# Chapter 1

# Performance Audit – Key Messages from the Auditor General

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## 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 2020 Report, we include five performance audit chapters:

- Electronic Medical Records (EMR) Program;
- NB Power Debt Challenges;
- Nursing Homes Update;
- Auditor General's Access to Vestcor Significantly Limited; and
- Follow-up on Recommendations from Prior Years Performance Audit Chapters.

***Lack of public accountability is a key theme***

**1.3** In reflecting on the key findings in this volume, the troubling theme is a lack of public accountability.

***Public accountability for delivery of key government programs and services needs significant improvement***

**1.4** I am concerned public accountability for delivery of key government programs and services needs significant improvement to ensure:

- the eHealth vision of one patient, one record is achieved;

- reduction and management of $4.7 billion of NB Power debt (ultimately owed by the Province) is publicly reported and compared to achievement targets;
- enough nursing home beds will be available to meet the important growth in demand for this essential service; and
- over $18 billion in New Brunswick public sector funds is subject to independent performance audits by the Auditor General and independent and publicly accountable oversight through the Legislative Assembly.

***Taxpayers, ratepayers and citizens expect better***

**1.5** Lack of public accountability is a very serious issue in my view. Taxpayers, ratepayers and citizens expect better. Public accountability for results gives confidence that essential programs and services will be available, sustainable and delivered efficiently and effectively for all New Brunswickers.

**1.6** This report details many findings and conclusions on these topics while providing recommendations to ensure the deficiencies identified are remedied for the future. A summary of the key points from each chapter in this volume follows.

## Electronic Medical Record (EMR) Program

**1.7** Chapter 2 of this volume presents findings and recommendations from our audit of the Electronic Medical Records (EMR) Program at the Department of Health. We found after eight years and over $26 million of investment, the EMR program failed to achieve its intended outcomes. Less than half of eligible physicians adopted the provincial EMR system. We also found the Department failed to exercise proper oversight and accountability over funding recipients.

***Complex program delivery structure was not in the best interest of New Brunswickers***

**1.8** We found the Province chose an overly complex structure to deliver the EMR program. New Brunswick took a unique approach compared to its peers. We are the only province in Canada to have the Medical Society and a private company, Velante Inc, implement and operate the EMR program. Other parties involved in the project included Canada Health Infoway, Accreon, Intrahealth as well as physicians.

**1.9** The Department of Health's efforts appeared limited to handing over of funds to the Medical Society who passed them on to Velante Inc. This company had limited resources of its own and acted as a mere middleman with no demonstrated value add. With this setup, the Department became removed from and had minimal oversight over the program implementation effort. In my view, such a structure was not capable of delivering value for taxpayers' dollars and was not in the best interest of New Brunswickers.

***The single-vendor EMR model was flawed and unsustainable from the outset***

**1.10** The Department decided to proceed with a single-vendor EMR solution even though the business model was critically flawed and unsustainable from the outset. Since inception, the program suffered from a known funding deficit of $8,000 per physician implementation. We found no explanation of how this deficit was going to be funded. We also found ongoing maintenance fees charged by Velante would not be sufficient to cover recurring fees paid to the software supplier.

***No business case to support the chosen single-vendor option***

**1.11** The Department has not presented a business case to demonstrate the viability and sustainability of the single-vendor option. It is not clear what level of due diligence, if any, was carried out before making the decision to proceed with the single-vendor model.

***Failed oversight and little accountability for public funds***

**1.12** We found the Department failed to fulfil its oversight and stewardship role over public funds spent on this program. The Department did not carry out basic monitoring tasks such as reviewing financial records of funding recipients to ensure funds were used for their intended purposes. When deviations from funding terms occurred, the Department failed to hold funding recipients accountable. In many instances the Department did not enforce clauses concerning claw back of unused funds.

***Department failed to intervene despite obvious signs of project failure***

**1.13** In 2015, the Department failed to intervene when there were clear signs the program was in jeopardy. The Department continued extending deadlines and providing more funding for four more years until the program was finally terminated in late 2019. We were unable to find valid reasons why the Department continued spending public money on a program obviously destined for failure.

***Department must learn from its failures as it pursues the open market EMR model***

**1.14** There is high risk the new open market model now being pursued by the Department will have a similar fate if past practices continue. In addition to the physician adoption of the EMR model the Department must give priority to the key integrations with other components of the eHealth system and ensure responsibilities of the parties involved are clearly defined. I made recommendations in this chapter to help the Department avoid similar pitfalls in the future.

## NB Power Debt Challenges

**1.15** Chapter 3 of this volume presents findings and observations from our report on NB Power Debt Challenges. NB Power debt totaled $4.9 million in 2020. We found NB Power fails, year after year, to meet its legislated debt to equity target and the 10 Year Plan forecast. We also found the forecasts in the 10 Year Plans we reviewed have not been accurate. NB Power should improve its financial forecasting process by quantifying the impact of likely uncertainties in the 10 Year Plan.

***NB Power faces significant sustainability risks***

**1.16** With an estimated future capital spending of a further $3 to $4 billion for planned major capital projects (such as the Mactaquac Life Achievement project), NB Power faces a significant sustainability concern. We found NB Power's net income fell short of the Province's expectations by $195 million over the last four years. If this continues, NB Power may not have the ability to generate enough net income to sustain its growing debt obligations. This will negatively impact the Province and all New Brunswickers.

***Elevated liquidity risk to the Province is concerning***

**1.17** NB Power has the highest debt to equity ratio compared to peer utilities in Canada. NB Power also has the worst 10-year average interest coverage across comparable jurisdictions. This combined with the utility's high debt to equity ratio represent an elevated liquidity risk to the Province which ultimately owns NB Power's debt. This is deeply concerning given capital project spending of nearly $4 billion will be required in the future to meet NB Power's generating requirements. Rating agencies consider NB Power as the Province's largest contingent risk.

***It is ultimately NB Power management's decision to reduce debt***

**1.18** The 80:20 debt to equity ratio required by the *Electricity Act* and NB Power mandate has been a moving target in the utility's 10 Year Plans. Each of the last four plans had a different date for achieving this target ratio. NB Power's ability to generate net income to reduce its debt burden is the key to attaining this target. While I understand there are many decisions that factor into NB Power's eventual net income and a comprehensive solution is needed to achieve the target debt to equity ratio by 2027, it is ultimately management's decision to reduce debt.

***NB Power needs a realistic debt management plan to achieve the 2027 debt to equity target***

**1.19** Although NB Power has reduced debt, on average, $20 million annually since the Point Lepreau refurbishment project was completed in 2013, we noted $65 million annually is needed to achieve the 2027 target. NB Power does not have a definitive plan for to do this. The 10 Year plans we examined seemed overly optimistic hence the moving of the target each time a new plan is made. This mode of planning is evidently not working. NB Power needs to act immediately to develop a well-defined realistic debt management plan to achieve the required debt to equity ratio by the current deadline of 2027.

## Nursing Homes Update

***AG disappointed province failing to address nursing home capacity demand***

**1.20** Chapter 4 presents findings and observations from our report on Nursing Homes Update. It is important to note the scope of this work was unrelated to the COVID-19 pandemic. I was disappointed to find significant delays in the implementation of Nursing Home Plans since our 2016 report. In my view, the Province is failing to address the nursing home capacity demand. Given such delays the Province is not ready for the increase in seniors requiring placement in a residential facility.

**1.21** We also found the Department of Social Development did not implement key recommendations from our 2016 Nursing Homes chapter. The Department is yet to evaluate whether there is an actual economic benefit to providing nursing home beds under the for-profit model versus the traditional model.

***AG finds lack of progress to address growing nursing home waitlist very concerning***

**1.22** We found, since our 2016 report, the nursing home wait list continued to increase. There were more than 700 individuals waiting for a bed at March 31, 2020, over half of them waiting in hospital. I am aware the Departments involved recognize this is not the optimal way to accommodate seniors in need of nursing home care nor is it the best use for hospital beds. However, this still results in millions of dollars of additional costs every year. I find the lack of progress in addressing this issue very concerning.

***AG states taking 10 years to replace two Miramichi nursing homes with just 28 additional beds is unacceptable***

**1.23** Nursing home plans have undergone multiple revisions since 2009 and are still not being implemented on time. In my view, taking 10 years to replace two nursing homes in Miramichi with just 28 additional beds is unacceptable. The Department seems to take significant time to make nursing home decisions only to reverse them at the next round of planning. The Department could not provide a clear explanation for the significant delays that occurred and continue to happen with the current nursing home plan.

***Important 2009 AG recommendation not done - Department never evaluated actual costs and quality of service of for-profit vs not-for-profit nursing homes***

**1.24** My office has a standing recommendation since 2009 for the Department to evaluate whether there is an economic benefit to providing nursing beds under the for-profit model versus the traditional not-for-profit model. This has not been done. The Department continued to award nursing home contracts to the private sector based on projected cost savings but never carried out an evaluation of actual economic benefits derived from this model over the traditional model. I continue to believe cost projections alone are not enough as a basis for continuing to adopt the for-profit model. The Department needs to compare actual costs and quality of service under the two models.

***Aging strategy implementation is lagging and fragmented at best***

**1.25** While the Department is taking steps to implement certain initiatives that align with the vision of the 10-year Aging Strategy, these efforts are not done in the context of a comprehensive implementation plan. The strategy sets a broad vision of how to improve care and support for seniors to have a positive and healthy aging experience. This vision may not be realized with the current fragmented implementation approach.

***Aging strategy needs implementation plan with clear measurable targets, monitored execution and regular public updates***

**1.26** I recognize the various initiatives and projects the Department is undertaking in many areas of senior care and support. However, I strongly believe the Department needs to improve its planning and execution methods and approaches to achieve tangible results of enhanced senior care and support on the ground. To realize the vision expressed in the Aging Strategy, the Department needs to develop a comprehensive implementation plan with clear measurable targets, monitor the execution of the plan and keep the public informed of progress on a regular basis.

**Auditor General Access to Vestcor Significantly Limited:**

***$18 billion of NB public sector funds not subject to independent and publicly accountable oversight***

**1.27** Chapter 5 of this volume presents our findings and observations regarding the difficulty I had in fulfilling my legislated mandate due to Vestcor restricting my access to information needed for my audit work.

**1.28** As a result, over $18 billion in New Brunswick public sector funds is not subject to independent and publicly accountable oversight by the Legislative Assembly.

***As required by the*** **Auditor General Act,** ***I am informing the Legislative Assembly of access restrictions to Vestcor, which I believe necessary to fulfil my legislated mandate***

**1.29** Section 15(1)(b) of the *Auditor General Act* requires I inform the Legislative Assembly if my office received all information and explanations required in the course of our audit work. In this case, Vestcor and its owners (Pension Plan Boards of Trustees) disagreed with my office regarding my access. We disagreed about access to conduct our oversight and salary and benefits work and our financial audit procedures for our audit of the Province's financial statements.

***In my view Vestcor is, in substance, a public sector entity***

**1.30** Before Royal Assent of the *Vestcor Act* in 2016, I had unrestricted access to audit the New Brunswick Investment Management Corporation (NBIMC), Vestcor's predecessor company. In my view, Vestcor is, in substance, a public sector entity and my office should continue to have unrestricted access to conduct both performance audits and financial audit procedures at Vestcor.

***In my view, Vestcor is subject to Auditor General audit regardless of its new legislation***

**1.31** As a result of Vestcor's new private legislation, Vestcor and its owners believe my access to Vestcor is significantly reduced compared to my access to NBIMC. Regardless of its new legislation and legal form, in my view, Vestcor continues to be a significant "funding recipient" and "service provider" of public funds and therefore subject to audit as per the *Auditor General Act*.

***Legislators had concerns about how Vestcor would be held to account***

**1.32** During the legislative Standing Committee hearing to discuss the proposed *Vestcor Act*, we found Legislators raised concerns regarding how the *Vestcor Act* would impact my access to audit. They were provided with inconsistent information on this issue. Although some oversight is provided through the Boards of Trustees and other entities, in my view, this oversight is missing public accountability by the Legislative Assembly.

***Vestcor is not like private investment firms***

**1.33** Vestcor is not like private investment firms and should be publicly held to account. Unlike private firms:

- Vestcor was created by an Act of the New Brunswick Legislature;
- Vestcor is 100% owned by the Province's two largest pension plans (the New Brunswick Public Service Pension Plan and the New Brunswick Teachers' Pension Plan) and, as a result, will unlikely have to compete with other investment management firms;
- Vestcor's investment portfolio is derived entirely from New Brunswick public sector funds;
- essentially all Vestcor's operating and capital funding results from services provided to the broader New Brunswick public sector; and
- Vestcor considers itself to be not-for-profit in nature.

***Significant amount of public sector funds involved***

**1.34** The Province's two largest pension plans represent $14 of the $18 billion of NB public sector assets managed by Vestcor. In 2020, Vestcor received approximately $400 million in pension plan contributions and made approximately $715 million in pension benefit payments. We also found total employee incentives (bonuses) have significantly increased by almost 500% since 2010.

***AG suggests the Auditor General Act be amended to prevent future disagreements over Vestcor access***

**1.35** In my view, the *Auditor General Act* currently grants me the authority to conduct performance audits of Vestcor, as well as unrestricted access to perform financial audit procedures. To ensure this access, however, I am recommending a regulation be added to the *Auditor General Act* to explicitly list Vestcor (and its related entities) as an auditable entity.

***Impact of suggested legislative changes***

**1.36** If the *Auditor General Act* granted my office explicit authority to audit Vestcor, public accountability to the Legislative Assembly through reports from my office on Vestcor's performance could continue. Potential areas my office would audit and publicly report, include items such as the reasonableness of Vestcor's incentive program, information presented in its annual reports, and its operating and capital expenses.

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

**1.37** Chapter 6 of this volume presents our follow-up on recommendations from prior years performance audit chapters released in 2016, 2017 and 2018 as well as select others. 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.

**1.38** In addition to self-reported updates by departments, Commissions and Crown agencies, this year we performed detailed follow-up work on selected chapters from the 2015 and 2016 AGNB reports, as follows:

- Private Wood Supply (2015);
- Silviculture (2015); and
- Agricultural Fair Associations (2016).

***Key 2015 AG recommendations not implemented by NRED***

**1.39** I am disappointed the Department of Natural Resources and Energy Development is yet to implement key recommendations from our 2015 chapters on Silviculture and Private Wood Supply. The Department continues to disregard the need to reduce clear-cut harvest on Crown land to align with the Province's forest management strategy.

**1.40** While I recognize the initiative NRED is undertaking to encourage participation by private woodlot owners in forest management and the wood market, I am concerned our 2015 recommendations relating to proportional supply and sustainable yield are still not implemented. We believe proportional supply was meant to be a key mechanism under the Act to ensure "*equitable sharing among the sources of wood supply*".

**1.41** I continue to believe the Department needs to directly address the principles of proportional supply and sustained yield to fulfill its obligations under the *Crown Lands and Forests Act.*

***We remain unsatisfied with the implementation rate of our recommendations***

**1.42** Overall, audited entities implemented 81% of recommendations from our 2015 to 2018 performance audit reports. Although this is an improvement compared to the 71% implementation rate we reported in last year's follow-up chapter, it remains significantly below our target of 100%.

**1.43** 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.

## Acknowledgements

**1.44** 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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