up-to-date, that its stated purposes are still valid, and that it provides an effective framework within which those purposes can be achieved. Results of such reviews could be communicated to the Legislative Assembly.

7.103 We were pleased to see that during the past year the Department acted on this recommendation by creating a new staff position called "legislative co-ordinator". The responsibilities of the position include reviewing all legislation on an ongoing basis to ensure it is up-to-date and continues to be relevant. Actions reported by the Department in the

past year include the repealing of an Act, repealing of regulations, processing amendments to legislation and proclamation of an Act.

7.104 The other recommendation which the Department implemented in the past year was as follows.

7.105 We recommended that the Department, in co-operation with the Department of Justice, make any changes necessary to facilitate successful enforcement in the future for all legislation under departmental administration. Changes may involve enhancing or increasing administrative penalties such as fines, employing different techniques for evidence gathering, or proposing amendments to legislation.

7.106 The Department has begun working towards dealing with the matters raised in the final three recommendations, including one which will be addressed jointly by the Department and the Department of the Environment and Local Government.

Departments of the Environment and Local Government and Health and Wellness

Domestic well water quality

7.107 Our Office has an ongoing interest in public safety and the environment. In connection with this focus we decided to examine the area of safe drinking water. Water quality from the perspective of individuals with newly drilled domestic wells was examined. The Province has set regulations and safety standards under the *Clean Water Act* that relate to these wells. We concentrated our work on two regulations under this Act, the *Water Well Regulation* and the *Potable Water Regulation*.

7.108 At the completion of this audit we issued twenty-nine recommendations to the Departments of Health and Wellness and Environment and Local Government. We reported last year that sixteen recommendations had been implemented during the two years since the audit. In the past year, two more recommendations were implemented. At present the Department of Health and Wellness has implemented four of nine recommendations while the Department of Environment and Local Government has implemented fourteen of twenty recommendations.

7.109 Eleven recommendations remain outstanding. The Departments continue to agree with all recommendations and have made satisfactory progress towards addressing them.

7.110 The Department of the Environment and Local Government was responsible for the two recommendations implemented in the past year.

7.111 We recommended that the Department of the Environment and Local Government develop procedures for monitoring and reporting on compliance with key aspects of the *Water Well Regulation* and *Potable Water Regulation* which have been assigned to the Environmental Planning Section.

7.112 We recommended that the Department of Environment and Local Government review its current procedures for sample collection to ensure the integrity of testing results.

Department of Natural Resources and Energy

Private forest lands

7.113 New Brunswick is Canada's most forested province with 85% of its land covered with forests. Approximately 50% of this forest land is owned by the Crown. The *Crown Lands and Forests Act* identifies three distinct categories of non-Crown land which are referred to as "private forest lands". The three categories are; private woodlots (30% of forest lands), freehold lands (18% of forest lands) and private lands consisting of an aggregate of 5,000 (or more) hectares which are owned by one person.

7.114 We conducted an audit to determine if appropriate systems and practices were in place to encourage the management of private forest lands as the (sustainable) primary source of timber for wood processing facilities in the Province.

7.115 We made seventeen recommendations to the Department of Natural Resources and Energy. This is the second year we have followed up on the progress made by the Department.

7.116 A total of six recommendations have now been implemented. The Department expressed its agreement with the remaining eleven recommendations and, in many cases, has made significant progress towards the eventual adoption of the recommendations. This is an improvement over last year when we reported that only one recommendation had been implemented.

7.117 The following five recommendations were implemented during the past year.

7.118 We recommended that the Department review the funding formula for silviculture and provide guidelines as to what are acceptable limits for administrative expenses. The formula should work to ensure that the marketing boards optimize the area treated with the funds provided.

7.119 We recommended that the Department review the funding formula for the allocation of silviculture funds to marketing boards to ensure that private lands of 5,000 hectares are appropriately considered in the distribution of funds.

7.120 We recommended that the Department implement the monitoring provisions of sections 40(1) and 45 of the *Crown Lands and Forests Act*.

7.121 We recommended the Department develop an active monitoring program over the export of wood from private forest

lands. Appropriate corrective action should be taken as required in order to encourage the management of private forest lands as the primary source of timber for wood processing facilities in New Brunswick.

7.122 We recommended the Department develop the means to ensure the accuracy of the annual cut figures for all components of private forest lands.

Department of Supply and Services

Land management fund

7.123 The Province owns over 7,000 properties which make up roughly three million hectares of land. The Province also owns an additional 2.1 million hectares of submerged lands. Given the significance of the amount of land the Province owns and uses in delivering its programs and the importance of exercising stewardship over this valuable resource, we decided to carry out work on various land management issues. We chose to focus our audit on the Land Management Fund due to its central role with respect to the Province's land portfolio.

7.124 Eleven recommendations resulted from our audit. We reported last year that three recommendations had been implemented and the Department had expressed disagreement with four recommendations.

7.125 The remaining four recommendations have not, as yet, been implemented. However the Department has achieved some progress during the past year. The main change is that a contract has now been signed to develop a new land information system. The successful completion of this system will address two of the outstanding recommendations.

Department of Transportation

Engineering consulting and road construction materials

7.126 In earlier audits in the Department we had reviewed inventory and purchasing systems and the process used to purchase engineering consulting services. We found significant opportunities for improvement, at that time, and made recommendations accordingly. Although many of these recommendations were accepted, some were not. We decided to examine the present day purchasing and inventory operations to see how the Department had improved.

7.127 Twenty recommendations resulted from this audit. In total, five of these have now been implemented including two in the past year. For thirteen recommendations the Department is in agreement and in several cases some progress has been made towards adoption. In two cases it has now been established that the Department disagrees with the recommendations.

7.128 The following recommendations were implemented during the year.

7.129 We recommended the Department determine if the policy of purchasing goods indirectly through contractors rather than directly through suppliers is saving money.

7.130 The Department is conducting such evaluations on a routine basis.

7.131 We recommended the Department perform a formal cost-benefit study to determine if lengthening the product guarantee term in "end result specifications" (ERS) contracts would be beneficial to the Province. If the results of the study indicate a longer guarantee term is beneficial then it should be adopted.

7.132 In general terms, the recommended cost–benefit study has been acted upon. The Department's decision was to not extend product guarantee terms and they based their conclusion on the report of an external consultant.

7.133 The Department disagreed with the following two recommendations.

7.134 The Department should do a formal cost-benefit study to determine the smallest contract size at which the adoption of ERS represents good value for money to the taxpayers of New Brunswick.

7.135 We recommended that the Department implement ERS on all asphalt paving contracts where it is cost beneficial to do so.

7.136 In the Department's response they indicated that "since the current life cycle of asphalt paving is 12-15 years, at this time there is no suitable evidence to determine the impact on the average life using ERS."

Office of the Comptroller

Provincial financial accounting system

7.137 For a few years the Office of the Comptroller (OC) had been developing and implementing a new financial accounting system. Software called Oracle Financials was being customized by the OC for use by the Province. Because of its significance and the fact that we rely on it in conducting our audit of the financial statements of the Province, we decided to review the system. Our review focussed mainly on system security.

7.138 We made six recommendations following our review of this system. We reported last year that one of the recommendations had been implemented and one recommendation was disagreed with. As well, the period of relevance for one recommendation has lapsed with the passage of time. During the past year one more recommendation was implemented.

7.139 We recommended the OC have a formal sign-off to support system implementation decisions. This sign-off should be supported

by documented evidence that adequate internal controls are present in the system and operating effectively.

7.140 The two remaining recommendations are partially implemented and we will continue to track the progress in implementing these.

2001 recommendations

7.141 The recommendations from our 2001 Report are being updated for the first time.

Department of Education

Pupil transportation

7.142 Of the approximately 127,000 school age children enrolled in New Brunswick schools, about 89,000 get on a familiar yellow school bus every day. Another 6,000 are transported via contracted vans, vehicles and city buses. There are approximately 1,650 provincially owned and contracted buses and 1,500 provincial bus drivers. Parents have entrusted the Province to implement a safe and reliable pupil transportation system.

7.143 Because our Office has an ongoing interest in safety, we felt it important to address the issue of pupil transportation in the Province of New Brunswick. We believe that the Department of Education must have sound systems and practices in place to ensure the safety of the thousands of students transported by the Province daily. Further, the Department must demonstrate compliance with safety standards and regulations set by the Province.

7.144 In our 2001 Report, we made 74 recommendations as a result of an audit of the Pupil Transportation Branch within the Department of Education. We are pleased to note that the Department has taken our recommendations seriously and has done a significant amount of work in this area. In the past two years, the Department has implemented fifty recommendations and partially implemented another fourteen. We are particularly pleased to note the progress made in regards to safety training for students and bus drivers, and the increase in the number of bus inspections.

7.145 Four of our recommendations were accepted by the Department but not yet implemented. The Department has also reported that four of our recommendations are not feasible or necessary to do at this time. Two recommendations have become irrelevant because of changing circumstances.

7.146 Following is a list of the recommendations implemented by the Department.

7.147 We recommended that the Department review current methods for obtaining student data to ensure the safest possible method of updating data is used.

7.148 We recommended that the Department develop and enforce a "no standees" policy. This policy should be documented,

communicated, monitored, enforced and consistently applied throughout the Province.

7.149 The Department should provide information to both students and parents on the seat belt issue.

7.150 We recommended that the Department formalize the understanding with the newly formed Department of Public Safety to ensure lines of communication exist to inform the Department of Education regarding loss of licenses.

7.151 We recommended that the Department establish a process to monitor the ongoing validity of drivers' licenses.

7.152 We recommended that the Department obtain driver abstracts as required by Regulation. The Department should also consider the benefits of obtaining driver abstracts on a regular basis.

7.153 We recommended that the Department formalize policy regarding obtaining criminal record checks for bus drivers. The Department should ensure such policy is applied on a province-wide basis.

7.154 We recommended that the Department ensure that no bus drivers are hired until they meet employment standards.

7.155 We recommended that the Department develop and implement a consistent hiring process for bus drivers.

7.156 We recommended that the Department comply with Regulation by ensuring that all drivers of vans have received the mandatory training program. If the Department determines aspects of such requirements to be not applicable, the Regulation should be amended accordingly.

7.157 We recommended that the Department consider the specific training needs for drivers of vans.

7.158 We recommended that the Department define "van" for purposes of enforcing the Regulation.

7.159 We recommended that the Department develop and provide appropriate training for all driver coaches.

7.160 We recommended that the Department ensure that all drivers attend refresher courses as required by Regulation.

7.161 We recommended that the Department develop training on disciplining student behaviour and deliver this training to its bus drivers in a timely fashion.

7.162 We recommended that the Department formalize policy regarding the first aid training requirement.

7.163 We recommended that the Department ensure all drivers are re-certified in first aid training every three years.

7.164 We recommended that the Department evaluate the benefits of requiring first aid training for drivers of vans and contracted vehicles.

7.165 We recommended that the Department provide all drivers of student vehicles with Policy 701. The Department should maintain a signed copy in all employee files.

7.166 We recommended that the Department ensure timely and appropriate corrective action for drivers not performing pre-trip inspections.

7.167 We recommended that the Department consider a review of the current pre-trip inspection checklist. This review should include consultation with Department of Transportation, Department of Public Safety and bus drivers.

7.168 We recommended that the Department ensure adequate documentation regarding complaints against bus drivers, including actions taken by the Department.

7.169 We recommended that the Department develop province-wide standards regarding various student behaviour problems and related consequences. Drivers should be provided with adequate training on these standards.

7.170 We recommended that the Department encourage the use of accident review committees to review all accidents as per policy.

7.171 We recommended that superintendents make and enforce rules for proper conduct as per Regulation. If this is deemed to be not practical, the Regulation should be amended accordingly.

7.172 We recommended that the Superintendent regularly review bus safety rules for their appropriateness and effectiveness and make necessary changes in a timely manner.

7.173 We recommended that the Department ensure superintendents understand their responsibilities regarding vehicle maintenance and that they are fulfilling these responsibilities.

7.174 We recommended that all superintendents be reminded of all their responsibilities under Regulation and that they clearly understand that these responsibilities cannot be delegated.

7.175 We recommended that the Department review systems in place to ensure superintendents are fulfilling their responsibilities as described in Regulation.

7.176 We recommended that the Department ensure supervision for both loading and unloading of all students as per Regulation. If certain aspects of Regulation are deemed impractical, the Regulation should be amended accordingly.

7.177 We recommended that the Department ensure adequate signage at all schools, clearly delineating school-loading zones.

7.178 We recommended that the Department ensure emergency evacuation drills are provided twice a year as per Regulation.

7.179 We recommended that the Department monitor driver compliance with maintenance schedules as provided by the Department of Transportation.

7.180 We recommended that the Department become familiar with reports on vehicle maintenance available from DOT vehicle maintenance. The Department should review appropriate reports on a regular basis.

7.181 We recommended that the Department formalize policy regarding placement of garbage cans on buses. The Department should ensure that all drivers are made aware of such policy and it is consistently applied.

7.182 We recommended that the Department evaluate the cost/ benefit of radio devices on buses. Safety equipment purchases should be applied consistently on a province-wide basis.

7.183 We recommended that the Department obtain formal agreement from the Department of Public Safety regarding the number and types of random inspections on vehicles. If this is not possible, the Department should seek alternative arrangements for the service.

7.184 We recommended that the Department develop and implement a formal process for responding to Commercial Vehicle

Enforcement findings, not only for those vehicles that have been placed out of service, but for correcting the shortcomings in the system that such findings may expose.

7.185 We recommended that the Department ensure adequate coverage of inspection of all school vehicles.

7.186 We recommended that the Department monitor the maintenance and condition of contracted buses.

7.187 We recommended that the Department ensure province-wide standards with respect to the quantity and content of training provided to students.

7.188 We recommended that the Department provide appropriate bus safety training for middle and high school age students. The material should emphasize the role that these older children play in helping younger children follow the rules and assisting in emergency situations.

7.189 We recommended that the Department consider a requirement to include a "hands-on" training element to its program. This would include an actual bus demonstration of lights, signals, crossing arm, stop arm, and emergency exits.

7.190 We recommended that the Department should clearly discuss the major risks of bus safety in its training material provided to students. The Department should consider the use of national accident statistics as a method of informing both children and parents where the risks are.

7.191 We recommended that student training include training on protocol in emergency situations.

7.192 We recommended that the Department ensure consistency between cities regarding contract requirements as it relates to safety issues.

7.193 We recommended that the Department ensure that all city transit buses transporting students display appropriate signage denoting the fact that students are loading and unloading from the vehicle.

7.194 We recommended that the Department monitor and ensure contract compliance.

7.195 We recommended that the Department formally review and evaluate the performance of city transit based on appropriate, consistent criteria.

7.196 We recommended that the Department ensure all parent/ volunteer drivers are provided with Policy 701.

7.197 The Department advised it would not be acting on the following four recommendations following its review of the facts surrounding the issues raised.

7.198 We recommended that the Department review the workload of Transportation Managers to ensure adequate resources are provided to enable them to fulfil their various responsibilities.

7.199 We recommended that the Department formalize guidelines for terms "sober habits, industrious, good appearance, good health" as described in Regulation so that they may be consistently applied on a province-wide basis. We recommended that examples of such be well documented in employee files.

7.200 We recommended that the Department formalize guidelines for the term "capable of exercising good judgement in handling a school vehicle and in controlling pupils" as described in Regulation so that it may be consistently applied on a province-wide basis. We recommended that examples of such be clearly documented in employee files.

7.201 We recommended that the Department formalize policy regarding when a vehicle is considered to be out of service. The Department should ensure that all drivers are made aware of such policy and it is consistently applied.

Departments of Health and Wellness and Family and Community Services

Prescription Drug Program

7.202 Our interest in the healthcare services provided by the Province led to our review of the Prescription Drug Program. This program was established in 1976 to improve and maintain the well being of the people of the Province by making specified drugs available to selected groups of people who can least afford the high cost of prescription drugs and those with specified medical conditions. Approximately 15% of the population receive benefits under the program.

7.203 The program consists of several "plans". The plan examined in our audit provides drug benefits to people who receive income assistance and those who have drug expenses for which they do not have the resources to pay.

7.204 While the Prescription Drug Program is the responsibility of the Department of Health and Wellness, determining the eligibility for financial help with drug costs for this plan is the responsibility of the Department of Family and Community Services.

7.205 Our audit objective was to determine if the two departments had appropriate systems and practices in place to ensure that all eligible

persons are offered the plan and that the benefits are not granted to ineligible persons.

7.206 The audit resulted in seventeen recommendations. Ten of the recommendations were issued to both departments, as it is necessary to have co-operative action to address the issues raised. Seven recommendations were issued just to the Department of Family and Community Services.

7.207 The departments have had little success in implementing the recommendations. None of the recommendations have been fully implemented and only six have shown significant progress to date. We are disappointed with the lack of progress and encourage the departments to work together to address the issues reported by the audit.

Department of Natural Resources and Energy

Crown lands management

7.208 The *Crown Lands and Forests Act* (the Act) has assigned the Minister of Natural Resources and Energy responsibilities for both Crown and private forest lands. In the autumn of 1999 we began a two-year audit process to examine the Minister's responsibilities under each of these areas.

7.209 In our 2000 Report we examined the Minister's responsibilities for private forest lands as mandated under section 3(2) of the Act. In 2001 we continued with phase II of our work by reporting on the Minister's responsibilities for Crown lands.

7.210 We made ten recommendations to the Department. As a result of the follow-up work we conducted this year, we can report that the Department has implemented three of these recommendations and acted on a fourth. While the Department generally agrees with the remaining six recommendations, no significant progress has been made towards their adoption.

7.211 Following are the three recommendations that were implemented.

7.212 We recommended that the Department examine the costs and benefits of a certification process for Crown lands. This certification process should include a more formal system for encouraging and obtaining public input into the process of setting objectives for helping the Minister fulfil his responsibilities for Crown lands.

7.213 We recommended that the Department provide information on the relevancy of its programs for Crown lands in its annual report.

7.214 We recommended the Department table its annual report by the 1 November deadline.

7.215 A fourth recommendation has been acted upon but the solution is not what was anticipated.

7.216 We recommended that the Summary of Performance of Crown Timber Licensees be published in the Department's annual report at the conclusion of each five-year management plan. The Department should also consider an annual update on progress made regarding outstanding deficiencies.

7.217 The Department has tabled the Summary with the Legislature, and posted it on their web site. They have also indicated that they are prepared to cross reference their annual report to the web site.

Department of Public Safety

High risk drivers

7.218 Our Office's continuing interest in public safety led us to look at the area of road safety. After some analysis of this area, we decided to focus on the so-called high-risk drivers of private passenger vehicles. The bulk of our work was performed in the Department of Public Safety. However we also contacted policing agencies, the insurance industry, academic researchers and an expert in adaptive driving services.

7.219 At the completion of this audit, we issued eighteen recommendations to the Department of Public Safety. In general the Department has made good progress in implementing the recommendations. The current status of these recommendations shows six having been implemented and seven partially implemented. The Department is in agreement with the other five recommendations.

7.220 The implemented recommendations are as follows.

7.221 We recommended the Department initiate discussions and ongoing education with the medical practitioners and the optometrists of New Brunswick to help ensure Sections 309.1(1) and 309.2(1) of the *Motor Vehicle Act* are being complied with.

7.222 We recommended the Department assign clear responsibility for ongoing monitoring and updating of the definition of high-risk drivers. Further, this definition process should be a key component of national and provincial change initiatives aimed at improving the safety of our travelling public.

7.223 We recommended that the Department document the existing practices relating to training school inspections, especially those relating to the frequency of the audits and the documentation requirements.

7.224 We recommended that an instructor's test be upgraded to test specific items that a driver-training instructor should know.

This will help to ensure that only qualified instructors are permitted to train students.

7.225 We recommended that the Department continue to work with Service New Brunswick to ensure that changes are made to the computer systems to allow appropriate information to be compiled in a timely fashion. The Department needs to ensure that these changes will allow it to effectively evaluate the success of the driver training programs.

7.226 We recommended the Department consider the extent to which overall responsibility for the objectives in the Road Safety Vision 2010 can be assigned to one position such as that of the Registrar.

Department of Supply and Services

Provincial Archives of New Brunswick

7.227 The information contained in the records preserved by the Provincial Archives is irreplaceable and has a significant value to New Brunswickers. Caring for this information is a major responsibility and one that has a number of risks associated with it. We conducted an audit in which we looked at the acquisition, appraisal, selection, arrangement and description of records. We also looked at preservation risks and completed general reviews of the organizational mandate and performance reporting.

7.228 A total of twenty-five recommendations were made to the Department following the completion of our audit. Twelve of these recommendations have now been implemented and another four are partially implemented. Of the remaining nine recommendations, the Department is in agreement with eight of them and it disagrees with one.

7.229 The following recommendations have been implemented to date.

7.230 We recommended that Provincial Archives of New Brunswick (PANB) develop a formal succession plan to cover key staff who will be retiring under the Voluntary Early Retirement Window.

7.231 We recommended that the Conservation Policy and Risk Management Checklist as developed by the Conservator be finalized and adopted as soon as possible.

7.232 We further recommended that PANB continue to play a central role in developing and implementing an electronic records management strategy for the Province of New Brunswick.

7.233 We recommended that the Department of Supply and Services proceed with the design and construction of the new repository for PANB. This will address the issues raised as long as

the repository is appropriately designed to address current storage deficiencies.

7.234 We recommended that the planned repository be designed to be big enough to accommodate all existing archival holdings of PANB and provide room for expansion of the holdings for a reasonable period of time into the future.

7.235 We recommended that the design include the ability to monitor temperature, humidity and pollution levels and adjust them to meet archival storage requirements.

7.236 We recommended that the design include water detection systems to alert PANB to water intrusion, especially during those hours when storage facilities are unattended.

7.237 We recommended that proper storage facilities (i.e. shelving units and cabinets) and containers be provided for each type of archival media (e.g. cartographic records should be flattened and stored in appropriate cabinets to reduce damage due to handling).

7.238 We recommended that the donated cold storage facility be incorporated into the design of the new repository to allow for proper storage of the PANB film collection.

7.239 We recommended that a logistical plan be developed in advance of the completion of the repository to ensure that archival records are transferred into the new repository safely and efficiently, and without unduly disrupting the ongoing operations of PANB.

7.240 We recommended that the Conservator's replacement be appointed prior to the retirement of the current Conservator to allow adequate time for training and transfer of knowledge.

7.241 We recommended that the strategic plan as drafted in 1993 be updated as planned during the 2001-2002 fiscal year. That update should include developing measurable strategic objectives for PANB and updating the organizational action plan.

7.242 The following recommendation was disagreed with.

7.243 We recommended that in the event adequate funding is not available from government, amendments to the *Archives Act* should be proposed that would bring the mandate of PANB more in line with what is achievable with the resources provided by government. The potential costs, in terms of lost information, of selecting this option should be carefully analyzed before action is taken.

7.244 The Department did not see this as an option, as they pointed out in their response:

> *Curtailment of mandate would mean that government would not have the records required to respond to legal and administrative challenges, and would irreparably harm the government's ability to preserve the historical record, memory, and cultural resources that are the right of New Brunswickers.*

Department of Supply and Services

Purchasing

7.245 We conducted an audit in the Department of Supply and Services with the objective of determining if the Department had appropriate systems and practices in place to ensure the Minister was fulfilling some key responsibilities assigned by the *Public Purchasing Act*.

7.246 The audit focussed on: tendering and soliciting bids for purchases; granting exemptions and preferences; and ensuring compliance of government funded bodies and departments with their responsibilities under legislation.

7.247 While overall we were pleased with the Department's performance in fulfilling its responsibilities we did find instances where improvements could be made. In light of this we made seventeen recommendations.

7.248 In this, the first year of our follow-up, we found that the Department has implemented two of these recommendations and partially implemented three. Eleven others have been agreed with, but are either under further review or have seen no significant progress as yet. The Department has decided not to implement one recommendation.

7.249 The Department has implemented the following recommendations.

7.250 We recommended the Department of Supply and Services comply with legislation and solicit price quotations from suppliers rather than allowing departments to conduct this activity.

7.251 We recommended that contracts be re-tendered at a minimum of every five years unless approved for extension by the Board of Management.

7.252 After conducting a subsequent examination, the Department has decided not to take further action to address the following recommendation.

7.253 We recommended the Department ensure that long-term contracts contain provisions that protect the Province from price increases not provided for in the contracts.

Department of Supply and Services

Contracts for IT professionals

7.254 The Department of Supply and Services established a contract of supply for departments to use in purchasing the services of various information technology (IT) professionals. We reviewed the contract to determine departmental compliance with the terms and conditions of the contract.

7.255 At the completion of the audit, we issued seven recommendations to the Department of Supply and Services for improvements to the process. We are pleased to note that the Department has implemented six of the recommendations. As well, they have a plan in place to address the final recommendation in the 2003-2004 year.

7.256 The following recommendations have been implemented.

7.257 We recommended the Department modify the Informatic Professional Services (IPS) terms and conditions to more explicitly define the intent of the contract of supply. In particular, the Department should provide examples of acceptable and unacceptable use of the IPS, including when departments should tender a service versus using the IPS.

7.258 We recommended the Department modify the IPS terms and conditions to clearly define key terminology, in particular the terms "specific skills", "short-term needs" and "complete technology project". The Department should also provide examples on how to appropriately structure contracts.

7.259 We recommended the Department modify the terms and conditions of the IPS to include a clause indicating departments are responsible for monitoring and tracking contracted individuals' time for all contracts arranged under the IPS.

7.260 We recommended that departments obtain at least three quotes from vendors before awarding an IPS contract. These quotes should be documented and kept on file with the signed contract. In cases where it is not possible to obtain three quotes, the IT director should document the reasons why.

7.261 We recommended that each contract contain a clear and detailed statement of work.

7.262 We recommended that departments ensure each IPS contract file contains a statement of total payments made for the contract as required by the IPS terms and conditions.

Department of Agriculture, Fisheries and Aquaculture

Audit of controls

7.263 The Department of Agriculture, Fisheries and Aquaculture provides a number of services to the agri-food industry from a number of regional offices throughout the Province. Many of these services generate revenue for the Department through user fees, product sales or fee-for-service arrangements. Revenue from Veterinary Services contributes the largest component. Sales are made and money is collected by various staff members in each region. The large number of staff members handling payment receipts and the decentralized structure places increased importance on strong internal controls.

7.264 We conducted an audit to ensure that adequate controls were in place over cash handling and inventories for veterinary services, and over all departmental accounts receivable. Eight recommendations were made to the Department as a result of the audit.

7.265 The Department has demonstrated an excellent effort in dealing with these recommendations and we can report that all eight have been implemented during the two-year period since our Report was issued.

7.266 The Department should establish specific cash handling policies to address the unique issues that the Department faces with a decentralized collection system. Policies should be consistent from region to region.

7.267 An employee who does not have accounting or cash handling responsibilities should be formally assigned responsibility for reviewing and approving the credit note reports and all write-offs. Someone independent of the cash handling function should enter the write-offs into the accounting system.

7.268 A system should be established whereby interdepartmental accounts are set up. This will allow the regional offices to record the receipt of payments for other departments in the accounting system and to deposit the money in the Department's bank account. Cash receipts should not be forwarded in the mail. The Department should update their documented policies to specifically address the handling of interdepartmental transactions.

7.269 Clear inventory policies should be developed covering access, write-offs and damaged products. Specifically, regional veterinary supervisors should be required to approve all adjustments to inventory including damaged goods, count variances and expired product not returned for credit.

7.270 All regions should be made aware of the Department's documented policy.

7.271 Regional veterinary supervisors should be assigned formal responsibility for reviewing and approving all inventory write-offs.

7.272 The Department should provide better information to the public on the pricing policies, costs, recoveries and benefits of each type of service or program for which a fee is charged. The costs should include both direct costs such as salaries and materials and indirect costs such as overhead and other administrative costs associated with the delivery of the program.

7.273 The Department should implement new controls to ensure that all chargeable time is invoiced.

Department of the Environment and Local Government

Local service districts

7.274 As part of our audit of the Province's financial statements for the year ended 31 March 2001, we reviewed the systems and procedures used to record Local Service District (LSD) expenditures. At the conclusion of the audit we made three recommendations to the Department. We are pleased to report that the Department has implemented all of the recommendations.

7.275 Municipal Services Representatives should require individuals in LSDs to request purchases in writing.

7.276 To ensure the completeness of LSD expenditures, Municipal Service Representatives (MSRs) should monitor on-going costs from other departments to help ensure that all expenses have been recorded. The MSRs should remind departments if entries need to be made to transfer costs to the LSDs.

7.277 The Department's Head Office should instruct Municipal Services Representatives how to properly prepare monthly reconciliations. The MSR should reconcile, for each LSD, the total amount of expenditures recorded in the financial information system with the total amount recorded in the MSR ledger. Any reconciling items should be listed and investigated.

Department of Finance

Review of Oracle accounts receivable system

7.278 In April 1999, the Department of Finance implemented a new accounts receivable system – Oracle Accounts Receivable (Oracle AR). Our Office reviewed the Oracle AR as part of a long-range plan to examine all key computer systems to support our audit opinion on the Province's financial statements. Also, because it was a relatively new system, we believed our review could assist the Department in identifying areas where improvements could be made.

7.279 As a result of our review, we made six recommendations. We are pleased to report that all six of the recommendations have been implemented.

7.280 We recommended the Department review and simplify the format for the reconciliation of the Oracle AR to the Oracle GL. This reconciliation should be documented and performed quarterly.

It should be periodically reviewed to ensure its accuracy and timeliness.

7.281 We recommended the Department review the current responsibilities assigned to its users to ensure they allow an appropriate level of access and that the responsibilities are not incompatible.

7.282 The Department should review the eleven users who have been assigned complete system access to ensure that this level of access is appropriate in all circumstances.

7.283 We recommended the Department ensure all requests for user access follow the documented procedures established by the Department. The Department should also review and modify the System Access to Oracle Financials Accounts Receivable Form and make it easier to complete for changes in a user's access. The Department should also establish and document procedures for terminating a user's system access.

7.284 We recommended the Department develop a user access policy for the Oracle AR system.

7.285 We recommended the Department provide additional training to its management and staff on the use of Oracle AR. We also recommended the system manager receive more detailed and advanced training on the use of this software.

New Brunswick Distance Education Network Inc.

7.286 New Brunswick Distance Education Network Inc. (NBDEN) was incorporated in 1994 under the *Companies Act*. It provides financial and administrative support to TeleEducation NB and Connect NB Branché by facilitating various e-learning initiatives. NBDEN is a non-profit government entity managed by TeleEducation NB which plays a key role in partnership arrangements and is eligible to receive funding from federal government sources.

7.287 Our work focused primarily on the relationship of NBDEN and its TeleEducation expenditures, and the Department of Education's TeleEducation NB program. The goal of our audit was to expand our understanding of both the TeleEducation program and NBDEN with the objective of determining if NBDEN should be part of the government reporting entity.

7.288 Our conclusion was that NBDEN should be part of the reporting entity. We made five recommendations as a result of the work that was done. Four of these recommendations have now been implemented. While there is agreement with the fifth recommendation, no significant progress has been made to date.

7.289 The following recommendations have been implemented.

7.290 We recommended that financial statements be prepared annually.

7.291 We recommended that the Department ensure that the independent audit is completed and the results of the audit made public.

7.292 We recommended that NBDEN follow the government guidelines to ensure proper management and safeguarding of moveable assets.

7.293 We recommended that NBDEN implement a policy requiring it to follow the guidelines of the *Public Purchasing Act* and its regulations.

Chapter 8
Office of the Auditor General

Contents

Office of the Auditor General

Background

8.1 In recent years, our Reports have contained a checklist relating to our assessment of our compliance with the Annual Report Policy of government. A comparative version for 2003 is presented below.

Exhibit 8.1
Self assessment checklist

	2003	2002
Was a report prepared?	Yes	Yes
Is there a discussion of program relevance?	Yes	Yes
Are goals and objectives stated?	Yes	Yes
Does the report discuss achievement of plans?	Yes	Yes
Are performance indicators presented?	Yes	Yes
Are details available on level of client acceptance ?	Yes	Yes
Is actual and budget financial information presented?	Yes	Yes
Does the report explain variances from budget?	Yes	Yes

Office role and relevance

Our role

8.2 Our role within the provincial public service is unique. We are independent of the government of the day and provide information directly to the Legislative Assembly. The Legislative Assembly uses our information to help fulfil its role of holding the government accountable for how public monies are managed and how services are delivered. We also assist government by providing recommendations to senior officials of the departments and agencies we audit.

Our mission

8.3 We promote accountability by providing objective information to the people of New Brunswick through the Legislative Assembly.

Office relevance

8.4 Our 2002 Report generated significant interest. Five hundred and fifty copies were printed and distributed. Access to our Report is also available through the Internet, and we are tracking the number of times our Report is visited. During the four-month period following the release of the Report there were over 3,000 visits to the complete Report. In addition to this there were specific visits to individual chapters. On 17 December 2002, the day our Report was released, there were over 4,800 visits, or 'hits', to our web site. Discussions of our findings in the Legislative Assembly and the Public Accounts and Crown Corporations Committees are evidence of the continuing relevance of our work.

8.5 Each year we include in our Report matters that we believe are significant to the Legislative Assembly and the public. These include our findings, conclusions and recommendations arising out of our audit work during the year.

8.6 Our service also includes separate audit conclusions on the reliability of financial statements. These conclusions (auditor's reports) are provided to the Legislative Assembly with the financial statements for the Province as well as the Agencies and Trusts that we audit.

8.7 We see our work remaining relevant and contributing to:

- public confidence in our system of government;
- the Legislative Assembly's ability to carry out its responsibility of holding the government to account; and
- the government's ability to carry out its responsibilities using sound management systems and practices.

New strategic plan

8.8 In April 2002 we began an exercise to update our Office's 1998 strategic plan. Using an external consultant, we interviewed all Office staff and a good representation of our external stakeholders who were defined to be Members of the Legislative Assembly, government departments and agencies, the media and the general public. We finalized the new plan in May 2003. It can be found on our web site.

8.9 The new strategic plan identifies three main goals that we will be concentrating on over the next five years. These are:

- the Legislative Assembly and the public are aware of and value all the work that we do, and have confidence in our ability to provide timely, objective and credible information;
- departments and agencies accept and implement our recommendations; and
- our stakeholders - the Legislative Assembly, the public, auditees and our employees - view us as leading by example.

8.10 We have developed strategies around each of these goals, along with specific objectives and actions. Each year we intend to develop a business plan that will set priorities for each of our objectives. We have identified the following objectives as priorities for the current year:

- to improve our process for selecting value-for-money audits;
- to develop and implement a comprehensive human resources strategy that includes a human resources plan for the Office;

- to implement a risk management strategy for the Office; and
- to develop and implement ways of measuring our progress, and to publicly report on the results.

Performance indicators

8.11 For a number of years now we have been reporting on our performance. Our 2003-08 strategic plan identifies the indicators that we will use to determine our progress towards the goals we have set. Many of these indicators are similar to the ones we have been using for the last five years. We will continue to survey Members of the Legislative Assembly to determine their level of satisfaction with our work. We will also survey our auditees for the same purpose. Our employees will be surveyed, beginning this fall, to determine their level of satisfaction. We will also continue to track the acceptance and implementation of the recommendations that appear in our annual Report. And we will continue to focus on completing our work on time and within budget.

8.12 A new indicator that we will begin to report on in 2004 is the cost of the audits that we carry out. We have always tracked the time that we spend on each audit; we are now developing a system of costing out that time, and we intend to make that information available in our annual Reports. We will also continue to report on the percentage of time we spend directly on audit work.

8.13 This section of our Report identifies the indicators from our 1998 strategic plan, set out by strategic priority, and discusses our progress to date.

Responding to the needs of users

8.14 We will survey Members of the Public Accounts and Crown Corporations Committees on an annual basis in order to measure our effectiveness in meeting their needs.

8.15 We did not carry out any surveys of Members in 2003. Because of the election in June 2003, Members of the Public Accounts and Crown Corporations Committees did not meet to discuss our 2002 Report, or indeed any reports from departments or agencies for the year ended 31 March 2002, until late in 2003.

8.16 We will measure the extent to which the recommendations which appear in our annual Report are accepted and implemented. The disposition of all recommendations will be tracked for a period of four years.

8.17 Chapter 7 of this Report provides an overview of the recommendations included in our 1999 through 2001 Reports, arising out of our value-for-money audits. It details the departmental responses to our recommendations, and our assessment of the acceptance and implementation of those recommendations.

8.18 We will measure the extent to which accounting and reporting recommendations made by the Public Sector Accounting Board of the CICA are accepted and implemented by the Province of New Brunswick.

8.19 We are tracking this indicator as part of our annual audit of the financial statements of the Province. One significant outstanding issue is that the Province still does not track and report its cumulative investment in tangible capital assets. Some information on tangible capital assets is included in the notes to the 2003 financial statements.

8.20 The Province of New Brunswick audit will be completed by June 30th and all Crown agency and Trust Fund audits will be completed by September 30th.

8.21 Our ability to achieve this objective is not totally within our control, because it really depends on when our audit clients close their books for the year and are ready for us to do our work. Notwithstanding this, we believe the indicator is important because it results in us encouraging our clients to close their books as quickly as possible. We support timely reporting of financial information. The indicator also places a discipline on our Office to complete the audit work by a specific date.

8.22 The audit of the Province of New Brunswick was not completed by 30 June. A number of accounting issues, including some significant changes in the Province's accounting policies, delayed the completion of the financial statements and our audit.

8.23 We are the auditors of nineteen Crown agencies, six pension plans and the Fiscal Stabilization Fund. We completed fourteen of the Crown agency audits and three of the pension plan audits by 30 September. For the five Crown agency audits that were not completed there were delays related to a lack of available resources in our Office to do the work. However, all five were completed and reports issued by 31 October. The Fiscal Stabilization Fund financial statements, and financial statements for three pension plans, were not ready for audit in time to meet our 30 September target, nor would we have had the resources to complete them by that date.

Making effective use of resources

8.24 All financial and value-for-money audits will be performed within the time allotted.

8.25 We establish detailed time budgets for each of our audits. During the audit, we monitor the time spent by staff members on individual sections of the work. At the end of each audit, we summarize the total time spent, compare it to the total budgeted hours and analyze major fluctuations. For our financial audits, we use the results of this analysis to help us prepare the budget for the following year's work.

8.26 The actual time on our audit of the Province's financial statements was close to the budgeted hours. The time we spent in excess of budget (approximately 300 hours) can be almost entirely attributed to extra time necessary to deal with accounting issues arising subsequent to the completion of our planned audit work. All of the seventeen Crown agency and pension plan audits we completed by 30 September were carried out within or close to the budgeted hours.

8.27 We undertook six major value-for-money audits during the past year that led to chapters in our 2003 Report. Three of the six audits took more time than we had budgeted. We continue to analyze our experiences on each audit, in an effort to become more efficient in carrying out the work, and more realistic in setting our budgets. However, unlike our financial audit work which is basically the same year after year, the value-for-money work is usually one of a kind, and there may be very little experience to draw on.

8.28 60% of all professional paid time in our Office will be spent directly on financial statement audits or value-for-money audits.

8.29 A detailed analysis of staff time for 2002 indicates that 56.72% of the total paid time of all staff, with the exception of our administrative support staff, was spent directly on audit work (including work on our annual Report). For the first six months of 2003, this number increased to 61.22%. Non-audit time includes statutory holidays, vacations, courses for accounting students and professional staff, sick leave and administrative duties not chargeable to a specific audit. We were disappointed not to reach our target in 2002, which we attribute to time spent on our strategic planning process, some disruption caused by extensive renovations to our offices and two extended sick leaves during the year.

8.30 Of the total time spent directly on financial statement audits and value-for-money audits, 45% will be spent on value-for-money audits.

8.31 Our analysis indicates that, in 2002, we spent 51.91% of total audit time on value-for-money audits. For the first six months of 2003, this number was 48.98%. In recent years we have made a conscious and successful effort to reduce audit time on financial statement audits so that more time is available for value-for-money audit projects.

Maintaining professional standards

8.32 We will meet the standards required by the New Brunswick Institute of Chartered Accountants Mandatory Practice Review Committee.

8.33 The Institute last inspected our Office files in November 2000. The inspection concluded that we continue to meet the standards required by the Institute. No exceptions were noted.

Financial information

8.34 Budget and actual expenditure for 2001-02 and 2002-03 by primary classification is shown in Exhibit 8.2. The approved budget for the 2003-04 year is presented for comparative purposes.

8.35 Staff costs continue to account for approximately 90% of our budget and were underspent by $64,300 for the year ended 31 March 2003. This was the result of two unpaid leaves, plus a maternity leave.

8.36 Other services were overspent by $43,300. This was largely due to the hiring of a consultant to assist us with our strategic planning process.

8.37 Property and equipment costs were overspent by $17,000. Renovations to our offices resulted in a charge to our budget by the Department of Supply and Services of $59,000. A portion of this amount was funded by delaying the purchase of computer equipment, and by not replacing our server.

Exhibit 8.2
Budget and actual expenditure (thousands of dollars)

	2004	2003		2002	
	Budget	Budget	Actual	Budget	Actual
Wages and benefits	1,473.8	1,446.5	1,382.2	1,420.7	1,344.9
Other services	138.2	124.2	169.5	122.8	137.7
Materials and supplies	8.4	8.1	7.8	8.3	6.8
Property and equipment	52.6	76.2	93.2	45.2	28.5
	1,673.0	**1,655.0**	**1,652.7**	**1,597.0**	**1,517.9**

8.38 Subsequent to the approval by the Legislative Assembly of our 2004 budget, we were asked by the Board of Management to reduce that amount by 5%, or $83,650. We have always complied with government restraint initiatives, and, in the spirit of our goal to lead by example, we have consistently underspent our budget allocation, However, we were compelled to inform the Board of Management that in this case we would be unable to comply fully with their request. We have deferred computer purchases, restricted travel, and will do whatever we can to control our expenditures for the remainder of the year. However, persistent budget restrictions are now seriously affecting the level of staffing in the Office, and consequently the extent of the work we are able to carry out on behalf of the Legislative Assembly. This matter, and the process by which our budget is established, is discussed at greater length in chapter 1 of this Report.

8.39 Our legislation requires an annual audit of our accounts by a qualified auditor, appointed by the Speaker of the Legislative Assembly on the advice of the Board of Management. This audit is conducted by the Office of the Comptroller and their audit report is tabled before the Legislative Assembly.

Staff resources

8.40 Our Office continues to provide experience and training to our employees. New employees must enrol in a professional accounting program, namely CA (Chartered Accountant), CMA (Certified Management Accountant) or CGA (Certified General Accountant). Before staff begin this professional training they must have, as a minimum, one university degree at the bachelor level.

8.41 Staff turnover is an inevitable consequence of being a training office for professionals. During the past year, however, only one staff member left the Office.

8.42 Our staff complement, based on our available budget, remained unchanged during the year at 24. Brent White CA, Paul Jewett CA and Phil Vessey CA are the directors for our three audit teams. At 31 March 2003 there were seventeen professional staff with accounting designations. Our staff also included five students enrolled in accounting programs. The two remaining members of our staff provide administrative support services. The following is a list of staff members at 31 March 2003:

Lorna Bailey (1)
Mylène Chiasson (2)
Cathy Connors Kennedy, CA
Jocelyn Durette, CA
Kim Embleton (2)
Debbie Graye (2)
Deidre Green, CA
Sarah Hearn (2)
Eric Hopper, CA
Peggy Isnor, CA
Paul Jewett, CA
Cecil Jones, CA
Nick McCarthy (2)
Bill Phemister, CA
Bonnie Pitre, CA
Ken Robinson, CA
Yvonne Samson, CA
Al Thomas, CA
Phil Vessey, CA
Brent White, CA
Darlene Wield (1)
Daryl Wilson, FCA
Tania Wood, CA
Shauna Woodside, CA

(1) Administrative support
(2) Student enrolled in a professional accounting program

Summary of Significant Audits Conducted in Departments and Crown Agencies over the Past Six Years

The following is a list of value-for-money audits reported in a separate chapter of our annual Report over the last six years, organized by department and agency. The year of reporting is in brackets following the subject of the audit. The list is organized using the current name of the department or agency, even though in some cases the audit was conducted prior to a government reorganization.

Department of Agriculture, Fisheries and Aquaculture

Review of Legislation (2000)

This chapter examines how well the Department is meeting its administrative responsibilities pertaining to legislation it has been assigned, and whether the results are being adequately measured and reported to the Legislative Assembly.

Department of Business New Brunswick

Financial Assistance to Business and Performance Reporting (1998)

This chapter examines whether the Department is appropriately approving and monitoring financial assistance provided to business under the *Economic Development Act*, and whether an appropriate effectiveness reporting system is in place in the Department and functioning.

Department of Education

Pupil Transportation (2001)

This chapter examines the systems and practices in place in the Department of Education for the safe transportation of pupils to and from their schools.

Excellence in Education (1998)

This chapter examines whether the government has adequate systems in place to measure and report on the effectiveness of the Excellence in Education initiatives, and whether the government has complied with the accounting and audit provisions established by the Board of Management.

Department of the Environment and Local Government

Environmental Inspections (2002)

This chapter examines the inspection process established by the Department to monitor and report compliance with environmental legislation.

Domestic Well Water Quality (2000)

A reliable supply of safe drinking water is important to everyone. Approximately 40% of New Brunswickers living in small towns and rural areas rely on domestic wells as their primary source of water. Two regulations under the *Clean Water Act* that contribute to the prevention of drinking water problems for individuals on newly drilled or dug domestic wells are the *Water Well Regulation* and the *Potable Water Regulation*. This chapter examines the performance of the Departments of the Environment and Local Government and Health and Wellness in ensuring compliance with these regulations as they relate to private wells.

Tire Stewardship Program (1999)

This chapter examines the approach taken by government in establishing the Tire Stewardship Program, and whether or not the Department is overseeing the Program in accordance with the legislation and regulation. Our work also addresses whether or not the public is adequately protected from danger of tire fires.

Department of Family and Community Services

Child Day Care Facilities (2003)

This chapter examines whether the Department has appropriate policies and practices to ensure compliance with the Province's legislation and standards for child day care facilities.

Prescription Drug Program (2001)

This chapter examines the government plan to provide drug benefits to people who receive income assistance and those who have drug expenses for which they do not have the resources to pay. Our objective was to determine whether the Departments have appropriate systems and practices in place to ensure that each person who is eligible for benefits is offered the program, and that the plan provides services only to those people who qualify.

Department of Finance

Tax Expenditures (2003)

This chapter examines and assesses the processes of approving, monitoring, evaluating and reporting provincial tax expenditure programs.

Pension Plan Governance (2002)

This chapter examines whether the governors of two provincially sponsored pension plans have established satisfactory procedures to measure and report on the effectiveness of the plans' asset management activities.

Early Retirement Program (2001)

This chapter examines the process followed by government to reach the decision to offer a voluntary early retirement program to its employees.

Pension Plan Governance (2000)

This chapter examines the governance structure of four provincially-sponsored pension plans. It represents the first phase of a comprehensive review of pension plans covering over 40,000 employees and holding net assets in excess of $7 billion.

Consumption Tax (1999)

As of April 1, 1997 the provincial consumption tax was replaced by the federally administered Harmonized Sales Tax. Since then the government has hired additional auditors to identify unassessed taxes. We were interested in examining the economy and efficiency of this special audit effort and the collection of sales tax in general.

Evergreen and Wackenhut Leases
(Special Report for the Public Accounts Committee - 1998)

Our objective as assigned by the Public Accounts Committee was "to review the financial terms of the Evergreen and Wackenhut leases and compare the total cost under the private sector arrangements as compared to traditional government methods."

Department of Health and Wellness

Accountability of Psychiatric Hospitals and Psychiatric Units (2003)

This chapter assesses whether the Department has appropriate accountability processes in place for the operations of the psychiatric hospitals and psychiatric units under the direction of the Regional Health Authorities.

Client Service Delivery System (2002)

This chapter examines why the development of the Client Service Delivery System, which was approved in 1995 for $4.5 million and was to be operational in three years, is costing substantially more and taking much longer than anticipated. It also examines whether there has been any non-compliance with contractual arrangements, government policy or provincial legislation related to the higher costs and longer completion time.

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Food Safety (1999)

This chapter examines the Province's role in inspecting the 2,870 food service establishments in the Province. The objective of this project was to determine whether or not current systems and practices are sufficient in ensuring that food service establishments are complying with the food safety standards set out in the Regulations under the Health Act.

Extra-Mural Hospital (1999)

On 1 July 1996, The Extra Mural Hospital Corporation became the Extra-Mural Program as it merged into the regional hospital corporations. Why was this decision made? How does government make such decisions? Our interest in understanding the decision-making process of government led us to examine the merge decision.

Ambulance Services (1998)

This chapter examines the consequences of the replacement of St. John Ambulance volunteer services with paid service providers.

Department of Natural Resources and Energy

Crown Lands Management (2001)

This chapter examines the Minister's responsibilities for Crown lands, and looks at how well the Department is doing in measuring and reporting on the effectiveness of its Crown lands programs.

Private Forest Lands (2000)

This chapter examines the government's role in encouraging the management of private forest lands as the primary source of timber for wood processing facilities in the Province.

Department of Public Safety

Office of the Fire Marshal (2002)

This chapter examines whether the Office of the Fire Marshal is adequately carrying out the provisions of the *Fire Prevention Act*, and whether it has appropriate human resource systems and practices in place to sufficiently deliver provincial fire prevention and protection programs.

High Risk Drivers (2001)

This chapter examines whether the Department has a system in place to identify and respond appropriately to high-risk drivers of private passenger vehicles. It also looks at one specific class of high-risk driver – the student driver.

Department of Supply and Services

Management of Insurable Risks to Public Works Buildings (2003)

This chapter examines how the Department manages significant insurable risks for the public works buildings it is responsible for.

Cellular Phones (2002)

This chapter examines whether the government has an adequate system in place to administer the acquisition and use of cell phones.

Provincial Archives of New Brunswick (2001)

This chapter examines the work of the Provincial Archives of New Brunswick. It considers their role in the assessment and preservation of archival records.

Purchasing (2001)

This chapter examines whether the Minister is fulfilling his responsibilities under the *Public Purchasing Act* and Regulation.

Contracts for IT Professionals (2001)

This chapter presents the results of an examination of forty contracts from six departments for the services of various Information Technology professionals.

Land Management Fund (2000)

The Land Management Fund buys, manages and sells land on behalf of the government. This chapter examines whether the Fund is achieving the purposes for which it was established. This chapter also examines compliance with the government-wide policy on the disposal of real property.

Department of Training and Employment Development

Employment Development Programs (2002)

This chapter examines the management of economic development programs, and whether there are adequate procedures in place to measure and report on program effectiveness.

Department of Transportation

Vehicle Management Agency (2002)

This chapter examines whether the Vehicle Management Agency is providing repair and maintenance services for government cars, executive vehicles and light trucks in a manner which minimizes costs and maximizes efficiency. It also examines whether the Agency has adequate systems and practices in place to monitor and control the usage of fuel for government cars and light trucks.

Engineering Consulting and Road Construction Materials (2000)

This chapter examines the Department's procedures for obtaining engineering consulting services and managing its inventories of road construction materials. It also examines the progress made by the Department in implementing End Results Specifications as a guarantee of road construction quality.

Government-wide audits

Contract Administration (1999)

More and more government services are being delivered by the private sector through privatization, public-private partnerships and straight contracting-out arrangements. Our objective in performing audit work in this area was to determine what systems are in place to ensure contracts are being administered in accordance with negotiated terms and conditions.

Fredericton-Moncton Highway (1999)

This chapter examines the decision-making process that led up to the issuance of a Request for Proposals to three short-listed bidders on 27 March 1997. With the issuance of the Request for Proposals it was clear that the government was going to build the highway through a public-private partnership. We looked at the objectives government set for this project, whether alternative arrangements were considered, and whether the Request for Proposals reflected the government objectives.

Leasing of Equipment (1999)

Our audit objectives for this project were to ensure that decisions to lease were made with due regard for economy and that leases are being properly recorded in the books of the province. Our analysis and conclusions are based on examining leasing decisions for personal computers, photocopiers, fire tankers and heavy equipment.

Performance Measurement and Effectiveness Reporting (1999)

It has been ten years since the Province adopted its first annual report policy. This was the policy that recognized annual departmental and agency reports as the "major accountability document" for the Legislative Assembly and the general public. This chapter examines the progress that has been made in the past ten years in the area of performance measurement and effectiveness reporting.

Crown agency audits

Crown Agency Governance (2003)

This chapter summarizes the results of our governance reviews over the past five years, reviews practices in other jurisdictions, and makes major overall recommendations on steps the Province can take to improve Crown agency governance.

Hospital Corporation Governance (1998)

Our objective for this project was to gain an understanding of the governance arrangements relating to regional hospital corporations in the Province and to solicit the views of board members on certain issues impacting the role and effectiveness of hospital corporation boards.

New Brunswick Liquor Corporation

Governance (1999)

For a number of years our Office has taken an interest in the governance and accountability of Crown Corporations. This year we examined governance and accountability practices at the New Brunswick Liquor Corporation.

Regional Development Corporation

Economic Development Fund (1999)

In fiscal year 1997-98 over $15 million was expended from the Economic Development Fund for initiatives such as tourism marketing, agriculture development, Crown land silviculture and Film New Brunswick. Our objective in conducting work in this area was to ensure that adequate systems were in place related to the approval of funding and monitoring initiatives.

NB Agriexport Inc. (2000)

This chapter highlights the results of a special review of the operations and accountability of NB Agriexport Inc., carried out at the request of the Crown Corporations Committee.

Regional Health Authorities (2000)

This chapter summarizes the Auditor General's observations and recommendations as a result of assisting the Crown Corporations Committee in its initial hearings with regional hospital corporations.

Sections of the Auditor General Act Relevant to the Responsibilities of the Auditor General

Key Definitions

1 In this Act

"agency of the Crown" means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body

(a) whose accounts the Auditor General is appointed to audit by its shareholders or by its board of management, board of directors or other governing body,

(b) whose accounts are to be audited by the Auditor General under any other Act or whose accounts the Auditor General is appointed by the Lieutenant-Governor in Council to audit,

(c) whose accounts are to be audited by an auditor, other than the Auditor General, appointed by the Lieutenant-Governor in Council, or

(d) the audit of the accounts of which the Auditor General is required to review or in respect of which the auditor's report and the working papers used in the preparation of the auditor's statement are required to be made available to the Auditor General under any other Act,

and includes

(e) (Repealed)

(f) regional health authorities as defined in the *Regional Health Authorities Act*,

(g) the New Brunswick Liquor Corporation established under the *New Brunswick Liquor Corporation Act,*

(g.1) the New Brunswick Power Corporation under the *Electric Power Act*,

Articles de la Loi sur le vérificateur général se rapportant aux fonctions du vérificateur général

Définitions-clés

1 Dans la présente loi

«organisme de la Couronne» désigne une association, une autorité, une régie, une commission, une corporation, une fondation, un conseil, une institution, une organisation ou un autre corps

(a) dont la vérification des comptes est confiée au vérificateur général par ses actionnaires ou son conseil de gestion, conseil d'administration ou autre corps directeur,

(b) dont les comptes sont vérifiés par le vérificateur général en vertu de toute autre loi ou dont les comptes sont vérifiées par le vérificateur général par le fait de sa nomination par le lieutenant-gouverneur en conseil,

(c) dont les comptes sont vérifiés par un vérificateur, autre que le vérificateur général, nommé par le lieutenant-gouverneur en conseil, ou

(d) dont la vérification des comptes doit être révisée par le vérificateur général ou à l'égard duquel le rapport du vérificateur et les documents de travail utilisés dans son compte-rendu doivent être mis à la disposition du vérificateur général en vertu de toute autre loi;

et s'entend également

(e) (Abrogé)

(f) des régies régionales de la santé telles que définies dans la *Loi sur les régies régionales de la Santé*,

(g) de la Société des alcools du Nouveau-Brunswick établie en vertu de la *Loi sur la Société des alcools du Nouveau-Brunswick,*

(g.1) de la Société d'énergie du Nouveau-Brunswick en vertu de la *Loi sur l'énergie électrique,*

(g.2) the Workplace Health, Safety and Compensation Commission under the *Workplace Health, Safety and Compensation Commission Act*, and

(g.2) de la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail en vertu de la *Loi sur la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail,* et

(g.3) the Atlantic Lottery Corporation Inc.,

(g.3) la Société des Loteries de l'Atlantique Inc.,

but does not include

mais ne comprend pas

(h) a trust company carrying on business under the *Trust Companies Act* whose books are to be audited by an inspector or auditor appointed by the Lieutenant-Governor in Council under section 12 of the *Trust Companies Act* or a loan company or trust company carrying on business under the *Loan and Trust Companies Act* whose books are to be audited under any provision of that Act,

(h) une compagnie de fiducie faisant affaire en vertu de la *Loi sur les compagnies de fiducie* dont les livres doivent être vérifiés par un inspecteur ou un vérificateur nommé par le lieutenant-gouverneur en conseil en vertu de l'article 12 de la *Loi sur les compagnies de fiducie* ou une compagnie de prêt ou une compagnie de fiducie exerçant ses activités en vertu de la *Loi sur les compagnies de prêt et de fiducie* dont les livres doivent être vérifiés conformément à une disposition de cette loi;

Examination of Accounts

Examen des comptes

8(1) The Auditor General shall audit on behalf of the Legislative Assembly and in such manner as he considers necessary the accounts of the Province relating to

8(1) Le vérificateur général doit vérifier au nom de l'Assemblée législative de la manière qu'il juge nécessaire les comptes de la province concernant

(a) the Consolidated Fund,

(a) le Fonds consolidé,

(b) all public property, and

(b) tous les biens publics, et

(c) all trust or special purpose funds.

(c) tous les fonds en fiducie ou fonds destinés à des fins spéciales.

8(2) Where the accounts of an agency of the Crown are not audited by another auditor, the Auditor General shall perform the audit.

8(2) Le vérificateur général doit vérifier les comptes et les opérations financières concernant un organisme de la Couronne et qui ne sont pas vérifiés par un autre vérificateur.

8(3) Where the accounts of an agency of the Crown are audited other than by the Auditor General the person performing the audit shall

8(3) Lorsque les comptes et les opérations financières d'un organisme de la Couronne ne sont pas vérifiés par le vérificateur général, la personne qui les vérifie doit

(a) deliver to the Auditor General forthwith after completion of the audit a copy of his report of his findings and his recommendations together with a copy of the audited financial statement of the agency of the Crown;

(a) transmettre au vérificateur général, une fois la vérification achevée, une copie des conclusions de son rapport avec les recommandations et la copie de l'état financier vérifié de l'organisme de la Couronne;

(b) make available forthwith to the Auditor General, when so requested by him, all working papers, reports, schedules and other documents in respect of the audit or in respect of any other audit of the agency of the Crown specified in the request; and

(c) provide forthwith to the Auditor General, when so requested by him, a full explanation of work performed, tests obtained, and any other information within his knowledge in respect of the agency of the Crown.

8(4) Where the Auditor General is of the opinion that any information, explanation or document that is provided, made available or delivered to him by the person referred to in subsection (3) is insufficient, he may conduct or cause to be conducted such additional examination and investigation of the records and operations of the agency or corporation as he considers necessary.

9 The Auditor General may, at his discretion,

(a) examine debentures and other securities of the Province that have been redeemed and determine whether such securities have been properly cancelled, and

(b) participate in the destruction of redeemed, cancelled or unissued securities.

Report on Financial Statements

10 The Auditor General shall examine the several financial statements required by section 48 of the *Financial Administration Act* to be included in the Public Accounts and shall express his opinion as to whether they fairly present information in accordance with stated accounting policies of the Province and on a basis consistent with that of the preceding year, together with any reservations he may have.

Special Assignments

11(1) Whenever the Legislative Assembly, the Standing Committee on Public accounts, the Lieutenant-Governor in Council, the Chairman of the Board of Management or the Minister of Finance so requests, the Auditor General may, if in his opinion such an assignment does not interfere with his primary

(b) rendre disponibles sans délai au vérificateur général, sur demande de celui-ci, tous documents de travail, rapports, bordereaux et autres documents concernant la dite vérification ou toute autre vérification de l'organisme de la Couronne précisés dans sa requête; et

(c) communiquer sans délai au vérificateur général, sur demande de celui-ci, des explications complètes sur le travail accompli, les épreuves obtenues et tous autres renseignements qu'elle possède sur l'organisme de la Couronne.

8(4) Lorsque le vérificateur général trouve insuffisants les renseignements, explications ou documents qui lui sont fournis, rendus disponibles ou transmis par la personne mentionnée au paragraphe (3), il peut, s'il le juge nécessaire, procéder ou faire procéder à un examen ou à une enquête portant sur les dossiers et les opérations de l'organisme ou corporation.

9 Le vérificateur général peut à sa discrétion

(a) examiner les débentures et autres titres de la province qui ont été rachetés et déterminer si ses titres ont été dûment annulés et

(b) participer à la destruction des titres rachetés annulés ou non émis.

Rapport sur les états financiers

10 Le vérificateur général examine les différents états financiers qui doivent figurer dans les comptes publics en vertu de l'article 48 de la *Loi sur l'administration financière;* il indique s'il est d'avis que les états sont présentés fidèlement et conformément aux conventions comptables établies pour la province et selon une méthode compatible avec celle de l'année précédente et indique les réserves qu'il peut avoir.

Projets spéciaux

11(1) Le vérificateur général peut sur demande de l'Assemblée législative, du Comité permanent des comptes publics, du lieutenant-gouverneur en conseil, du président du Conseil de gestion ou du ministre des Finances, faire enquête et rapport sur toute question relative aux affaires financières ou aux biens de la

responsibilities, inquire into and report on any matter relating to the financial affairs of the Province or to public property or inquire into and report on any person or organization that has received financial assistance from the Province or in respect of which financial assistance from the Province is sought.

11(2) For the purposes of this section, the Auditor General has the powers of a commissioner under the *Inquiries Act.*

Content of Annual Report

13(1) The Auditor General shall report annually to the Legislative Assembly

(a) on the work of his office, and

(b) on whether, in carrying on the work of his office, he received all the information and explanations he required.

13(2) Each report of the Auditor General under subsection (1) shall indicate anything he considers to be of significance and of a nature that should be brought to the attention of the Legislative Assembly including any cases in which he has observed that

(a) any person wilfully or negligently failed to collect or receive money belonging to the Province;

(b) public money was not accounted for and paid into the Consolidated Fund:

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

(d) an expenditure was made without authority or without being properly vouched or certified;

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

(f) money has been expended without due regard to economy or efficiency;

province ou aux biens publics ou sur toute personne ou organisation qui a reçu ou sollicite une aide financière de la province si le vérificateur général estime que pareille demande n'entrave pas l'exercice de ses principales attributions.

11(2) Aux fins du présent article, le vérificateur général détient les pouvoirs que confère à un commissaire la *Loi sur les enquêtes.*

Contenu du rapport annuel

13(1) Le vérificateur général doit faire rapport annuellement à l'Assemblée législative

(a) sur le travail de son bureau, et

(b) sur le fait qu'il a reçu ou non dans l'exécution du travail de son bureau toutes les informations et tous les éclaircissements qu'il a demandés.

13(2) Le vérificateur général doit indiquer dans chaque rapport préparé en vertu du paragraphe (1) tout fait qu'il estime significatif et qui par sa nature doit être porté à l'attention de l'Assemblée législative y compris les cas dans lesquels

(a) une personne a, volontairement ou par négligence, omis de percevoir ou de recevoir des sommes appartenant à la province;

(b) il n'a pas été rendu compte de deniers publics et ceux-ci n'ont pas été versés au Fonds consolidé;

(c) un crédit a été dépassé ou a été affecté à une fin ou d'une manière non autorisée par la Législature;

(d) une dépense a été engagée sans autorisation ou sans avoir été dûment certifiée ou appuyée de pièces justificatives;

(e) il y a eu manque ou perte par suite de fraude, faute ou erreur d'une personne;

(f) des sommes ont été dépensées sans due considération pour l'économie ou l'efficience;

(g) procedures have not been established to measure and report on the effectiveness of programs, where, in the opinion of the Auditor General, the procedures could appropriately and reasonably be used; or

(h) procedures established to measure and report on the effectiveness of programs were not, in the opinion of the Auditor General, satisfactory.

Submission of Annual Report

13(3) Each annual report by the Auditor General to the Legislative Assembly shall be submitted to the Speaker of the Legislative Assembly on or before the thirty-first day of December in the year to which the report relates and the Speaker of the Legislative Assembly shall table each such report before the Legislative Assembly forthwith after receipt thereof by him or, if the Legislative Assembly is not then in session, within ten days following the commencement of the next ensuing session of the Legislative Assembly.

13(4) If the Legislative Assembly is not in session when the Auditor General submits his annual report, the Speaker shall cause a copy of the report to be filed with the Chairman of the Standing Committee on Public Accounts for review by that Committee if the Committee has been authorized to sit after prorogation by a resolution of the Legislative Assembly pursuant to the *Legislative Assembly Act.*

Other Reporting Responsibilities

14(1) Whenever it appears to the Auditor General that any public money has been improperly retained by any person, he shall forthwith report the circumstances of the case to the Minister of Finance.

14(2) The Auditor General may advise appropriate officers and employees in the public service of New Brunswick of matters discovered in his examinations and, in particular, may draw any such matter to the attention of officers and employees engaged in the conduct of the business of the Board of Management.

(g) des procédures n'ont pas été établies pour mesurer l'efficacité des programmes et en faire rapport, lorsque, de l'opinion du vérificateur général, les procédures pourraient être utilisées de façon appropriée et raisonnable; ou

(h) des procédures établies pour mesurer l'efficacité des programmes et en faire rapport n'étaient pas, de l'opinion du vérificateur général, satisfaisantes.

Présentation du rapport annuel

13(3) Chaque rapport annuel du vérificateur général à l'Assemblée législative est soumis à l'Orateur de l'Assemblée législative au plus tard le trente et un décembre de l'année à laquelle il se rapporte, et L'Orateur doit le déposer devant l'Assemblée législative immédiatement, ou, si l'Assemblée ne siège pas, dans les 10 jours de l'ouverture de la session suivante.

13(4) Si l'Assemblée législative ne siège pas lors du dépôt du rapport annuel par le vérificateur général, l'Orateur doit en faire déposer une copie auprès du président du comité permanent des comptes publics pour être examiné par ce comité si le comité a été autorisé à siéger après prorogation par une résolution de l'Assemblée législative conformément à la *Loi sur l'Assemblée législative*.

Autres rapports à présenter

14(1) Le vérificateur général adresse, sans délai au ministre des Finances un rapport circonstancié sur tous les cas qui, à son avis, constituent une rétention irrégulière de deniers publics.

14(2) Le vérificateur général peut informer les cadres et employés concernés de la Fonction publique du Nouveau-Brunswick des faits découverts au cours de ses examens et notamment signaler ces faits aux cadres et employés affectés aux affaires du Conseil de gestion.

Assistance to Public Accounts Committee

15 At the request of the Standing Committee on Public Accounts, the Auditor General, or any employee of the Office of the Auditor General or any person appointed pursuant to a contract for professional services who is designated by the Auditor General, shall attend at the meetings of the Committee in order to assist the Committee

(a) in planning the agenda for review of the Public Accounts and the annual report of the Auditor General, and

(b) during its review of the public Accounts and the annual report of the Auditor General.

Aide au comité des comptes publics

15 Sur la demande du comité permanent des comptes publics, le vérificateur général, ou tout employé de son bureau ou toute personne nommée par suite d'un contrat de services professionnels et désignée par le vérificateur général doivent assister aux réunions du comité pour l'aider

(a) à préparer l'ordre du jour de l'examen des comptes publics et le rapport annuel du vérificateur général, et

(b) à conduire l'examen même des comptes publics et le rapport annuel du vérificateur général.