

Chapter 1

Performance Audit – Key Messages from the Auditor General

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Performance Audit – Key Messages from the Auditor General

Introduction

1.1 In this Volume of our 2022 Report, we include three performance audit chapters:

- Contaminated Sites;
- Environmental Trust Fund; and
- Follow-up on Recommendations from Prior Years Performance Audit Chapters.

Poor oversight of government programs is a concerning theme in this report

1.2 In this report we note troubling examples of poor oversight of the government programs we examined, resulting in significant unaddressed risks and missed opportunities, such as:

- In our **Contaminated Sites** audit, we pointed out many deficiencies leading to poor oversight of the contaminated sites management process. These included unclear legislative authority, inability to enforce timely remediation of contaminated sites as well as lack of performance monitoring and public reporting. As a result, sites remained contaminated for longer periods which can lead to unmitigated risks to the environment and human health;
- Our audit of the **Environmental Trust Fund** showed a lack of consistent government direction with the first annual mandate letter issued to the Fund in 2021 after the *Accountability and Continuous Improvement Act* came into force in 2013. This resulted in unclear responsibilities for overseeing the Fund and led to deficiencies in other areas such as strategic planning, decision making, performance monitoring and reporting. Because of this, the Department was unable

Environmental stewardship programs we examined lack oversight

to demonstrate how the funding was used to achieve the legislated mandate of the Fund; and

- Our **Follow-up chapter** provides an update on implementation of prior years' recommendations. This year our follow-up work included chapters on Improving Student Performance as well as Addictions and Mental Health Services in Provincial Adult Correctional Institutions from 2018. These chapters are also examples of where departmental oversight of essential programs and services was lacking. Unfortunately, we found recommendations in these chapters remain to be implemented four years later.

1.3 This report details many findings and conclusions on these topics, as well as provides recommendations to ensure the deficiencies identified are remedied for the future. A summary of the key points from each chapter in this Volume follows.

Contaminated Sites

1.4 Chapter 2 of this Volume presents findings and recommendations from our audit of Contaminated Sites at the Department of Environment and Local Government (DELG). We found the Department does not effectively administer the contaminated sites management process. We noted several gaps in the process, including a lack of remediation timelines and poor performance monitoring practices. We believe these gaps collectively led to a backlog of over 1,000 open files spanning more than 35 years.

The Department's contaminated sites management process is not referenced under legislation

1.5 While the Department applies the New Brunswick Guideline for the Management of Contaminated Sites, the contaminated sites remediation program itself is not referenced in legislation or regulation. New Brunswick is the only jurisdiction in Atlantic Canada without such a reference. Without a clear definition of legislative authority, the Department may not be able to enforce the contaminated sites management process in a timely manner. This, in turn, may lead to remediation delays resulting in adverse impacts on the environment and human health.

DELG takes a reactive approach to contaminated sites management

1.6 One of the main gaps we identified is that the Department is not proactive when dealing with external stakeholders. For example, we found the Department does not hold Responsible Parties and Site Professionals to a specific remediation timeline. We also found the Department does not follow up on a contaminated site if, for example, the Site Professional does submit a report. We believe this reactive approach does not result in timely remediation of contaminated sites and has contributed to the backlog of open files.

Contamination risk unknown as hundreds of files remained open, some for over 35 years

1.7 We noted that the Department developed a plan in 2020 to prioritize and address the open file backlog, however, this plan does not address how to process all open contaminated site files. At the time of our work, there were over 1,000 open files, some of which remained open for more than 35 years. While some of the sites have already been remediated, it is unknown to the Department whether the contamination remains at the oldest sites, often due to a lack of documentation for older sites. Without a realistic plan with measurable targets to address these files, contaminated sites may remain unremediated with potential risks to the environment and human health.

Fragmented approach to remediating government-owned contaminated sites may result in delays and increased costs

1.8 We found there is no coordinated approach for managing government-owned contaminated sites. Each department separately budgets for and remediates sites they are responsible for. We believe the Province is not achieving value for money or administrative synergy by following this approach. As each department does its own risk ranking of sites, lower risk sites in one department may end up being addressed ahead of higher risk sites in another department. In contrast, if one entity is responsible for all government-owned sites, risks can be prioritized from a Province-wide perspective. This would result in efficiencies as it will enable resources to be allocated to mitigate the highest contamination risks regardless of which department is the Responsible Party.

1.9 We are concerned if the remediation approach for government-owned sites continues to be fragmented and uncoordinated, these sites will not be closed in a timely manner.

Environmental Trust Fund

DELG does not know what has been achieved with over 30 years of spending

Government direction and oversight responsibility for the Fund are not clear

Lack of defined project evaluation method may lead to subjective or biased spending decisions

1.10 Chapter 3 of this Volume presents findings and recommendations from our audit of the Environmental Trust Fund (ETF), also at the Department of Environment and Local Government. We found the Department is not effectively overseeing the ETF to ensure it is being used to deliver on its mandate. The Department has not established strategic objectives or outcomes for the Fund and, as a result, has not been able to measure its long-term performance and overall impact on the environment.

1.11 We found the Department has not evaluated the overall performance of the Fund since it was established in 1990. The Department could not demonstrate how over 30 years of funding has positively impacted the environment in the Province. The Fund has been managed with a very short-term perspective and is not guided by strategic vision to achieve specific long-term outcomes. Being one of the Province’s largest trust funds, we expected the ETF to have a documented strategy with long-term goals and measurable outcomes aligned with its legislated mandate. We were disappointed that this has never been done despite being raised in previous audit reports of our Office.

1.12 We also found government has not provided clear strategic direction to the Department regarding its oversight responsibilities for the Fund. The first mandate letter was issued to the Fund in 2021, addressed to the chairperson of the ETF Advisory Board. However, the roles and responsibilities of the Advisory Board are not clear. We believe this lack of clarity has contributed to the oversight deficiencies described in our report.

1.13 We found the Department has not developed a standardized approach to evaluate ETF funding requests and make evidence-based funding decisions. The Department has made efforts to improve this process in recent years by establishing funding priority areas in 2019. However, these efforts fell short of defining an objective evaluation method that can be applied to all types of projects and at all stages of funding evaluation. For example, the Advisory Board still relies on members’ own opinions when making funding cuts to fit the annual budget.

Fund surplus almost \$41 million while eligible projects are denied funding

1.14 We also found the ETF has a surplus of almost \$41 million at March 31, 2022. We were surprised to find that projects are being turned down for funding while a surplus continued to accumulate. The Department needs to clarify its position and develop a transparent plan outlining how and in which circumstances it will use the accumulated surplus.

Follow-up on Recommendations from Prior Years' Performance Audit Chapters

1.15 Chapter 4 of this Volume presents our follow-up on recommendations from prior years' performance audit chapters released in 2018 through 2020, as well as selected chapters from 2016. Our follow-up chapter is intended to promote accountability by giving the Legislative Assembly, and the public, information on how government has acted on our performance audit recommendations.

1.16 This year we performed detailed follow-up work on all chapters from 2018 and one chapter from 2016 AGNB reports, as follows:

- WorksafeNB - Phase I Governance (2018)
- Addiction and Mental Health Services in Provincial Adult Correctional Institutions (2018)
- Improving Student Performance: A New Brunswick Challenge (2018)
- WorksafeNB - Phase II Management of Injured Workers' Claims (2018)
- ECO regarding lack of prior year recommendation implementation (2018-Follow Up Chapter)
- Public Trustee Services (2016)

We remain unsatisfied with the implementation rate of our recommendations

1.17 I am disappointed with the low rate of implementation of our past recommendations by some departments, including:

- Education and Early Childhood Development implemented only 50 % of the recommendations from our 2018 "*Improving Student Performance: A New Brunswick Challenge*" chapter; and
- WorkSafeNB implemented only 69 % of the recommendations from our 2018 "*Phase II Management of Injured Workers' Claims*" chapter.

1.18 Overall, from our work this year, entities implemented 60 % of recommendations, including both self-reported and reviewed chapters. We encourage departments, commissions and Crown agencies to implement our recommendations in a timely manner.

1.19 I encourage members of the Public Accounts Committee to discuss and question the status of unimplemented performance audit recommendations with the involved departments, commissions and Crown agencies.

COVID-19 work update

1.20 In spring 2022, our Office was informed that the Legislative Assembly had passed a motion requesting our Office perform audit work regarding government’s response to the COVID-19 pandemic. Our Office was pleased to accept this request.

1.21 At this time, we have completed substantial work to scope the audits we plan to do on government’s response to the COVID-19 pandemic. Once our audit work has been completed and our findings have been determined, we will begin our reporting processes. We plan to release the results of this work in June and December next year in the 2023 Auditor General’s Report. Specific segments of this work will be conducted at key government entities including Executive Council Office, and the Departments of Finance and Treasury Board, Health, Justice and Public Safety, Social Development, and Education and Early Childhood Development.

Acknowledgements

1.22 Staff in my Office worked very hard in carrying out the work reported 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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