

# Chapter 1

## Key Messages from the Auditor General

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# Key Messages from the Auditor General

## Introduction

1.1 My Office's mission, as included in our 2014 to 2020 strategic plan is:

*To provide objective, reliable, and timely information to the Legislative Assembly on government's performance in its delivery of programs and services to the people of New Brunswick.*

1.2 In this volume of our 2019 Report, we include four chapters:

- Medicare Cards;
- Outsourcing of Highway Maintenance and Construction Work;
- Overdue Property Tax: Collections and Forgiveness; and
- City of Saint John Funding Agreement – Special Review.

## Findings in this Report have a Recurring Theme

1.3 Even though this volume examines a wide range of unrelated matters, it became evident to me that exposing New Brunswick taxpayers and the Province to risk is a recurring theme in all four chapters. Whether it be risk relating to:

- privacy breaches;
- outsourcing programs and services without a business case;
- lack of policies and internal controls; or
- removing contractual safeguards protecting the Province.

***Taxpayers and the Province exposed to unnecessary risk with no clear benefit***

**1.4** I am concerned that decision makers are exposing New Brunswick taxpayers and the Province to unnecessary risk, sometimes excessively, with no clear benefit.

**Medicare Cards**

***Insufficient procedures to identify cardholders who become ineligible***

**1.5** Chapter 2 of this volume presents our findings and observations regarding the administration of Medicare cards eligibility, security and privacy. We found the Department of Health has processes and controls in place to ensure only eligible residents are issued a Medicare card. However, procedures to identify cardholders who subsequently become ineligible are insufficient.

***Automatic card renewal policy exposes the Province to risks***

**1.6** Privacy breaches occurred and continue to happen because of the automatic card renewal policy adopted by the Department in 2014 as a cost saving measure. While I continue to encourage government to operate as efficiently as possible and always look for cost-saving opportunities, I caution that risks and risk mitigation measures must be fully considered when pursuing such initiatives. These privacy breaches expose the Province to significant financial, legal and/or reputational consequences.

**1.7** The Department should re-examine the automated renewal decision, considering the risks involved, and take the appropriate mitigating actions or reverse the automatic renewal decision altogether. A secure and robust online card renewal process should be considered as a possible solution that would help mitigate the risks while minimizing administrative costs.

***Having more than one third-party service provider increases the risk of privacy breaches***

**1.8** Privacy breaches also occurred due to a human error at a sub-contracted company that produces and distributes Medicare cards for the Province. Although contract amendments were subsequently made as an attempt to prevent such a mishap in the future, the Department could not explain why it was necessary to involve two external companies to produce and distribute Medicare cards, instead of one.

**1.9** Reducing the number of external parties who have access to cardholders' personal information, together with more rigorous monitoring and reporting requirements, would mitigate privacy risks associated with third-party service providers.

**Outsourcing of Highway**

**1.10** Chapter 3 presents the findings of our report on outsourcing of highway maintenance and construction

**Maintenance and Construction Work**

work. We found, in certain cases, the Department of Transportation and Infrastructure made outsourcing decisions that were not evidence-based.

**1.11** The Department spends significant dollars on capital maintenance and construction each year. Given the existing state of our provincial infrastructure, the challenges associated with an ageing highway network and severe weather conditions, it is essential the Department maximizes every dollar in the most efficient and effective manner.

***Outsourcing decisions not supported by objective evidence***

**1.12** Outsourcing can help the Province get greater value from infrastructure spending when work can be done faster, better, cheaper by the private sector. However, outsourcing decisions must be supported by a business case with objective analysis of costs, benefits and consequences. We believe the Department needs to take a long-term approach to outsourcing, supported by an evidence-based decision-making framework.

***DTI outsourcing decisions should not be based on “philosophical” reasons***

**1.13** We found the Department was guided by principles and objectives that included ‘philosophical’ reasons as the basis for business decisions. We also found the Department made some of its outsourcing decisions for economic development reasons to support the private sector. In certain cases, the Department knew it was choosing the more expensive option at the taxpayers’ expense.

**1.14** I expected government to pursue economic development through the agencies and entities specifically setup to serve this purpose. Other provincial entities should carry out their activities and make decisions that fulfil such mandates.

**Overdue Property Tax: Collections and Forgiveness**

**1.15** Chapter 4 contains the findings of our report on overdue property tax collections and forgiveness. We found the Department of Finance generally complies with legislation in relation to overdue property tax collections and forgiveness. However, the Department lacks policies to direct its discretionary property tax forgiveness as well as detailed criteria for prioritizing tax sales.

**1.16** Property tax is a significant source of revenue for the Province and municipalities. Forgiveness of overdue property taxes represents lost revenue to the Province and creates a perception of unfairness to taxpayers who remain current with their payments.

***No policies and procedures for discretionary property tax forgiveness***

**1.17** The Tax Commissioner assesses each case of discretionary property tax forgiveness on its own merits. Depending on the amount to be forgiven, the Tax Commissioner either makes a decision or a recommendation to Treasury Board. The Department has not developed detailed policies and procedures to guide the Tax Commissioner in making discretionary forgiveness decisions and recommendations.

***A lack of detailed policies and procedures may lead to unfairness and inconsistency in property tax forgiveness decisions***

**1.18** I am concerned a lack of detailed policies and procedures leaves substantial room for judgment and discretion, and may lead to unfairness and inconsistency in property tax forgiveness decisions. To ensure fairness, detailed policies and procedures need to be developed and consistently used and documented in decision making. This becomes very important when, for example, there is a new Tax Commissioner or when government changes.

***Property tax forgiveness decisions are not publicly reported***

**1.19** A lack of transparency around public communications of tax forgiveness decisions is another reason why I am concerned about fairness and consistency in property tax forgiveness decisions. Tax forgiveness decisions are not publicly reported (i.e. unlike grant payments, forgiveness decisions are not reported in the Province's Public Accounts Volume 2). This lack of transparency increases the importance of having detailed policies and procedures to consistently guide decision makers.

***Regular monitoring of internal controls required***

**1.20** Also, our testing revealed errors have occurred in processing bankruptcy transactions and that regular monitoring of property tax internal controls has not been carried out. I encourage the Department to work with the Office of the Comptroller to ensure internal controls are regularly reviewed and strengthened.

***City of Saint John Funding Agreement***

**1.21** Chapter 5 contains the findings of our special review of the City of Saint John funding agreement. In 2018 the Province entered into a funding agreement with the City to provide up to \$22.8 million over a three year period to address the city's anticipated budget deficit.

**1.22** We found the agreement created several risks and challenges for the Province. It has not only set a precedent for other municipalities to demand similar treatment, but to date, has also failed to address the City's long-term problems and provided an inappropriate incentive for the

City to report a deficit. Further, we believe the agreement effectively circumvented the *Local Governance Act*.

**1.23** I expected provincial funding decisions to follow due process. I also expected funding agreements and contracts to comply with legislation and contain adequate safeguards to protect taxpayers' interest. It is abnormal for the Province to provide financial assistance to address a municipal deficit, especially since municipalities are discouraged from operating with ongoing deficits.

*Agreement does very little to address City's strategic challenges*

**1.24** In my view, the agreement, although committing up to \$22.8 million in provincial funds, has done very little to address the fundamental local government strategic challenges previously raised by City officials and most recently outlined by the City of Saint John's White Paper<sup>1</sup>.

*Weak agreement represented excessive risks to taxpayers*

**1.25** Government has a stewardship duty with taxpayers' money. As such, the public expects government entities to protect taxpayers when entering into agreements and contracts. However, key safeguards such as accounting standards and appropriation clauses, designed to protect the Province, were removed from the agreement at the City's request. It is not clear why the Province agreed to remove these safeguards.

*AG repeats concern: Financial Administration Act long overdue for updating*

**1.26** In Chapter 4 of our June 2018 report, we raised concerns over government spending before obtaining approval from the Legislative Assembly. In this volume we have again recommended Treasury Board pursue legislative amendments to the *Financial Administration Act* (FAA) to align with current accounting practices. Treasury Board responded it will review the Act in 2019-2020.

**1.27** The FAA states in:

- Section 24 "... no payment is to be made out of the Consolidated Fund without the authority of the Legislature" and in
- Section 30(3) "no expenditure is to be made unless provided for in an appropriation."

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<sup>1</sup> *Building a Sustainable Future for Saint John - 2018 Provincial Election White Paper*. Saint John. July 2018.

**1.28** These sections of the FAA originate in the 1970's when "cash accounting" was typically used by the Canadian public sector. The Act's intent was to ensure legislative spending authority was obtained before government legally committed and spent public funds. In order to achieve the same intent, the FAA must be updated to address both accrual accounting (current day Public Sector Accounting Standards) and multi-year legal commitments.

**1.29** We again saw evidence of government spending before obtaining approval from the Legislative Assembly. The Department of Environment and Local Government made the first payment under the City of Saint John funding agreement before any budget appropriation for the Department was approved by the Legislative Assembly.

**1.30** I remain concerned the legislation overseeing billions of dollars in government spending is not adequate for today's environment and this situation is creating unnecessary risk and uncertainty in government operations. The outdated FAA should not be used as means to avoid government transparency.

***Legislative  
transparency needed  
for major multi-year  
funding commitments***

**1.31** In my view, the FAA should clearly require transparency and legislative debate of all elected officials, at the point in time a government makes a major multi-year funding commitment, especially a legal commitment that can not be reasonably reversed by future governments. The FAA is long overdue to be updated.

**Acknowledgements**

**1.32** Staff in my Office worked very hard in carrying out the work reported upon in this volume of our Report. The individual chapters of this report are a reflection of their level of commitment, professionalism and diligence. I would like to express my appreciation to each for their contribution and continuing dedication to fulfilling the mandate of the Auditor General of New Brunswick.



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