

REPORT OF THE

# Auditor General of New Brunswick

Volume I  
Performance Audit

2021

AUDITOR GENERAL  
OF NEW BRUNSWICK



VÉRIFICATEUR GÉNÉRAL  
DU NOUVEAU-BRUNSWICK

**Published by:**  
Office of the Auditor General  
Province of New Brunswick

October 2021

ISSN 0382-1420



Speaker of the Legislative Assembly  
Province of New Brunswick

Sir

As required under Section 15(1) of the *Auditor General Act* I am submitting Volume I of the Office's 2021 Report to the Legislative Assembly.

Respectfully submitted,

A handwritten signature in black ink that reads "Janice Leahy". The signature is written in a cursive, flowing style.

Janice Leahy, CPA, CA, CIA  
Acting Auditor General

Fredericton, N. B.  
October 2021

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# Chapter 1

## Key Messages from the Acting Auditor General

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# Key Messages from the Acting Auditor General

## Introduction

1.1 The 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 2021 Report, we include three audit chapters:

- Funding for Rural Internet;
- Covid-19 Funding – New Brunswick Workers’ Emergency Income Benefit; and
- Government’s Oversight of Crown Agencies – *Accountability and Continuous Improvement Act*.

*In this report we noted a concerning theme: lack of oversight, transparency and accountability leading to ongoing unaddressed risks*

1.3 In reflecting on the key findings in this report, there is a concerning theme regarding lack of oversight, transparency and accountability. Oversight and accountability are essential for citizens to have confidence in how government delivers programs and services, and to ensure those programs and services are delivered effectively and efficiently. Transparency in government programs enables taxpayers to stay informed of how public funds are being used and what results are being achieved.

1.4 In this report, we note troubling examples of lack of oversight, transparency and accountability leading to ongoing unaddressed risks. We found the following examples in our work.

- **Phase two of the rural internet funding project has now commenced with unmet Phase one deliverables outstanding.** Funding for rural internet was provided to a third-party service provider without having a

governance structure in place or independently establishing outcomes for the project. This led to a lack of accountability as no provincial government agency was held responsible for unmet contract deliverables in Phase one of the funding project.

- **Planning for future provincial emergency response programs needs improvement.** While the New Brunswick Workers' Emergency Income Benefit program successfully aided over 40,000 New Brunswickers, our examination of this program showed details of key decisions for this particular emergency response benefit program were not well documented, public reporting was weak and program monitoring was inadequate.
- **Monitoring of key oversight and accountability documents does not exist.** As a result, Crown agency critical oversight documents did not contain the information required to ensure Crown agency plans and performance are properly reported. This lack of planning and reporting increases the risk that government may not be able to provide effective oversight of Crown agencies. The government and the public may not be fully informed as to whether Crown agencies are meeting their mandated priorities and objectives. An example of this is provincial funding for rural internet as mentioned above.

**1.5** 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.

## **Funding for Rural Internet**

**1.6** Chapter 2 of this Volume presents findings and recommendations from our audit of Funding for Rural Internet at Opportunities New Brunswick (ONB) and Regional Development Corporation (RDC). The purpose of this funding was to provide fast, reliable and affordable internet access to rural New Brunswickers. While we noted funding has contributed to infrastructure upgrades, it remains unclear whether investment by the Province in rural broadband projects has adequately addressed connectivity issues in rural areas as intended.



***Governance structure not in place to manage funding for rural internet***

**1.7** We found the Province did not establish appropriate governance structures with clear accountabilities for funding for rural internet. Neither ONB nor RDC was explicitly assigned a mandate to offer programs leading to the expansion of rural internet. While ONB is the signatory on the contract with the service provider (Xplornet), neither its mandate letter nor its corporate strategy included funding for rural internet.

***Province relied on private sector service provider to assess needs, define outcomes and design solution***

**1.8** We found ONB and RDC relied on Xplornet to prepare the needs assessment, define the outcomes, and design the technical solution to meet the need. We expected a needs assessment would be performed by the Province to determine current gaps and future needs for high speed internet access in rural New Brunswick.

**1.9** By allowing the funding recipient to prepare the needs assessment, there was a risk it would be tailored to meet their corporate strategy and goals, rather than the specific needs of rural New Brunswickers.

***Unlike other provinces, New Brunswick did not pursue a competitive process in selecting the service provider***

**1.10** We also found ONB and RDC did not pursue a competitive process for selecting Xplornet to deliver rural internet services. ONB requested approval for a sole source procurement as opposed to issuing a public tender. However, it did not verify that no other potential funding applicant could have proposed similar solutions. By contrast, we noted other Atlantic Provinces considered multiple service providers. For example, Nova Scotia pre-qualified 15 service providers for participation in their rural internet funding program.

***Poorly designed contract deviated from eligibility criteria***

**1.11** We noted funding approved by the provincial government and the resultant contract with Xplornet did not meet all of the eligibility criteria of the Strategic Infrastructure Initiative (SII), under which the funding was provided. Specifically, we noted both the approval and the contract deviated from the following criteria:

- maximum funding on eligible costs for for-profit corporations to be 25%; and
- type of assistance to be conditionally forgivable loan.

**1.12** We believe, due to the above noted deviations, other potential vendors would not have known funding was available in the form of non-repayable contributions at a higher rate of eligible costs. In our view, this reduced the

competitiveness and transparency of the selection process for funding recipients as other eligible service providers did not have equal opportunity to participate in funding for rural internet.

***We found ONB paid \$5.1 million for ineligible costs***

**1.13** We found ONB paid \$5.1 million for costs ineligible under the contract, including maintenance and spectrum licenses. We evaluated the claims review process to determine if claims met the criteria for approval. Payments were made contrary to the contract, the SII guidelines and the list of qualified capital expenditures.

***ONB and RDC did not enforce the terms of their respective contracts***

**1.14** We also found RDC and ONB did not enforce the terms of their respective contracts to ensure relevant terms and conditions were adhered to throughout the duration of the project. We observed instances where supporting records submitted with the claim did not meet the contract requirements, yet ONB approved the claims and transferred funds to Xplornet. This lack of contract enforcement increases the risk of paying for deliverables that may not meet the quality requirements.

***Recommendations***

**1.15** We made 10 recommendations to ONB and RDC addressing the issues we identified in relation to contract design, evaluation of claims, as well as monitoring and reporting of contract outcomes. We also made three recommendations to ECO to ensure responsibility and accountability for government programs, including funding for rural internet, are clearly assigned to specific government entities with clearly identified outcomes and performance metrics.

***Covid-19 Funding – New Brunswick Workers’ Emergency Income Benefit Program***

**1.16** Chapter 3 of this Volume presents our findings and recommendations regarding how the Department of Post-Secondary Education, Training and Labour (PETL) provided benefits to eligible applicants under the New Brunswick Workers’ Emergency Income Benefit (NBWEIB) program the during the Covid-19 pandemic. This program provided a single \$900 payment to eligible applicants as a bridge for New Brunswickers impacted by the pandemic until Federal program funding was available.

***Department operated under a tight timeline***

**1.17** We realize PETL was required to plan and implement the NBWEIB program in a very short timeframe due to the nature of the pandemic and the need to respond quickly to the needs of impacted New Brunswick citizens. The aim of our review was to provide recommendations for future

improvements when government departments are faced with similar situations.

***Planning process resulted in a weak service contract and a lack of key processes during program delivery***

**1.18** We found PETL contracted with a service provider to implement the program and complete the \$900 payment to eligible applicants without clearly specifying the roles and responsibilities of the contracted parties. Because of the restricted timeline, PETL crafted a contract that did not include key program elements such as an appeals process or required program-critical activities that needed to be addressed later, outside the contract terms. This resulted in complaints made through members of the Legislative Assembly and PETL staff having to be redeployed to assist the contracted service provider.

***Poor controls over program processes***

**1.19** We noted PETL advanced over \$50 million to the service provider without adequate controls to verify the eligibility of potential beneficiaries of the program. We found various issues with the use of Social Insurance Numbers which increased the risk of fraud in the program and PETL has yet to validate payments made to the service provider for administration and other charges under the contract, totaling over \$2 million.

***Inadequate program monitoring***

**1.20** We also found PETL did not adequately monitor the program or ensure the service provider submitted reports required by the contract. There was no active monitoring of the program against contract terms and requirements. The final program report was not finalized for nearly six months after the program delivery ended.

***Lack of transparency and accountability***

**1.21** Finally, we found PETL could provide little evidence to support key decisions made during the planning process. In addition, there has been no public reporting of this program's performance by PETL to date.

***Recommendations to help improve government oversight***

**1.22** We have made 14 recommendations to PETL addressing planning, contracting, and monitoring weaknesses in the program planning and implementation processes. We also made one recommendation to the Executive Council Office to support departments tasked with new activities during an emergency situation such as the pandemic.

**Government’s Oversight of Crown Agencies – Accountability and Continuous Improvement Act**

***We found non-compliance with the Act when preparing critical documents needed for oversight***

***Recommendations to help improve government oversight***

**Acknowledgements**

**1.23** In Chapter 4 of this Volume, we present our findings regarding government’s oversight of Crown agencies as required by the *Accountability and Continuous Improvement Act* (the Act). This Act outlines the roles and responsibilities of the Executive Council Office and Crown agencies in the oversight process. These roles and responsibilities include preparing critical documents such as mandate letters, annual plans and annual reports which are needed for effective government oversight.

**1.24** We found overall, the Executive Council Office and most Crown agencies did not comply with all of the requirements of the *Accountability and Continuous Improvement Act* when preparing critical documents needed for oversight.

**1.25** In our view, if critical oversight documents do not contain the information required by the Act:

- the best interests of New Brunswickers may not be served; and
- the government and the public may not be fully informed if Crown agencies are meeting their mandated priorities and objectives (such as in the delivery of health care or economic development programs).

**1.26** We have made five recommendations to the Executive Council Office to help improve government’s oversight of Crown agencies and to address areas of non-compliance with the Act when preparing critical oversight documents.

**1.27** 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.



Janice Leahy, CPA, CA, CIA  
Acting Auditor General

# Chapter 2

## Funding for Rural Internet – Regional Development Corporation and Opportunities New Brunswick

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# Funding for Rural Internet – Regional Development Corporation and Opportunities New Brunswick

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## Why Is This Important?

- Modern high-speed internet is an essential service and 36% (67,000) of rural New Brunswick households did not have access in 2019
- The global Covid-19 pandemic highlighted the need for modern high-speed internet due to the increasing risk of disruptions to conventional, in-person services
- The Province spent over \$39 million on funding for rural internet since 2003

## Overall Conclusions

- We were unable to conclude if funding for rural internet is achieving the desired outcomes because key information we required was unavailable
- Accountability was not assigned to ensure a provincial government agency would be held responsible for funding outcomes
- ONB's contract with Xplornet deviated from the funding submission made to the provincial government
- ONB paid \$8.2 million to improve rural internet services without adequate assessment of project outcomes

## What We Found

### Poor Phase One Governance and Lack of Accountability

- Governance structure was not in place to manage funding for rural internet
- No specific provincial funding program for rural internet which would have established funding outcomes independent of the project
- ONB and RDC did not conduct a needs assessment to support decision to contract with Xplornet

### Non-competitive Phase One Selection Process and Inadequate Contract Design

- ONB and RDC did not pursue a competitive process for selecting Xplornet
- Funding deviated from the eligibility criteria
- ONB's contract with Xplornet did not align with funding submission approved by the provincial government

### Unmet Phase One Contract Deliverables

- Xplornet did not meet the deliverables under the contract at the time of our work
- RDC announced completion of phase one project without verifying outcomes
- RDC and ONB did not enforce funding contract terms

### Questionable Phase One Claims Evaluation

- ONB paid \$5.1 million to Xplornet for costs that were ineligible
- ONB paid \$4.2 million "in advance" of validating contract deliverables
- ONB lacked the technical expertise to review project progress

## Key Findings and Observations Table

### Funding for Rural Internet – Regional Development Corporation and Opportunities New Brunswick

Paragraph	Key Findings and Observations
	<b>Poor Phase One Governance and Lack of Accountability</b>
2.35	<i>Province did not establish governance structures to manage phase one funding for rural internet</i>
2.37	<i>Rural Internet not mentioned in ONB's mandate letter</i>
2.41	<i>SII fund was focused on economic development and not suited to deliver outcomes specific to improving or expanding internet in rural areas</i>
2.42	<i>Wording of ONB's contract with Xplornet conflicted with the terms of RDC's funding guideline</i>
2.44	<i>Province did not carry out a needs assessment to set expectations for the outcomes of funding</i>
2.46	<i>ONB and RDC relied on Xplornet to prepare the needs assessment, define the outcomes and design the technical solution to meet the need</i>
2.49	<i>ONB did not attempt to verify technical solution design</i>
2.50	<i>Technical solution was not designed with sufficient bandwidth</i>
2.51	<i>ONB did not have enough data to properly validate Xplornet's needs assessment for rural internet</i>
	<b>Non-competitive Phase One Selection Process and Inadequate Contract Design</b>
2.54	<i>ONB and RDC did not pursue a competitive process for selecting Xplornet</i>
2.56	<i>ONB did not validate claims of Xplornet being the most effective service for rural internet</i>
2.57	<i>ONB did not update 2008 due diligence on whether circumstances had changed for other internet service providers to know if others could provide comparable services</i>

	<b>Non-competitive Phase One Selection Process and Inadequate Contract Design (continued)</b>
2.58	<i>ONB did not independently validate the 2008 rural internet milestone achievement</i>
2.60	<i>Funding deviated from the eligibility criteria</i>
2.61	<i>Approval exceeded the maximum funding on eligible costs by \$2.5 million</i>
2.64	<i>The design of ONB's contract with Xplornet did not align with the ONB/RDC funding submission and Xplornet's proposal approved by the provincial government</i>
2.66	<i>Key details omitted from the contract</i>
2.67	<i>Limits on eligible costs not established in contract</i>
2.68	<i>Cost categories such as spectrum licenses were included which had not been contemplated in the funding submission</i>
2.69	<i>Xplornet had discretion to determine its own contract deliverables</i>
2.70	<i>Eligible costs and project budget not itemized in contract</i>
2.72	<i>Qualified capital expenditure list was not part of the contract</i>
	<b>Questionable Phase One Claims Evaluation</b>
2.76	<i>ONB paid \$5.1 million for ineligible costs</i>
2.77	<i>ONB paid \$3.1 million in phase two costs and unapproved scope change</i>
2.82	<i>Xplornet submitted a claim with \$11 million in satellite and ground station costs from as far back as 2010</i>
2.83	<i>ONB paid \$1.2 million for costs incurred prior to signing contract</i>
2.85	<i>ONB paid certain claims in advance</i>
2.86	<i>ONB did not follow their non-repayable contributions policy</i>
2.87	<i>ONB did not verify specific terms and conditions of their contract were carried out by Xplornet before money was paid</i>
2.89	<i>ONB advanced \$4.2 million based on a verbal agreement contradicting the RDC-ONB agreement</i>
2.91	<i>ONB failed to obtain technical expertise to review project claims before funds were released</i>
	<b>Unmet Phase One Contract Deliverables</b>
2.94	<i>ONB's contract with Xplornet did not provide clear and specific deliverables</i>
2.96	<i>The project missed its planned completion date by over one year</i>
2.97	<i>100/10 Mbps was not available to subscribers in the upgraded service area</i>



	<b>Unmet Phase One Contract Deliverables (continued)</b>
2.99	<i>Service offered did not meet the promised speed and price standards</i>
2.102	<i>ONB did not evaluate if the technical solution would handle the internet traffic if 100% of “uncabled” residences were to subscribe to the service</i>
2.103	<i>ONB accepted and paid for a solution which does not meet the contract deliverable of providing access to 10,000 users</i>
2.105	<i>RDC announced completion of phase one and ONB paid \$8.2 million without verifying outcomes had been achieved</i>
2.108	<i>RDC and ONB did not enforce the terms of their respective contracts for phase one</i>
2.109	<i>Supporting records submitted with the claim did not meet the contract requirements</i>
2.110	<i>Pursuing federal funding for phase two was missed opportunity to enforce the terms of the phase one agreement</i>
2.113	<i>Neither RDC nor ONB publicly reported on the funding performance for phase one</i>
2.114	<i>Performance metrics reported were not specific to improving or expanding internet access</i>
2.115	<i>ONB and RDC were not held accountable for the outcomes related to provincial funding for rural internet</i>
	<b>Rural Internet Funding: Phase Two</b>
2.120	<i>Fixed wireless construction costs increased by 31% over 2017 proposal</i>
2.122	<i>Information submitted to the Federal government in a project change request was incorrect</i>
2.123	<i>Change request failed to acknowledge overall eligible costs have increased</i>
2.124	<i>Statement of work for phase two included 14 of the 15 phase one towers</i>
2.125	<i>RDC may not be able to reconcile Phase one and Phase two work</i>
2.128	<i>Phase two reporting on outcomes will be required in 2027</i>

## Recommendations and Responses

Recommendation	Department's response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.52 Executive Council Office ensure responsibility for government policy commitments, including funding for rural internet, be clearly assigned to specific government entities to ensure accountability and transparency for government programs and services.</b></p>	<p><i>The Executive Council Office has dedicated human resources responsible to provide oversight and guidance regarding commitments. This specific project being audited was approved by government and assigned to ED/ONB.</i></p> <p><i>ECO has a mandate to work with departments to ensure commitments are appropriately monitored, measured, and reported on as part of the accountability process. Departments must report monthly to central government regarding the progress of their priorities.</i></p> <p><i>Going forward, the file related to rural internet is the responsibility of Finance and Treasury Board's Office of the Chief Information Officer division.</i></p>	<p><i>Implemented</i></p>

Recommendations and Responses (continued)

Recommendation	Department's response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.53 Executive Council Office direct the responsible department or agency to ensure:</b></p> <ul style="list-style-type: none"> <li>• <b>any future funding for rural internet is delivered via a program which identifies appropriate outcomes and performance metrics;</b></li> <li>• <b>a needs assessment is conducted to determine the service gap before providing any future funding; and</b></li> <li>• <b>future applications for rural internet funding be validated to ensure they address service gaps identified through a needs assessment.</b></li> </ul>	<p><i>Office of the Chief Information Officer (OCIO) in Finance and Treasury Board has identified high-level targets and continue to work with the service providers to align their work with desired outcomes. Future funding decisions will be aligned to specific outcome metrics and service gaps that are to be addressed.</i></p> <p><i>OCIO continues to liaise and support internet service providers in an effort (for internet service providers) to procure federal funding for the provision of rural broadband to rural New Brunswick homes.</i></p> <p><i>The OCIO has established a process to identify gaps in rural broadband service for households and businesses. This work is ongoing and will inform future decisions.</i></p>	<p>Ongoing</p>

Recommendations and Responses (continued)

Recommendation	Department’s response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.63 Executive Council Office direct the responsible department or agency to ensure any future funding for rural internet is delivered through a competitive and transparent process by:</b></p> <ul style="list-style-type: none"> <li>• <b>issuing public tender; or</b></li> <li>• <b>adhering to the terms and conditions of funding guidelines.</b></li> </ul>	<p><i>ECO is responsible to work with departments to ensure proposals are fully developed prior to presentation to government for approval.</i></p> <p><i>OCIO will continue to work with Strategic Procurement and ensuring the Procurement Act is adhered to.</i></p> <p><i>Government recently approved a financial assistance policy that will apply to for-profit organizations that will soon be fully implemented. Finance and Treasury Board will be responsible to provide the central financial oversight on this new policy. Organizations will be put through a rigorous process and meet criteria to be approved.</i></p>	<p><i>Implemented</i></p> <p><i>Policy will be fully implemented by September 2021.</i></p>

Recommendations and Responses (continued)

Recommendation	Department’s response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.75 Regional Development Corporation and Opportunities New Brunswick ensure future contracts for funding of rural internet include details to enable proper evaluation of claims made by contractors. These should include but are not limited to:</b></p> <ul style="list-style-type: none"> <li>• detailed statement of work;</li> <li>• project budget; and</li> <li>• specific and measurable outcomes.</li> </ul>	<p><i>ONB will ensure that it works closely with RDC on future contracts for funding of rural internet to enable proper evaluation of claims made by contractors.</i></p> <p><i>For Phase 2 of the rural internet project, RDC has a detailed statement of work, project budget, and specific and measurable outcomes.</i></p>	<p><i>At next involvement of funding for rural internet.</i></p> <p><i>Implemented</i></p>
<p><b>2.84 Opportunities New Brunswick clearly identify approved eligible costs in future contracts of this nature, with a maximum amount payable to avoid paying for ineligible costs.</b></p>	<p><i>ONB will work with RDC to ensure eligible costs in future contracts of this nature are clearly outlined and identified with maximum amounts payable clearly outlined.</i></p>	<p><i>At next contract of this nature.</i></p>
<p><b>2.90 Opportunities New Brunswick ensure any amendments to contract terms are authorized and documented in writing.</b></p>	<p><i>ONB will follow best practices in this regard and will ensure amendments are clearly authorized and documented.</i></p>	<p><i>At next opportunity.</i></p>
<p><b>2.93 Opportunities New Brunswick acquire the necessary expertise to review technical aspects of future claims before releasing payments to funding recipients.</b></p>	<p><i>Agreed. Internal or external expertise will be utilized to review and provide guidance on technical aspects before releasing payments.</i></p>	<p><i>At next claim request.</i></p>

*Recommendations and Responses (continued)*

Recommendation	Department's response	Target date for implementation
<b>We recommend:</b>		
<b>2.104 Regional Development Corporation and Opportunities New Brunswick set and enforce expectations regarding the performance and reliability of the technical solution to handle the required number of subscribers before providing additional project funding.</b>	<i>Agreed. This will also include utilization of internal or external technical expertise to assess.</i>	<i>At next opportunity.</i>

Recommendations and Responses (continued)

Recommendation	Department's response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.107 Regional Development Corporation have a formal project completion and close out process whereby all outcomes are assessed and accounts reconciled before project completion is announced.</b></p>	<p><i>RDC and the federal government will complete a close out process, including an outcomes assessment and claims reconciliation as part of the regular IBA project management process.</i></p>	<p><i>Implemented</i></p>
<p><b>2.112 Opportunities New Brunswick and Regional Development Corporation implement procedures to:</b></p> <ul style="list-style-type: none"> <li>• <b>evaluate contract performance on a timely basis; and</b></li> <li>• <b>monitor and enforce the terms and conditions of their funding agreements.</b></li> </ul>	<p><i>ONB &amp; RDC will worktogether to implement procedures to evaluate &amp; monitor contracts.</i></p>	<p><i>At next opportunity.</i></p>
<p><b>2.116 Opportunities New Brunswick and Regional Development Corporation define specific metrics for rural internet service and publicly report on progress to ensure accountability.</b></p>	<p><i>ONB &amp; RDC will work together and with OCIO to define specific metrics for rural internet service and will coordinate proper public reporting is in place.</i></p>	<p><i>November 30, 2021</i></p>

## Recommendations and Responses (continued)

Recommendation	Department's response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.127 Regional Development Corporation implement a review process for rural internet upgrade phase two funding to ensure claims submitted to the Federal government are accurate and compliant with the Integrated Bilateral Agreement and no costs are claimed related to phase one work.</b></p>	<p><i>RDC has a robust project management process in place for Phase 2. A project manager along with a technical expert has been assigned to the project to monitor progress and evaluate the claims. The following reports are required on an ongoing basis for Phase 2:</i></p> <ul style="list-style-type: none"> <li>• <i>Signed statement of work, monitored by GNB for progress. Updated project Gantt charts are obtained as required.</i></li> <li>• <i>May and November progress reports are obtained that outline project status, budget information next steps.</i></li> <li>• <i>RDC project manager and technical expert hold weekly meetings with the applicant's project manager.</i></li> <li>• <i>RDC senior staff, project manager, technical expert and Office of the Chief Information Officer (OCIO) staff meet applicant's project manager monthly.</i></li> <li>• <i>Meetings as required with applicant staff and federal government staff</i></li> <li>• <i>Bi-annual Oversight Committee meetings with senior RDC officials, RDC project manager and technical expert with applicant's Vice-President to obtain status update, identify risks and obtain mitigation plan for the subsequent 6-month period.</i></li> <li>• <i>RDC project manager and technical expert report on project progress at a weekly meeting with OCIO broadband technical group. Implementation issues are discussed and support for solutions is procured.</i></li> </ul>	<p><i>Implemented</i></p>



Recommendations and Responses (continued)

Recommendation	Department's response	Target date for implementation
<b>We recommend:</b>		
<p><b>2.131 Regional Development Corporation explore options to report publicly on the progress of the internet upgrade in a more timely manner and at least annually.</b></p>	<p><i>The current internet upgrade project is funded by the federal government in its entirety under the Integrated Bilateral Agreement. As such, this agreement and the federal communications protocols must be strictly adhered to. RDC will discuss options for this communication with the federal government.</i></p>	<p><i>November 30, 2021</i></p>

## **Audit Introduction**

**2.1** Since 2003, the province of New Brunswick has provided funding in support of expanding internet access to its citizens. Over time, as technology has changed, the demand for more reliable internet capable of greater speeds has only increased. Recently, the need for access to internet has been increased by the global pandemic and an accelerated shift toward accessing more products and services virtually.

## **Why we chose this topic**

**2.2** We chose to audit funding for rural internet for the following reasons:

- In 2016, the Canadian Radio-television and Telecommunications Commission (CRTC) declared modern high-speed internet access is essential in rural and remote communities
- The Province spent over \$39 million on funding for rural internet since 2003
- The Province committed to spending an additional \$40 million in federal funding for rural internet in 2019
- 36% (67,000) rural New Brunswick households did not have access to modern high-speed internet in 2019
- The global pandemic in 2020 highlighted the need for households to have high-speed internet for accessing virtual services such as education and healthcare.

## **Audit Objective**

**2.3** The objective of this audit was to determine if funding for rural internet is achieving the desired outcome of providing rural New Brunswickers access to affordable high-speed internet.

## **Definitions**

**2.4** Exhibit 2.1 contains definitions of key technical terms used in this report. A more comprehensive table of technical definitions can be found in Appendix IV.

Exhibit 2.1 - Definitions of Key Terms

<b>Definitions of Key Terms</b>	
<b>Term</b>	<b>Defined</b>
<b>50 megabits per second for download and 10 megabits per second for upload (50/10 Mbps)</b>	Speed identified by the Canadian Radio-television and Telecommunications Commission (CRTC) for Canadians to take advantage of cloud-based software applications, multiple government services, online learning resources and high-definition streaming videos
<b>Backhaul</b>	Intermediate link between core network and wireless towers
<b>Bandwidth</b>	The amount of data that can be sent through a connection, usually measured in bits per second
<b>Download/ Upload speed</b>	The speed at which data, including pictures and video, is being delivered to you from the Internet or vice versa
<b>Fiber</b>	A type of cable that uses glass threads or plastic fibres to transmit data using pulses of light
<b>Fixed wireless</b>	A service for providing high-speed internet to a fixed location, such as a home or business. The wireless signal is typically transmitted from a tower to an antenna installed on the roof of the home or business in question
<b>Last Mile</b>	The connection between the broadcast tower and the customer's premises
<b>Latency</b>	The time it takes for data to travel from a source to a destination. A shorter latency is better
<b>Minimum service standard</b>	Providing a target download/upload speed when required by subscribing households up to the farthest edge of the service area, and providing a minimum service quality to all subscribing households at all times
<b>Megabits per second (Mbps)</b>	The most common unit of measurement for describing the speed of high-speed internet connections
<b>Modern High-Speed Internet</b>	Refers to internet subscriptions which meet CRTC standards for quality and speed, currently 50/10 Mbps with unlimited data.
<b>Satellite</b>	A microwave receiver, repeater, and regenerator in orbit above earth
<b>Spectrum</b>	The full range of radio waves used to transmit sound and data wirelessly
<b>Spectrum License</b>	The Canadian government regulates access to spectrum under the authority of Industry, Science, and Economic Development (ISED) Canada, which provides access to the radiofrequency spectrum by issuing authority for its use
<b>"Uncabled" residences</b>	Xplornet's determination of their target customers.

**Audit Scope**

**2.5** We examined New Brunswick provincial funding for rural internet. Our audit also considered New Brunswick's participation in the Integrated Bilateral Agreement (IBA) with the Government of Canada. Our auditees were Regional Development Corporation (RDC) and Opportunities New Brunswick (ONB), to whom our findings and recommendations are directed. Another important party was Xplornet Communications Inc. (Xplornet), being the ultimate funding recipient. However, Xplornet was not an auditee.

**2.6** Our audit covered the period between April 1, 2018 and March 31, 2020. This is the period to which our audit conclusions apply. However, to gain a more complete understanding of the subject matter of our audit, we also examined certain matters that preceded the starting date of our audit. We engaged a subject matter expert to provide advice and technical expertise in relation to highly specialized aspects of the audit. Results of the expert's work have been incorporated into this report. More details on the audit objectives, criteria, scope and approach we used can be found in Appendix I and Appendix II.

**Subsequent Events**

**2.7** We considered the effect that events up to the date of our report would have on our work. We determined it is unlikely these events would substantially change our audit conclusions. Details of subsequent events that occurred after our audit period of March 31, 2020 can be found in Appendix III.

**Conclusions**

**2.8** We were unable to conclude if funding for rural internet is achieving the desired outcome of providing rural New Brunswickers access to affordable high-speed internet. While we noted funding has contributed to infrastructure upgrades, key information we required to evaluate our objective was unavailable, such as:

- the location of “uncabled” residences and their distances to the nearest tower to demonstrate they are inside of the service area;
- the percentage of “uncabled” residences the technical solution was designed to serve;
- detailed project budget and planned infrastructure outcomes for phase one, which prevented us from

evaluating infrastructure outcomes achieved versus what was planned;

- details of project budget for phase two compared to the proposal and phase one costs incurred, which prevented us from evaluating the accuracy of phase two budget; and
- a final evaluation by ONB of the deliverables of their contract with Xplornet.

**2.9** However, we were able to make the following conclusions related to phase one of the rural internet funding:

- accountability was not assigned to ensure a provincial government agency would be held responsible for funding outcomes;
- the funding contract with Xplornet deviated from the ONB/RDC funding submission made to the provincial government;
- the funding contract with Xplornet was not designed with metrics to ensure funding outcomes would be achieved;
- ONB paid \$8.2 million without adequate assessment of project outcomes; and
- contract deliverables, including internet speed and pricing standards, remained unmet.

**2.10** Overall, it remains unclear whether investment by the Province in rural broadband projects has adequately addressed connectivity issues in rural areas as intended.



*Source: Created by AGNB with pictures from ONB and government of New Brunswick image bank*

**Background Information**

2.11 Exhibit 2.2 shows funding for rural internet by both provincial and federal governments since 2003 in support of private businesses in the form of contributions and a loan guarantee.

Exhibit 2.2 - Federal and Provincial Funding for Rural Internet 2003 - 2020  
(\$ millions)

<b>Federal and Provincial Funding for Rural Internet 2003 - 2020 (\$ millions)</b>						
<b>Year</b>	<b>Description</b>	<b>Target # of Households</b>	<b>Project Cost</b>	<b>GNB Contribution</b>	<b>Canada Contribution</b>	<b>Contractor Contribution</b>
2003	Contribution for Internet	N/A	\$44.6	\$12.5 (25%)	\$16.5 (37%)	\$15.6 (35%)
2008	Contribution for 1.5 Mbps project	43,000	39.0	13.0 (33%)	0.0	26.0 (67%)
2012	Contribution for 10-25 Mbps subscription rebate	N/A	15.0	5.0 (33%)	0.0	10.0 (67%)
2015	Contribution for 5 Mbps project	N/A	0.4	0.2 (38%)	0.2 (50%)	0.1 (12%)
2015	Contribution for 10-25 Mbps project	16,000	5.8	0.0	2.9 (50%)	2.9 (50%)
2015	Contribution for 5 Mbps project	3,300	6.1	0.0	3.1 (50%)	3.1 (50%)
2015	Contribution for 5 Mbps project	N/A	1.6	0.1 (4%)	1.2 (75%)	0.3 (21%)
2018	Contribution for 100 Mbps project, phase one	20,000	30.0	10.0*	0.0	20.0**
2020	Contribution for 100 Mbps project, phase two	63,000	131.7	0.0	40.0**	91.7**
<b>Total Contributions</b>			<b>\$274.2</b>	<b>\$40.8</b>	<b>\$63.9</b>	<b>\$169.7</b>
2009	Loan Guarantee for 1.5 Mbps project		\$10.0	\$10.0	\$0.0	N/A
<b>Total Contributions and Loan Guarantee</b>			<b>\$284.2</b>	<b>\$50.8</b>	<b>\$63.9</b>	<b>\$169.7</b>

Source: Created by AGNB from unaudited ONB information

\* \$8.2 million paid to-date out of \$10 million commitment

\*\* Amounts committed as of date of approval

**2.12** The Province has invested or committed over \$40 million since 2003 in improvements to or expansion of rural internet. Despite these investments, rural households continue to grapple with lack of connectivity and low speed internet services.

**2.13** In 2011, the CRTC established the minimum service level expectation for internet as 5 Megabits per second (Mbps) download and 1 Mbps upload. The goal at that time was to offer all Canadians these speeds by 2015. Exhibit 2.3

shows estimates of what extent various speeds have been available to all New Brunswickers over time.

*Exhibit 2.3 - Availability of Internet Speeds in New Brunswick (Excluding Satellite Internet)*

<b>Availability of Internet Speeds in New Brunswick (Excluding Satellite Internet)</b>				
<b>Internet service category</b>	<b>Calendar Year</b>			
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
At least 1.5 Mbps download	98.0%	96.0%	96.1%	96.3%
At least 5/1 Mbps download/upload	96.0%	94.3%	94.6%	94.8%
At least 50 Mbps download	83.0%	81.2%	81.1%	90.8%
50/10 Mbps download/upload and Unlimited Data	NA	81.2%	81.1%	81.2%

*Source: Created by AGNB from CRTC monitoring reports*

**2.14** As of 2016, 96% of New Brunswickers had access to the minimum expectation of 5/1Mbps speeds. The information does not consider internet provided via satellite.

**2.15** In 2016, the CRTC again set a minimum service expectation for internet access across Canada in their Telecom Regulatory Policy 2016-496. As a result, the current CRTC targets are:

- 90% of Canadian homes and businesses are expected to have access to internet speeds of at least 50 Mbps for downloads and 10 Mbps for uploads (50/10 Mbps) by the end of 2021;
- the remaining 10%, hardest to reach Canadians should receive this standard by 2030; and
- target speeds will be delivered with unlimited data.

**2.16** The CRTC further declared fixed and mobile internet access services are basic telecommunications services. According to the CRTC monitoring report from 2019, 81%



of New Brunswick households had access to services at the new standard. In rural areas of New Brunswick however, only 64% of households met the standard.

**2.17** In July 2016, the Atlantic Growth Strategy was launched in partnership with the Government of Canada and the Atlantic provincial governments. The strategy included an infrastructure component which recognized the importance of providing internet to citizens and businesses. A leadership committee of federal ministers and the four Atlantic premiers was established to oversee the implementation of the strategy.

**2.18** In April 2017, the Atlantic Growth Advisory Committee was formed to support the leadership committee and provide recommendations. Recommendations of the advisory group were published in February 2018. The first recommendation was to: “Create and implement an Atlantic . . . [Internet] Action Plan with the objective of providing all Atlantic Canadians with access to Internet service of at least 50 . . . [Mbps] down-loading and 10 . . . [Mbps] up-loading.”

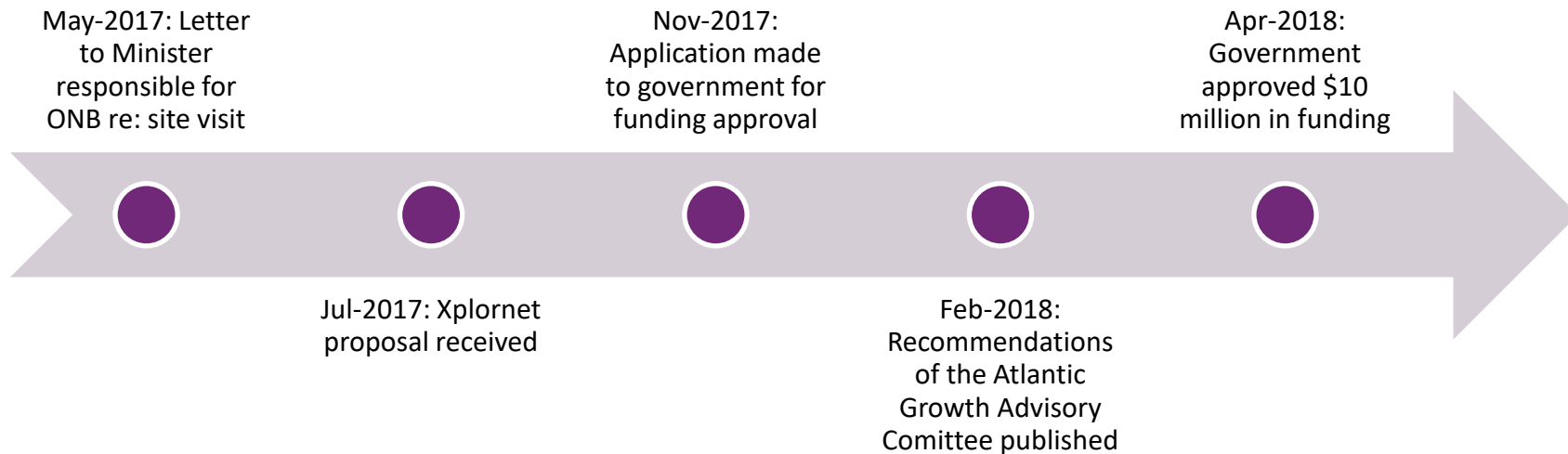
**2.19** The advisory committee went on to recommend the internet action plan include the following components:

- set a benchmark to exceed the CRTC estimate of 90% access to the 50/10 Mbps standard by 2021;
- provide a needs assessment to meet the 50/10 Mbps objective; and
- include a timeline of interim targets and a commitment to publish, at least annually, the state of progress.

**2.20** ONB and RDC brought a submission for funding to government in 2017 to help close the rural service gap. The Atlantic Growth Advisory Committee recommendations were not featured in the submission; however, the submission did acknowledge that the project plan should align with CRTC targets. Exhibit 2.4 shows the timeline of events surrounding the application process leading to the approval of funding for the rural broadband project in 2018. We provide a description of each event in the paragraphs that follow.

Exhibit 2.4 - Timeline of Events Surrounding Application for Funding for Rural Broadband Upgrade Project

**Timeline of Events Surrounding Application for Funding for Rural Broadband Upgrade Project**



Source: Created by AGNB

**2.21** In May 2017, a letter to the then minister responsible for ONB from Xplornet thanked them for their interest and for their site visit. The letter mentioned the Province had been working with Xplornet since 2016 to develop an infrastructure project to improve access to internet.

**2.22** In July 2017, Xplornet submitted a proposal to ONB to improve download speeds. The intent of the proposal was to build upon the project from 2008 where the provincial government invested in infrastructure to provide at least 1.5 Mbps download speeds to households throughout New Brunswick.

**2.23** In April 2018, the provincial government approved funding to provide rural homes and businesses with access to high speed internet services. Exhibit 2.5 shows the anticipated project cost and sources of funds.

*Exhibit 2.5 - Anticipated Project Cost and Sources of Funds, 2018 (millions)*

**Anticipated Project Cost and Sources of Funds, 2018 (millions)**

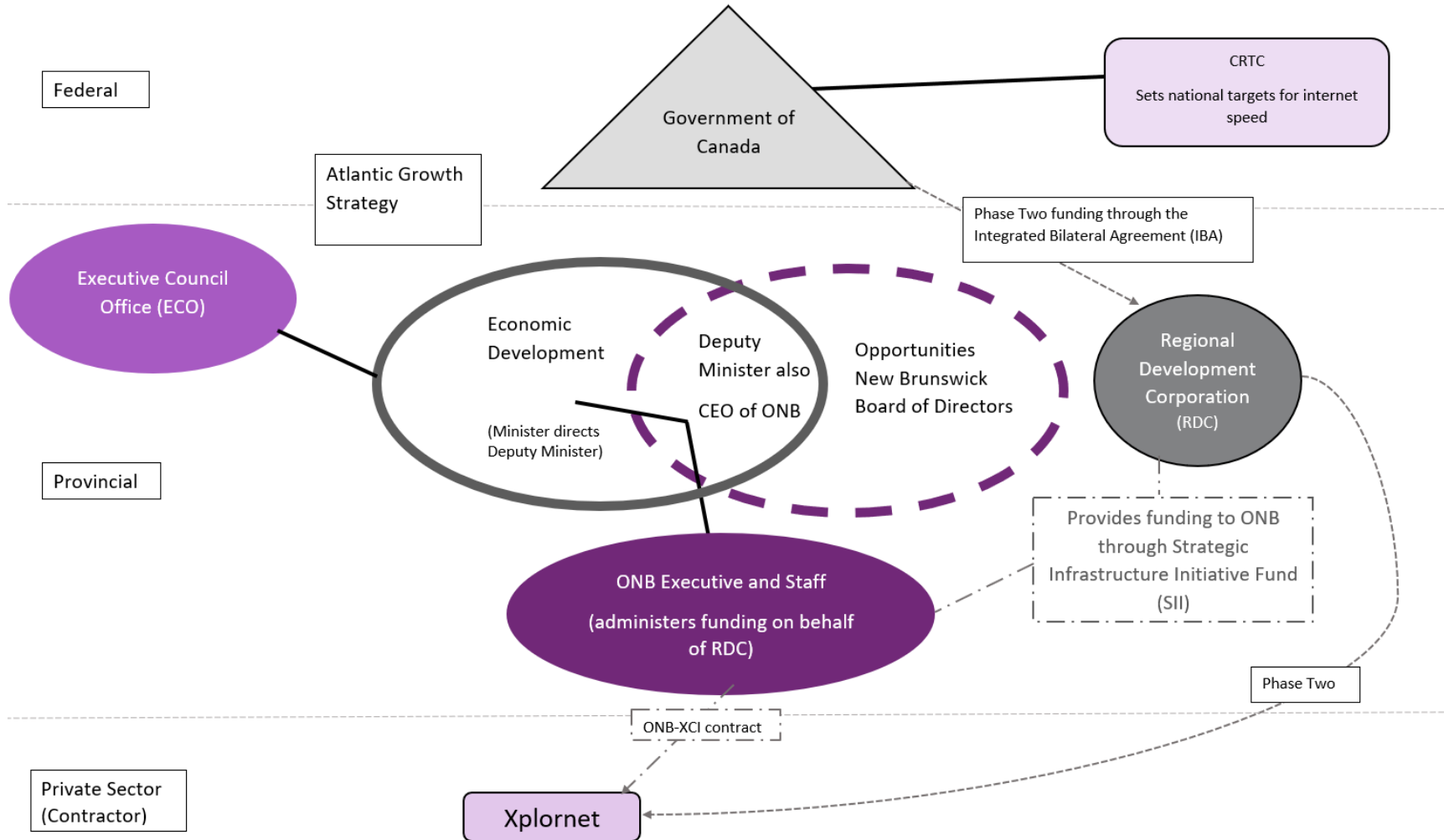
Project phase	Source of funding			
	Federal	Provincial	Private	Total
Phase one 2018-2019	\$0	\$10	\$20	\$30
Phase two 2020-2023	40	0	80	\$120
<b>Total</b>	<b>\$40</b>	<b>\$10</b>	<b>\$100</b>	<b>\$150</b>

*Source: Created by AGNB with information from ONB*

## Phase one

**2.24** The funding submission was made jointly by RDC and ONB and Xplornet's proposal was the basis of that application. A \$10 million contribution was approved for phase one of a two phase project with a total estimated project cost of \$150 million. A conditional approval was made at that time for a second phase where government contribution would be a combination of provincial and federal funds. Since then, the federal government has committed \$40 million to the project. Exhibit 2.6 provides an overview of key players and relationships for Phases one and two.

Exhibit 2.6 - Key Players and Relationships for Phases One and Two



Source: Created by AGNB

**2.25** In our report, we highlight issues related to poor governance and lack of accountability for funding for rural internet. We noted funding for rural internet was not within ONB's corporate mandate or under the purview of its board of directors. This may have been possible through a dual role held by the Chief Executive Officer (CEO) of ONB, who is also Deputy Minister of Economic Development.

**2.26** We believe the CEO of ONB acted in their capacity as Deputy Minister of Economic Development when they directed ONB staff to prepare and submit the application for funding. We observed expansion of rural internet was a platform commitment of the elected government in 2014. According to Executive Council Office, Economic Development was assigned responsibility for this commitment.

**2.27** The funding for phase one was provided according to a signed contract between ONB and Xplornet and with approval by RDC and the provincial government for use of funding from the Strategic Infrastructure Initiative (SII).

## Phase two

**2.28** Phase two of the rural internet project will be funded by the federal government through the Integrated Bilateral Agreement (IBA). Under the IBA, New Brunswick is obligated to enter into an agreement with the ultimate recipient of the federal funding, Xplornet. New Brunswick acknowledges, as part of the IBA, the federal government is not responsible for ineligible expenditures, project cost overruns or costs incurred prior to the signing of the agreement. The federal government approved phase two on May 20, 2020.

**2.29** New Brunswick has several obligations related to reporting to the federal government under the IBA, including:

- eligible expenditures must be submitted by April 20 each fiscal year; and
- project progress reports no later than May 31 and November 30 each fiscal year.

**2.30** Under the IBA, the Province is responsible for identifying and prioritizing eligible projects and submitting them for approval. The Province must also ensure contracts

are awarded in a way that is fair, transparent, competitive and consistent with value-for-money principles.

**2.31** The Province is also responsible for submitting claims covering eligible expenditures and ensuring eligible expenditures have been incurred in accordance with the IBA. At the time of our work, no claims had yet been submitted for phase two.

## **Technology explanation**

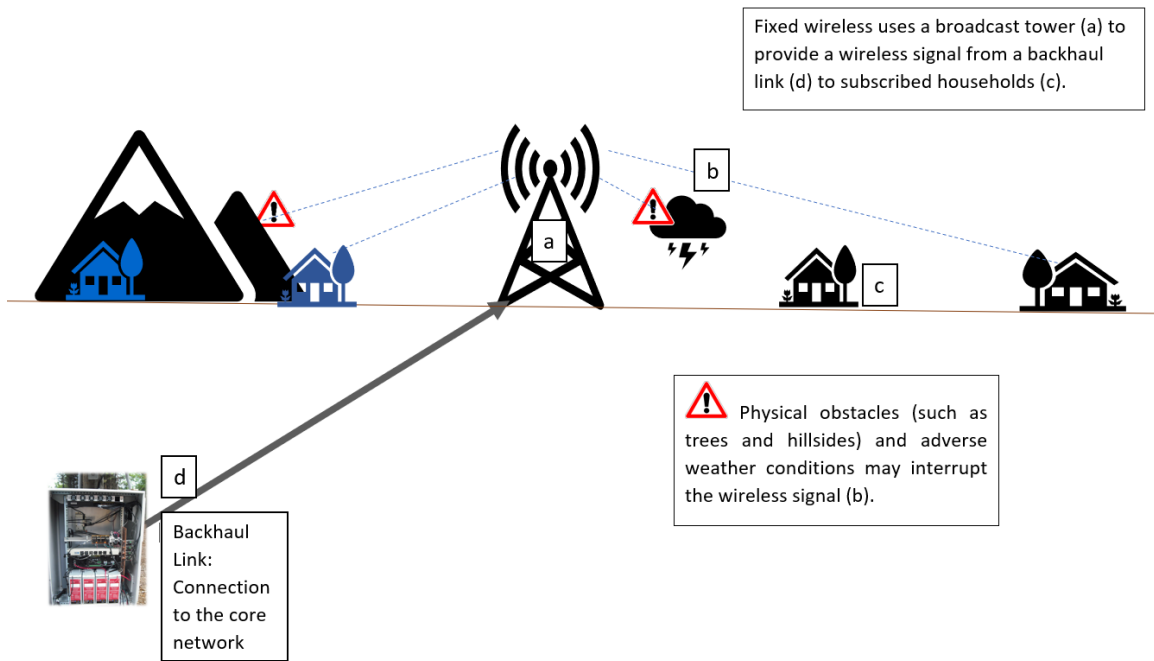
**2.32** Xplornet's proposal primarily uses Fixed Wireless along with limited use of Satellite technologies to deliver high speed internet to rural areas. Exhibit 2.7 illustrates the arrangement of fixed wireless technology. A backhaul link, typically fiber cable in Xplornet's proposal, carries internet signal from the core network to a wireless tower. The signal is then sent wirelessly to subscriber households. A more detailed explanation of the technology involved has been included in Appendix V.

## **Jurisdictional information**

**2.33** We provide more detail on other Canadian jurisdictions' approaches to delivering funding for rural internet in Appendix VI. In Nova Scotia, we noted a trust fund was established and a dedicated Crown Corporation created: Develop Nova Scotia. Develop Nova Scotia invested in consultation to establish the service gap and identify the scope of requirements to meet internet objectives. Based on this consultation, Develop Nova Scotia developed a strategy for meeting the province's internet needs.

Exhibit 2.7 - Fixed Wireless Service Explained

Fixed Wireless Service Explained



Source: Created by AGNB

***New Brunswick led Atlantic Canada in availability of modern high-speed internet in 2019***

**2.34** Exhibit 2.8 shows internet download speed availability across Canada. New Brunswick led Atlantic Canada in availability of modern high-speed internet in 2019. However, New Brunswick has below average availability with respect to each speed category except for Gigabit downloads. In this category, New Brunswick ranked second in Canada, only behind Ontario.

*Exhibit 2.8 - Download Speeds Across Canada as of December 2019*

**Download Speeds Across Canada as of December 2019**

Jurisdiction	Percentage of population with access by service level						
	1.5 Mbps +	5 Mbps +	25 Mbps +	50 Mbps +	50/10 Mbps and Unlimited Data	100 Mbps +	Gigabit
British Columbia	98.7%	98.3%	96.4%	94.1%	93.5%	93.5%	57.7%
Alberta	99.7%	99.7%	98.6%	94.7%	87.8%	83.6%	33.5%
Saskatchewan	97.4%	97.3%	90.3%	83.3%	71.1%	57.6%	0.0%
Manitoba	99.3%	98.2%	95.6%	94.2%	73.0%	72.8%	12.1%
Ontario	99.1%	98.6%	95.8%	91.8%	87.7%	86.8%	83.1%
Quebec	98.9%	98.4%	95.8%	94.1%	91.8%	90.5%	54.2%
New Brunswick	96.3%	94.8%	92.1%	90.8%	81.2%	81.1%	81.1%
Nova Scotia	99.3%	93.9%	79.2%	79.2%	78.4%	78.4%	75.9%
Prince Edward Island	99.1%	95.1%	90.0%	86.2%	61.3%	61.3%	59.3%
Newfoundland and Labrador	92.8%	91.1%	82.6%	82.4%	73.9%	73.6%	68.8%
Yukon	94.2%	93.2%	60.8%	60.8%	0.0%	60.8%	0.0%
Northwest Territories	97.8%	97.4%	61.8%	61.8%	0.0%	53.7%	0.0%
Nunavut	99.7%	99.6%	0.0%	0.0%	0.0%	0.0%	0.0%
Canada (National Average)	98.8%	98.2%	95.0%	92.1%	87.4%	86.0%	61.1%

*Source: Innovation, Science and Economic Development Canada and Canadian Radio-television and Telecommunications Commission data*



## Poor Phase One Governance and Lack of Accountability

*Province did not establish governance structures to manage phase one funding for rural internet*

**2.35** We found the Province did not establish appropriate governance structures with clear accountabilities for phase one funding for rural internet. Neither ONB nor RDC was explicitly assigned a mandate to offer programs leading to the expansion of rural internet. As signatory on the contract with Xplornet, we expected this responsibility would lie with ONB.

**2.36** We noted ONB did not include funding for rural internet in its strategy, corporate plans and annual reports. We could not identify where rural internet would fit within ONB's performance metrics other than to the extent the funding led to job creation or return on investment for the Province. These are financial assistance outcomes and not related to providing a critical service, such as rural internet, to citizens.

*Rural Internet not mentioned in ONB's mandate letter*

**2.37** The structure of a Crown corporation, under the governance of its board of directors, creates separation from provincial ministers and allows them to operate independently. To this end, we expected annual mandate letters, addressed to ONB's board chairperson and sent by the minister responsible for ONB, would have assigned responsibility for funding for rural internet and ensured its inclusion by the CEO in corporate strategy and plans. We reviewed ONB's mandate letters and found no mention of rural internet.

**2.38** Without an explicit mandate for improving and expanding internet access in rural areas, ONB executive leadership was not accountable to the corporation's board of directors for achieving the intended outcomes of the funding. This lack of board involvement in turn eroded the accountability framework and transparency of funding for rural internet.

**2.39** We found there was no provincial program for rural internet which would have established funding outcomes independent of the current project. We expected the Province would have developed a program specific to improving rural internet which would articulate funding

objectives and establish expected outcomes by which to evaluate the results.

**2.40** RDC awarded ONB funding for the rural internet project through RDC’s Strategic Infrastructure Initiative (SII) fund and under an RDC-ONB agreement. In the stated objective for the SII fund, the purpose is to invest in economic assets that lead to economic activity across New Brunswick by:

- supporting strategic economic development projects;
- supporting new infrastructure that will create opportunities to grow the economy; and
- providing leveraged and strategic funding to address the accumulated infrastructure deficits.

***SII fund was focused on economic development and not suited to deliver outcomes specific to improving or expanding internet in rural areas***

**2.41** Internet projects were within the scope of the SII fund. However, given the above stated objectives, it is clear the SII fund was focused on economic development and not suited to deliver outcomes specific to improving or expanding internet in rural areas. Without a program developed specifically for the expansion of rural internet, it will be difficult to evaluate whether the Province is delivering on its commitment to expand internet access in rural New Brunswick.

***Wording of ONB’s contract with Xplornet conflicted with the terms of RDC’s funding guideline***

**2.42** The wording of ONB’s contract with Xplornet conflicted with RDC’s SII fund guideline. ONB indicated to us that, as the funding was provided through RDC’s SII fund, they were providing a claims administration service and were not responsible for funding outcomes. The contract stated: “Please note that ONB will be coordinating the Assistance [funding] on behalf of . . . [RDC] with funds from the Strategic Infrastructure Initiative Fund.”<sup>1</sup>

**2.43** By contrast, RDC’s SII fund guideline states, as part of eligibility criteria: “all initiatives must be supported by a provincial department or agency.”<sup>2</sup> While the SII fund guideline does include internet projects within its scope, RDC indicated to us a representative agency would have

<sup>1</sup> S. Lund, letter of offer to funding recipient, June 29, 2018

<sup>2</sup> Regional Development Corporation Strategic Infrastructure Initiative, April 2015

responsibility for outcomes of any project receiving funding under this initiative. The application for funding failed to meet this eligibility criterion.

***Province did not carry out a needs assessment to set expectations for the outcomes of funding***

**2.44** We found the Province did not carry out a needs assessment independent of funding applicants to determine expectations for the outcomes of funding provided. A needs assessment would define the internet service gaps in rural New Brunswick and establish the requirements for achieving the desired service outcomes.

**2.45** The Province provided this funding without undertaking an independent assessment of what is required to meet the needs of rural New Brunswickers. Without a needs assessment, the Province did not have clear expectations against which to evaluate the outcomes of funding.

***ONB and RDC relied on Xplornet to prepare the needs assessment, define the outcomes and design the technical solution to meet the need***

**2.46** We found ONB and RDC relied on Xplornet to prepare the needs assessment, define the outcomes and design the technical solution to meet the need. Although we expected a needs assessment would be performed independent of the rural internet project, the SII fund guideline did require applications be accompanied by a needs assessment and comprehensive business case. These were submitted by Xplornet within a project proposal. By allowing Xplornet to prepare the needs assessment, there was a risk it would be tailored to meet their corporate strategy and goals, rather than the specific needs of rural New Brunswickers

**2.47** Xplornet’s proposal identified “uncabled” residences in the province. Per the proposal, “uncabled” residences were a metric used by Xplornet to determine their target customers. Total “uncabled” residences in the province were said to be 83,000.

**2.48** The proposed infrastructure outcomes aimed to make available internet download speeds of up to 100 Mbps to 73,000 residences and 4,700 businesses via fixed wireless. Download speeds of up to 25 Mbps would be available to the remaining 10,000 residences and 600 businesses via satellite.

***ONB did not attempt to verify technical solution design***

**2.49** We expected RDC and ONB would verify the completeness and accuracy of the proposal documents submitted by Xplornet. This did not happen. Instead, RDC and ONB relied on Xplornet for each of the needs assessment, anticipated outcomes and the design of the

technical solution. In our view, ONB and RDC failed to ensure these were designed to meet the needs of rural New Brunswickers.

***Technical solution was not designed with sufficient bandwidth***

**2.50** The technical solution was not designed with sufficient bandwidth to allow for 100% participation of all 73,000 residences. We noted the proposal included a business plan which identified Xplornet’s expectation of a 40% market penetration. The business plan forecasted 33,393 subscribers would sign up for fixed wireless and satellite internet during the five-year span of the project. Further explanation of our analysis can be found in Appendix V.

***ONB did not have enough data to properly validate Xplornet’s needs assessment for rural internet***

**2.51** We requested details of the 83,000 “uncabled” residences, including proximities to towers to demonstrate that those residences are within the service area. ONB could not provide this information. In our view, it would not have been possible for ONB to evaluate the completeness and accuracy of the “uncabled” residences without more precise data. ONB could not evaluate what extent the “uncabled” residences would be served by fixed wireless versus satellite or whether the proposed solution was adequate to meet the needs of rural New Brunswickers.

***Recommendations***

**2.52** We recommend Executive Council Office ensure responsibility for government policy commitments, including funding for rural internet, be clearly assigned to specific government entities to ensure accountability and transparency for government programs and services.

**2.53** We recommend Executive Council Office direct the responsible department or agency to ensure:

- any future funding for rural internet is delivered via a program which identifies appropriate outcomes and performance metrics;
- a needs assessment is conducted to determine the service gap before providing any future funding; and
- future applications for rural internet funding be validated to ensure they address service gaps identified through a needs assessment.

## Non-competitive Phase One Selection Process and Inadequate Contract Design

***ONB and RDC did not pursue a competitive process for selecting Xplornet***

**2.54** We found ONB and RDC did not pursue a competitive process for selecting Xplornet to deliver rural internet services. We expected ONB and RDC’s funding recipient selection process to be objective and consider all other service providers who might potentially make an application for funding. ONB and RDC followed an informal process with Xplornet.

**2.55** In October 2017, ONB requested approval for a sole source procurement as opposed to issuing a public tender. This request followed the receipt of a letter from Xplornet, which stated: “We believe this proposal, in which we have worked together with the Province since last year, is clearly unique and cannot be replicated at a comparable scope or value by any other provider through a publicly tendered process.”<sup>3</sup> ONB’s reasons for the sole sourcing matched the letter from Xplornet. ONB did not verify no other potential funding applicant would have proposed similar solutions.

***ONB did not validate claims of Xplornet being the most effective service for rural internet***

**2.56** The ONB/RDC submission for funding approval included rationale for not pursuing a transparent and competitive public tender. The ONB/RDC funding submission stated Xplornet was “the only known provider that can cost-effectively provide broadband internet to all of rural New Brunswick because it balances the use of two technologies that are the most effective for delivery of broadband internet to rural residents.”<sup>4</sup> However, we found no evidence of an analysis or comparison to support this claim. Further, neither the submission for funding nor the approval documents explained the shift from a procurement to using the SII fund. ONB did not provide satisfactory explanation of how or why this transition was made.

<sup>3</sup> Funding recipient, personal correspondence, September 13, 2017

<sup>4</sup> Memorandum to the Executive Council 17 November 2017

***ONB did not update 2008 due diligence on whether circumstances had changed for other internet service providers to know if others could provide comparable services***

**2.57** In 2008, a tender was issued, for a similar rural internet upgrade project, which received five submission responses. The funding was awarded to Xplornet at that time. The 2017 application was presented as an upgrade or continuation of that work, however, ONB did not conduct due diligence to ascertain whether circumstances had changed for other internet service providers in the ten-year span. Without such analysis, ONB could not have known whether other potential proponents could meet the funding requirements or offer comparable solutions to that of Xplornet. By contrast, we noted other Atlantic Provinces considered multiple service providers. For example, Nova Scotia pre-qualified 15 service providers for participation in their rural internet funding program.

***ONB did not independently validate the 2008 rural internet milestone achievement***

**2.58** While the ONB/RDC submission for funding approval referred to the success of the 2008 project and highlighted milestones achieved, we found no evidence of independent evaluation reports to validate that prior milestones had been achieved.

**2.59** In July 2018, RDC submitted a letter of offer to ONB to fund \$10 million in contributions from the SII fund pursuant to the provincial government's funding approval. This letter became the RDC-ONB agreement in relation to the funding. We found RDC failed to design this RDC-ONB agreement in consideration of the SII fund guideline. We expected SII projects should follow the eligibility criteria as the funding guideline did not provide a mechanism for allowing exceptions. In our view, adhering to the funding guideline would help ensure the selection process for funding recipients is competitive and transparent such that any eligible vendor would have equal opportunity to participate in funding for rural internet.

***Funding deviated from the eligibility criteria***

**2.60** We noted the Xplornet contract deviated from the following SII fund eligibility criteria:

- maximum funding on eligible costs for for-profit corporations to be 25%; and
- type of assistance to be conditionally forgivable loan.

***Approval exceeded the maximum funding on eligible costs by \$2.5 million***

**2.61** In the April 2018 provincial government funding approval, \$10 million in non-repayable contributions was provided for the first phase of the rural internet upgrade, representing 33% of project costs totalling \$30 million. The SII fund imposed a contribution limit of 25%. This deviation increased the provincial contribution by \$2.5 million. Additionally, the SII fund specified the funding be provided via a conditionally forgivable loan where forgiveness would be based on tax revenue from construction and incremental annual economic activity. Non-repayable contributions would only be available where required by federal funding partners.

**2.62** We believe, due to the above noted deviations, other potential vendors would not have known funding was available in the form of non-repayable contributions at a rate of 33% eligible costs.

***Recommendation***

**2.63** We recommend Executive Council Office direct the responsible department or agency to ensure any future funding for rural internet is delivered through a competitive and transparent process by:

- issuing public tenders; or
- adhering to the terms and conditions of funding guidelines.

***The design of ONB's contract with Xplornet did not align with the ONB/RDC funding submission and Xplornet's proposal approved by the provincial government***

**2.64** We found the design of ONB's contract with Xplornet did not align with Xplornet's proposal and the funding submission which was approved by provincial government. We expected the contract would follow the RDC-ONB agreement and align with the funding submission, proposal and SII guidelines. We reviewed these documents to determine whether the contract deviated from what was proposed to and approved by the provincial government. Exhibit 2.9 illustrates deficiencies we noted in the design of the ONB-Xplornet contract.

Exhibit 2.9 - ONB-Xplornet Contract Design Deficiencies Identified

We expected the contract would:	
Be aligned with approved funding submission and Xplornet proposal	✗
Be aligned with SII fund guideline criteria	✗
Limit the timing of payments relative to the completion and acceptance of deliverables	✗
Include an overall project budget	✗
Identify eligible costs and their budget amounts	✗
Identify specific and verifiable project outcomes	✗
Identify a project schedule and detailed statement of work	✗

Source: Created by AGNB

**2.65** In our review, we noted a lack of information surrounding the negotiation of the contract. ONB could not explain why or how the contract was drafted in a manner that deviated significantly from Xplornet's proposal and funding submission approved by the provincial government.

**Key details omitted from the contract**

**2.66** We compared the 2018 Xplornet contract with the 2008 contract and found key elements which were omitted from the 2018 contract. The 2008 contract constrained the timing of payments to specific increments related to the completion of tower upgrades. This feature would have



ensured the tower upgrades were tested and accepted by ONB prior to payments being made. Additionally, there was a detailed list of communities intended to be served by the upgraded towers and a more detailed project plan with statement of work and infrastructure outcomes. These omitted elements would have improved ONB's ability to evaluate claims and ensure funding was specific to the scope of the contract.

***Limits on eligible costs not established in contract***

**2.67** We noted a draft letter of offer from ONB to Xplornet was provided with the 2017 funding submission. The draft letter included an approved eligible cost amount for the project, which capped eligible costs at \$88.9 million for both phases combined. An approved eligible cost amount, however, was not included in the final contract for phase one.

***Cost categories such as spectrum licenses were included which had not been contemplated in the funding submission***

**2.68** The contract did provide a descriptive list of project cost categories. However, there was no limitation or expectations related to the dollar amount for each category. We observed this descriptive list was identical to the 2008 funding agreement and had not been tailored to the scope of the proposed project. As a result, cost categories such as spectrum licenses were included which had not been contemplated in the ONB/RDC funding submission approved by the provincial government.

***Xplornet had discretion to determine its own contract deliverables***

**2.69** The 2018 contract did not identify specific and verifiable infrastructure outcomes, nor did it provide a detailed budget which would allow ONB to confirm the contract deliverables had been met. Instead, the requirements were left at the discretion of the contractor, stating the contract would deliver: “the purchase and activation of the networks strands determined by Xplornet to be required for phase one of the project.”<sup>5</sup>

***Eligible costs and project budget not itemized in contract***

**2.70** The contract defined eligible costs as direct capital costs and network capacity costs incurred for the design, implementation, and completion of the project. However, details of these eligible costs are not part of the contract. We noted the contract referred to a confidential preliminary

<sup>5</sup> ONB-Xplornet Funding Contract (letter of offer)

budget; however, ONB informed us there was no budget at the onset of the project.

**2.71** In the absence of a budget, we attempted to identify the intended eligible project costs from the original ONB/RDC funding submission made in November 2017. Exhibit 2.10 provides a breakdown of the \$88.9 million eligible costs identified over the five-year period.

*Exhibit 2.10 - Eligible Capital Expenditure Identified by RDC and ONB in the Funding Submission (\$ millions)*

<b>Eligible Capital Expenditure Identified by RDC and ONB in the Funding Submission (\$ millions)</b>					
<b>Capital Items</b>	<b>Fiscal Year</b>				
	<b>2018-2019</b>	<b>2019-2020</b>	<b>2020-2021</b>	<b>2021-2022</b>	<b>2022-2023</b>
Fibre Construction	\$14.8	\$14.4	\$4.0	\$2.0	\$2.0
Fibre Core – F6	5.7	0.2	0.2	0.2	0.2
Fixed Wireless Site Construction	12.6	10.4	0.3	0.0	0.0
Satellite Capacity & Gateway	3.5	0.0	0.0	0.0	0.0
Customer Premise Equipment & Installations	3.8	4.9	3.7	2.9	3.1
<b>Annual Total</b>	<b>\$40.4</b>	<b>\$29.9</b>	<b>\$8.2</b>	<b>\$5.1</b>	<b>\$5.3</b>
<b>Accumulated Total</b>	<b>\$40.4</b>	<b>\$70.3</b>	<b>\$78.5</b>	<b>\$83.6</b>	<b>\$88.9</b>

*Source: Created by AGNB from unaudited information received from ONB*

***Qualified capital expenditure list was not part of the contract***

**2.72** The five-year period was intended to span the entire project, which was subsequently split into two phases. We found this list of qualified capital expenditures was not part of the 2018 Xplornet contract and, consequently, was not considered in the evaluation of claims. Exhibit 2.11 shows total claim amounts by cost category submitted to and paid by ONB.

*Exhibit 2.11 - Claims Submitted to and Paid by ONB (\$ millions)*

<b>Claims Submitted to and Paid by ONB (\$ millions)</b>				
<b>Cost category</b>	<b>Claims amount</b>	<b>GNB Share @ 33%</b>	<b>10% Holdback</b>	<b>Actual paid</b>
Satellite capacity and gateway investment	3.3	1.1	0.1	1.0
Satellite support to maintain ground stations	0.8	0.3	0.0	0.2
600 MHz Spectrum licences	10.1	3.4	0.3	3.0
Fibre Purchase	10.0	3.3	0.3	3.0
Construction and /or upgrade of macro and micro sites with 100 Mbps capability	3.2	1.1	0.1	1.0
<b>Total (rounded)</b>	<b>\$27.4</b>	<b>\$9.1</b>	<b>\$0.9</b>	<b>\$8.2</b>

*Source: Created by AGNB from unaudited ONB data*

**2.73** At the time of our work, ONB approved contributions against costs at a rate of 33%, totalling \$9.1 million. As per the contract, ONB withheld 10% of claims payments as security against the final evaluation of deliverables under the contract. As a result, \$8.2 million was paid to Xplornet.

**2.74** Due to weaknesses in the design of the contract such as no specific and verifiable infrastructure outcomes or detailed project budget, it would have been difficult for ONB to ensure claims were approved in accordance with their agreement with RDC, the funding submission and the SII fund guideline.

### ***Recommendation***

**2.75** We recommend Regional Development Corporation and Opportunities New Brunswick ensure future contracts for funding of rural internet include details to enable proper evaluation of claims made by contractors. These should include but are not limited to:

- detailed statement of work;
- project budget; and
- specific and measurable outcomes.

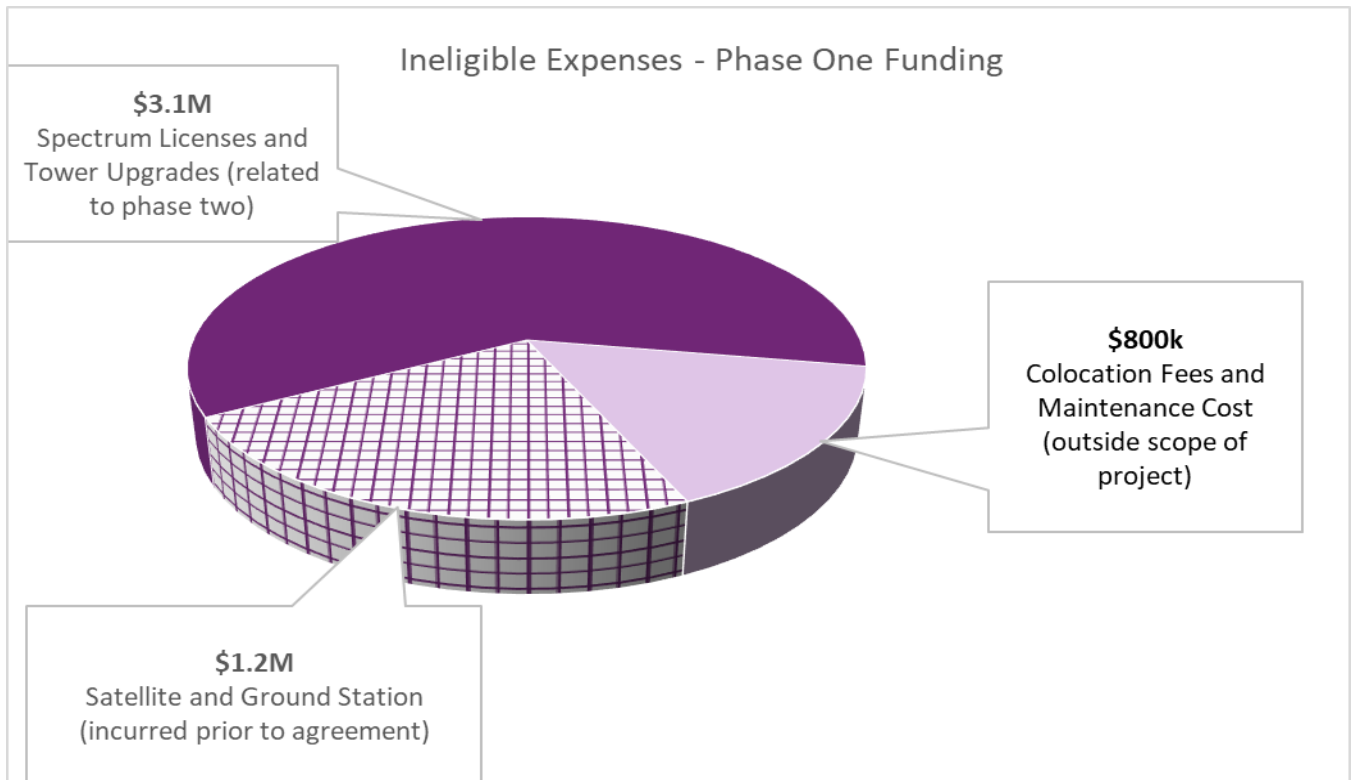
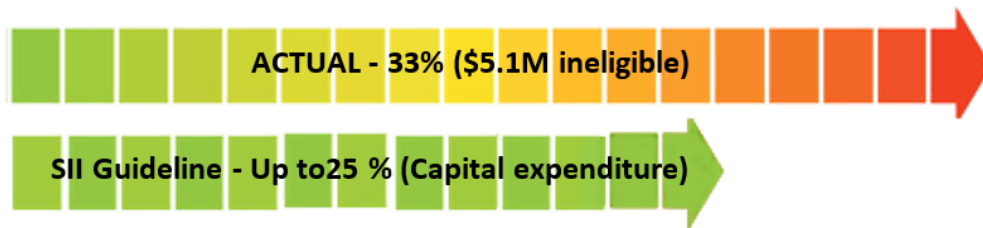
## Questionable Phase One Claims Evaluation

**ONB paid \$5.1 million for ineligible costs**

**2.76** We found ONB paid \$5.1 million for costs ineligible under the contract, including maintenance and spectrum licenses. We evaluated the claims review process to determine if claims met the criteria for approval. Payments were made contrary to their contract, SII guidelines and the list of qualified capital expenditures. Exhibit 2.12 illustrates the ineligible expense categories.

*Exhibit 2.12 - Ineligible Costs and SII Fund Guideline*

### Ineligible costs and SII fund Guideline



Source: Created by AGNB

***ONB paid \$3.1 million in phase two costs and unapproved scope change***

**2.77** The combination of paying ineligible costs and exceeding the maximum contribution rate increased the cost to tax payers. We found ONB allowed a significant change in project scope without obtaining the required approval from RDC. We noted \$3 million was paid in relation to a \$10 million acquisition of spectrum licenses by Xplornet. The RDC-ONB agreement explicitly states scope changes must be approved by RDC. We found no such approval on record.

**2.78** Xplornet stated the initial contract deliverables would remain the same; however, with a reduction of wireless towers to be upgraded as a result of the acquisition of the additional spectrum. With this change, some potential subscribers will now be positioned further from an available tower. It is unclear whether these subscribers will experience an improvement in the service versus what was originally proposed. We discuss this further in Appendix V.

**2.79** Further, the contract stated no phase two costs were to be incurred in phase one. We determined the spectrum licenses purchased were not utilized in the technical solution implemented during phase one.

**2.80** Similarly, in our review of claims related to tower construction or upgrades, we identified payments of \$100,000 for at least 35 towers not related to phase one.

**2.81** We also identified \$800,000 paid in relation to colocation fees and maintenance costs. Colocation and maintenance costs, which are operational expenses, were not identified as eligible costs in the contract nor as qualified eligible expenditures in the funding submission. The April 2018 provincial funding approval stated funding was meant to be provided in support of capital expenditures.

***Xplornet submitted a claim with \$11 million in satellite and ground station costs from as far back as 2010***

**2.82** Xplornet submitted a claim with \$11 million in satellite and ground station costs from as far back as 2010, despite having included a budget of \$3.5 million in the funding submission. ONB disputed this claim. Through discussion with Xplornet, ONB compromised and agreed to consider satellite and ground station costs only from January 2017 forward, totaling \$4.1 million.

***ONB paid \$1.2 million for costs incurred prior to signing contract***

**2.83** We noted ONB’s portion of satellite and ground station costs was \$1.2 million, paid in relation to costs incurred prior to the signing of the contract. Both the RDC-ONB agreement and the ONB-Xplornet contract stated any costs incurred prior to May 1, 2018 are not considered eligible expenses, except in the case of satellite capacity costs incurred in respect of satellite service deployment. Per the SII fund guidelines, however, costs incurred before the signing an agreement are ineligible. The exception for satellite costs did not provide a cut-off date from which satellite costs could be submitted. We could not determine if satellite costs incurred were relevant to the current project.

***Recommendation***

**2.84** We recommend Opportunities New Brunswick clearly identify approved eligible costs in future contracts of this nature, with a maximum amount payable to avoid paying for ineligible costs.

***ONB paid certain claims in advance***

**2.85** We found ONB paid certain claims in advance. Both the RDC-ONB agreement and the ONB-Xplornet contract required funds be provided as contributions, defined as “conditional transfer whereby specific terms and conditions must be met or carried out by a recipient before costs are reimbursed.”<sup>6</sup>

***ONB did not follow their non-repayable contributions policy***

**2.86** ONB has a policy related to the provision of non-repayable contributions, which states contributions for capital are usually provided upon project completion. As such, we expected ONB would require Xplornet to demonstrate terms and conditions of the contract were met before releasing funds. However, ONB told us this policy was not followed for the ONB-Xplornet contract.

***ONB did not verify specific terms and conditions of their contract were carried out by Xplornet before money was paid***

**2.87** In reviewing prior contracts, we noted the 2008 funding required Xplornet to demonstrate contract deliverables were met before funds were incrementally released. We observed no such requirement existed in the 2018 contract. ONB did not verify specific terms and conditions of their contract were carried out by Xplornet before money was paid. The ONB-Xplornet contract allowed incremental payments to be made based solely on Xplornet submitting claims for

<sup>6</sup> The Treasury Board of Canada Secretariat: *Guide on Grants, Contributions and Other Transfer Payments*

costs incurred and this was a significant contract design deficiency.

**2.88** We noted claims processed were described and labelled as advances in ONB's internal documents and communications to Xplornet. The RDC-ONB agreement explicitly prohibits advancing money; however, ONB stated Xplornet agreed verbally to accept payments as advances for satellite costs and spectrum licenses. While ONB did review documentation submitted with the claims, they required consultation of subject matter experts to verify the value of claims submitted. In our view, the claims should not have been approved prior to finalizing the claim review following expert consultation.

***ONB advanced \$4.2 million based on a verbal agreement contradicting the RDC-ONB agreement***

**2.89** ONB entered into this verbal agreement in contradiction to the terms of their agreement with RDC and significantly changed the nature of funding versus what was approved. ONB indicated they felt the 10% holdback would protect the Province in the event of overpayment; however, the contract stated the holdback was meant to secure the contract deliverables (pending evidence and confirmation of completion). These advance payments totalled \$4.2 million.

***Recommendation***

**2.90 We recommend Opportunities New Brunswick ensure any amendments to contract terms are authorized and documented in writing.**

***ONB failed to obtain technical expertise to review project claims before funds were released***

**2.91** We found ONB failed to obtain technical expertise to review project claims. Due to the technical nature of the rural internet contract, we expected ONB would secure appropriate expertise to evaluate the technical aspects of project claims. In our review of the claim approvals, we noted ONB had difficulty, due to their lack of technical expertise, in evaluating whether supporting records demonstrated Xplornet met the terms and conditions of the contract.

**2.92** In our audit of ONB's fiscal 2018-2019 financial statements, we noted communications in Xplornet's file indicated ONB was pursuing expert consultation to evaluate the technical aspects of the claims submitted. ONB's response at that time indicated they felt a 10% holdback of claims payments mitigated any risk contract deliverables would not be met. ONB accepted the risk that significant recovery of funds, which exceeds the \$912,000 holdback, may be required if contract deliverables go unmet. At the

time of our work, ONB had yet to evaluate the final holdback amount due and acknowledge completion of phase one.

**Recommendation**

**2.93 We recommend Opportunities New Brunswick acquire the necessary expertise to review technical aspects of future claims before releasing payments to funding recipients.**

## Unmet Phase One Contract Deliverables

***ONB’s contract with Xplornet did not provide clear and specific deliverables***

**2.94** We found ONB’s contract with Xplornet did not provide clear and specific deliverables and ONB did not have a process to ensure contract terms would be met. In November 2020, the Province and Xplornet issued a press release announcing completion of phase one of the project. The announcement indicated: “10,000 rural households and businesses have access to faster and more reliable internet service in alignment with universal broadband internet service standards”<sup>7</sup> Exhibit 2.13 shows the locations of towers upgraded in phase one.

*Exhibit 2.13 - Phase One Tower Locations and Coverage Area*



Source: created by AGNB with information provided by ONB

<sup>7</sup> Government of New Brunswick Press release 13 November 2020



**2.95** We expected ONB to demonstrate contract deliverables and expectations for phase one had been met. This funding phase was meant to provide internet access to 10,000 residences via satellite and an additional 10,000 residences via fixed-wireless. Xplornet was expected to provide 100/10 Mbps speeds via fixed-wireless with an unlimited data plan for a \$99.99 per month subscription fee. The subscription fee was to be capped until March 31, 2020. At the time of our work, ONB informed us 15 towers were upgraded to meet the fixed-wireless service level for Phase one.

***The project missed its planned completion date by over one year***

**2.96** Although the project completion date was planned to be March 31, 2019, live-date for the final tower upgrade was in April of 2020. We found the project missed its planned completion date for tower upgrades by over one year and passed the restricted pricing period for fixed wireless. Under project deliverables, the contract stated eligible costs incurred after the anticipated completion date of March 31, 2019 would still be entitled to funding.

***100/10 Mbps was not available to subscribers in the upgraded service area***

**2.97** We analyzed Xplornet's 2019 subscriber information and noted, out of a total of 23,600 subscribers, only 1,845 of those had subscribed to a package offering 50 Mbps download speed. However, the promised 100/10 Mbps service level was not available to subscribers in the upgraded service area at the time of our work.

**2.98** According to information provided by Xplornet, the 15 towers upgraded in phase one served 102 communities. In comparing these communities to the subscriber detail provided, approximately 3,400 subscribed to the fixed-wireless service in these areas. Exhibit 2.14 shows contract expectations versus what was delivered.

Exhibit 2.14 - Contract Deliverables Phase One: Comparing Expectations to Results

<h1>CONTRACT DELIVERABLES</h1> <h2>PHASE ONE</h2> <hr/> <h3>COMPARING EXPECTATIONS TO RESULTS</h3>	
Provide fixed-wireless internet access to 10,000 homes	According to our analysis, the radio bandwidth is insufficient to serve 10,000 residences
Required infrastructure upgrades with an anticipated completion date of 31 March 2019	15 tower upgrades needed – anticipated date missed by over a year
Provide 100/10 Mbps internet speeds for \$99.99 per month to subscribers until 31 March 2020	Xplornet did not offer 100/10 Mbps until May 2021 and at a price of \$119.99 per month.

Source: Created by AGNB

***Service offered did not meet the promised speed and price standards***

**2.99** In March 2021, we examined whether fixed wireless access at 100/10 Mbps was being provided to 10,000 households. We checked service availability on Xplornet’s website in a sample of subscriber postal codes from within these 102 communities. In all cases, we observed Xplornet was offering download speed of up to 50 Mbps for \$99.99 per month, which deviated from the 100/10 Mbps service standard proposed in the funding submission.

**2.100** In May 2021, Xplornet announced availability, in 48 communities, of 100/10 Mbps service at a price of \$119.99 per month. After March 31, 2020, per the contract, there was no longer a requirement for 100/10 Mbps to be offered at \$99.99 per month.

**2.101** In our view, the price cap would have been more effective if based on a duration of time rather than a defined cut-off date. Under the stated terms, New Brunswickers would not receive a benefit from the pricing stipulated in the ONB-Xplornet contract. However, in October 2019, ONB received a letter from Xplornet acknowledging that the pricing commitment will commence on the date that phase one of the funding has been completed and will be in effect for 12 months.

***ONB did not evaluate if the technical solution would handle the internet traffic if 100% of “uncabled” residences were to subscribe to the service***

**2.102** ONB did not evaluate whether the technical solution provided bandwidth to reliably serve 10,000 subscribers 100/10 Mbps. ONB interpreted “access” as providing a wireless signal to the geographic area and there was no expectation the technical solution would be able to handle the internet traffic if 100% of “uncabled” residences were to subscribe to the service.

***ONB accepted and paid for a solution which does not meet the contract deliverable of providing access to 10,000 users***

**2.103** We analyzed the potential bandwidth of the technical solution, based on the information provided. According to our analysis, the wireless bandwidth is insufficient to serve 10,000 residences. ONB accepted and paid for the solution which does not meet the contract deliverable of providing access to 10,000 users. Additional information regarding our analysis of the technical solution can be found in Appendix V.

**Recommendation**

**2.104 We recommend Regional Development Corporation and Opportunities New Brunswick set and enforce expectations regarding the performance and reliability of the technical solution to handle the required number of subscribers before providing additional project funding.**

***RDC announced completion of phase one and ONB paid \$8.2 million without verifying outcomes had been achieved***

**2.105** We found RDC announced completion of phase one and ONB paid \$8.2 million without verifying outcomes had been achieved. In their 13 November 2020 press release, RDC and Xplornet stated: “Phase one was funded in 2018 with a \$10-million non-repayable contribution from the province and a \$20-million investment by Xplornet and is now complete.” We found this announcement concerning.

**2.106** In our view, it was premature to announce completion of phase one. ONB was required to submit an evaluation to RDC within 30 days of project completion. However, at the time of our audit, this was not done despite the last tower upgrade having been completed in April 2020. ONB indicated to us the phase one funding was not complete because the final evaluation of project deliverables had not been conducted by them.

**Recommendation**

**2.107 We recommend Regional Development Corporation have a formal project completion and close out process whereby all outcomes are assessed and accounts reconciled before project completion is announced.**

***RDC and ONB did not enforce the terms of their respective contracts for phase one***

**2.108** We found RDC and ONB did not enforce the terms of their respective contracts for phase one. We expected RDC and ONB to ensure terms and conditions of their respective contracts were adhered to throughout the duration of the project and in administering the associated funding.

***Supporting records submitted with the claim did not meet the contract requirements***

**2.109** In our review of claims, we observed instances where supporting records submitted with the claim did not meet the contract requirements. Under the contract, Xplornet was required to submit supporting records such as paid invoices, cancelled cheques, bank statements and signed contracts. We found claims were submitted with excerpts from financial statement figures and internal capital asset listings for fixed-wireless tower, satellite and ground station costs. None of the records referenced in the contract were submitted for these claims, yet ONB approved the claims and transferred funds to Xplornet. ONB told us they felt protected because they had advanced the funds to Xplornet

and felt they could recover any overpayments at the end of the project.

*Pursuing federal funding for phase two was missed opportunity to enforce the terms of the phase one agreement*

**2.110** RDC did not acquire a final activity report on funding outcomes which ONB was required to provide within 30 days of project completion. RDC proceeded with the application process to pursue federal funding for phase two without adequately assessing whether ONB or Xplornet had met the terms and conditions of the RDC-ONB agreement. Although completion of phase one was not a condition for pursuing federal funding, in our view, this was a missed opportunity to enforce the terms of the phase one agreement and evaluate whether to proceed as planned.

**2.111** We found communication between RDC and ONB was inadequate to ensure they adhered to their respective contracts and agreements. We expected RDC and ONB to collaborate to ensure public funds were safeguarded and used effectively. This did not happen.

*Recommendation*

**2.112 We recommend Opportunities New Brunswick and Regional Development Corporation implement procedures to:**

- **evaluate contract performance on a timely basis; and**
- **monitor and enforce the terms and conditions of their funding agreements.**

*Neither RDC nor ONB publicly reported on the funding performance for phase one*

**2.113** We found neither RDC nor ONB publicly reported on performance relative to the funding for phase one. We expected ONB and RDC to develop clearly defined performance metrics at the onset of the project in order to properly evaluate whether project funding is achieving the objective of providing an essential service to New Brunswickers. We also expected either one or both organizations would publicly report on funding performance using such metrics in order to promote transparency in government funding. Neither of them did.

*Performance metrics reported were not specific to improving or expanding internet access*

**2.114** We noted RDC did report on performance related to SII fund and informed us the project leveraged \$20 million in investments and supported 31 full time positions. These performance metrics were related to job creation and local reinvestment of funds. They were not specific to improving or expanding internet access.

***ONB and RDC were not held accountable for the outcomes related to provincial funding for rural internet***

**2.115** Without public reporting on project progress against appropriate performance metrics, ONB and RDC were not held accountable for the outcomes related to provincial funding for rural internet. In our view, performance metrics should measure both the outcomes and the extent to which outcomes are attributable to government funding. Performance metrics for rural internet projects should measure attributes of the internet service against service level expectations to ensure intended outcomes are being achieved.

***Recommendation***

**2.116** We recommend Opportunities New Brunswick and Regional Development Corporation define specific metrics for rural internet service and publicly report on progress to ensure accountability.

## Rural Internet Funding: Phase Two

**2.117** We reviewed the documentation of the phase two Federal application for rural internet funding and noted risks related to New Brunswick's obligations. We sought clarification in relation to these risks; however, at the time of our work, RDC did not provide a satisfactory explanation regarding any of the following:

- budget figures did not align with original proposal considering phase one costs incurred;
- the statement of work for phase two included towers which were upgraded in phase one;
- fixed wireless budget for phase one reduced and moved to phase two; and
- since there was no statement of work for phase one, it would be difficult for RDC to reconcile the work remaining to what was originally proposed.

**2.118** In the November 2017 funding submission, eligible costs for the entire project, prior to being split into two phases, were \$89 million. Phase one included eligible costs of \$30 million. The purchase of spectrum licenses increased eligible costs by an additional \$10 million and therefore, \$69 million eligible cost should remain from the original proposal (not considering potential savings due to fewer towers in the design because of additional spectrum).

**2.119** In the contribution agreement between New Brunswick and Xplornet, eligible costs for phase two are identified for a total of \$80 million. Exhibit 2.15 compares the project budget originally submitted with the November 2017 funding proposal, the actual project costs incurred in phase one and the project budget included in the phase two contribution agreement.

*Exhibit 2.15 - Eligible Cost Comparison: Project Proposal, Phase One Actuals and Phase Two Budget (\$ millions)*

<b>Eligible Cost Comparison: Project Proposal, Phase One Actuals and Phase Two Budget (\$ millions)</b>			
<b>Eligible Costs</b>	<b>November 2017 proposal (phase one and two combined)</b>	<b>Phase one expenditures (actual as of March 2020)</b>	<b>September 2020 phase two contribution agreement (budgeted)</b>
Fibre Construction	37.2	0.0	38.1
Fibre Core	6.5	10.0	0.0
Fixed Wireless Construction	23.3	4.8	25.7
Satellite Capacity and Gateway	3.5	11.0	0.0
Network Connectivity	0.0	0.0	15.2
Customer Premise Equipment & Installation	18.4	2.0	0.0
Wage Capitalization, Program Management and Support	0.0	0.0	1.0
Spectrum	0.0	10.5	0.0
<b>Total Eligible</b>	<b>88.9</b>	<b>38.3</b>	<b>80.0</b>
Ineligible costs	62.0	0.0	51.6
<b>Total Project Cost</b>	<b>150.9</b>	<b>38.3</b>	<b>131.6</b>

*Source: Created by AGNB from unaudited data from ONB and RDC*

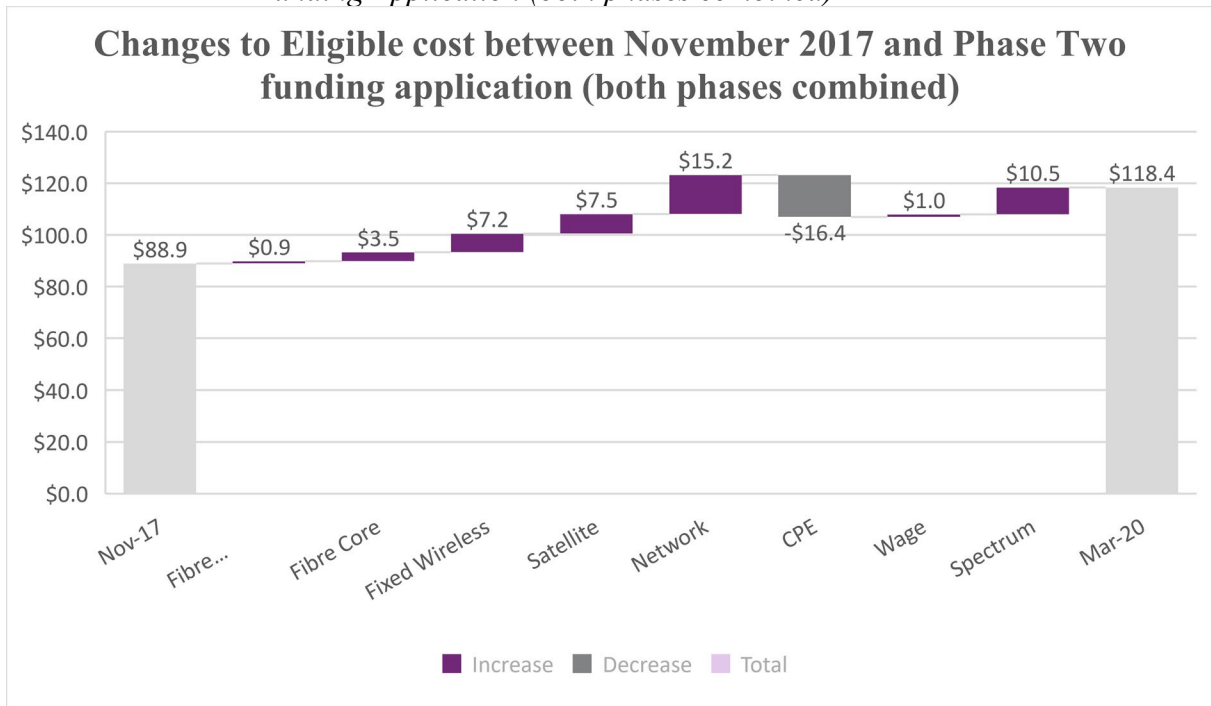
***Fixed wireless construction costs increased by 31% over 2017 proposal***

**2.120** We noted, despite purchasing spectrum licenses and reducing the number of towers to be upgraded, the budget for fixed-wireless construction in phase two has increased and is greater than what was originally proposed in 2017. This increase combined with the actual \$4.8 million spent on fixed wireless construction in phase one will result in \$30.5 million total fixed wireless costs versus \$23.3 million

from the November 2017 funding application, a 31% increase.

**2.121** Overall, the approved project cost increased by \$30 million due to the introduction of spectrum and network connectivity costs as well as increases to fixed-wireless and satellite budgets. Exhibit 2.16 shows changes to eligible costs over time for the two phases combined.

*Exhibit 2.16 - Changes to Eligible Cost Between November 2017 and Phase Two Funding Application (both phases combined)*



Source: Created by AGNB from unaudited data from ONB and RDC

**Information submitted to the Federal government in a project change request was incorrect**

**2.122** We found information submitted to the Federal government in a project change request was incorrect. In March 2020, New Brunswick requested to change the Federal cost-share from 38.83% to 49.95% so Xplornet can have access to the entire program contribution of \$40 million. RDC submitted the change request to the Federal government stating: “The total eligible costs have been reduced . . . by decreasing the number of tower sites and removing Customer Premise Equipment and Installation component that was deemed ineligible.”



- Change request failed to acknowledge overall eligible costs have increased*** **2.123** Removal of customer premise equipment did reduce eligible costs by \$16.4 million; however, fixed-wireless construction costs have increased over what was originally proposed in the funding application. RDC told us this increase was due to Xplornet choosing a different brand of radio equipment versus what was considered in the 2017 proposal. However, without more detailed information on the variance in fixed wireless construction costs, we were unable to validate the net effect of reducing wireless towers versus choosing another brand of equipment.
- Statement of work for phase two included 14 of the 15 phase one towers*** **2.124** In our review of the statement of work documentation for phase two, we noted 14 of the 15 phase one towers were included. RDC could not provide an explanation as to what work remained to be completed on these towers. During our work, RDC indicated to us they requested Xplornet remove phase one towers from the phase two statement of work.
- RDC may not be able to reconcile Phase one and Phase two work*** **2.125** It is unclear whether the progress in the phase one project is being captured within the project budget for phase two. Overall, as there was no statement of work for phase one, it would be difficult for RDC to reconcile what work was required to meet the deliverables for phase one and what remains for phase two. RDC indicated to us they were unaware any work had been conducted on phase two towers in phase one. Without such a reconciliation, we could not determine if phase two budget estimates were accurately calculated.
- 2.126** We expected RDC would have a process in place to screen expenses prior to submitting to the Federal government. At the time our work was completed, no claims had been approved for phase two, so we were unable to verify what screening process will be in place. RDC indicated to us Xplornet will be paid only for costs incurred after the Federal approval date. At the time of our work; however, the Federal approval date had passed and work on phase one appeared to be ongoing. In our view, this overlap in phases presents a risk that current phase one work may be submitted as part of phase two funding.

**Recommendation**

**2.127 We recommend Regional Development Corporation implement a review process for rural internet upgrade phase two funding to ensure claims submitted to the Federal government are accurate and compliant with the Integrated Bilateral Agreement and no costs are claimed related to phase one work.**

**Phase two reporting on outcomes will be required in 2027**

**2.128** We found phase two reporting on outcomes will be required in 2027. We were encouraged to note, under the IBA, the contract for phase two appears to include elements of control which will help to ensure contract deliverables are met. Phase two has been developed with a project budget, scope of work, schedule, and acceptance test plan.

**2.129** Under the IBA, information such as annual infrastructure plans and reporting such as project progress are required to be submitted to the Federal government, and final reporting will conclude in 2027. The Federal government reserves the right, under the IBA, to share information publicly and report on the success of programs supported by the agreement.

**2.130** The phase two project is scheduled to be completed in 2024; however, public reporting on results of the IBA is slated for three years after project completion.

**Recommendation**

**2.131 We recommend Regional Development Corporation explore options to report publicly on the progress of the internet upgrade in a more timely manner and at least annually.**

## Appendix I – Audit Objectives and Criteria

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The objective and criteria for our audit of funding for rural internet are presented below. Opportunities New Brunswick and Regional Development Corporation senior management reviewed and agreed with the objective and associated criteria.

<b>Objective</b>	To determine if funding for rural internet is achieving the desired outcome of providing rural New Brunswickers access to affordable high-speed internet.
Criterion 1	The province should conduct a needs assessment to define the scope of the funding.
Criterion 2	Opportunities New Brunswick and Regional Development Corporation should ensure funding outcomes align with the Canadian Radio-television and Telecommunications Commission’s standards for internet speed and are priced competitively for the local market.
Criterion 3	The province should establish sound governance structures to manage the rural broadband upgrade project.
Criterion 4	Opportunities New Brunswick and Regional Development Corporation should ensure funding outcomes and eligibility criteria are clear and communicated publicly to ensure fairness.
Criterion 5	Opportunities New Brunswick and Regional Development Corporation should ensure due diligence process has been established to evaluate, select and communicate funding recipients in accordance with eligibility criteria.
Criterion 6	Opportunities New Brunswick and Regional Development Corporation should ensure funding is disbursed for the agreed upon purpose.
Criterion 7	Opportunities New Brunswick and Regional Development Corporation should have an accountability framework to monitor and report on Phase I project outcomes and progress on Phase II.

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Source of Criteria: Developed by AGNB based on review of legislation, best practices and reports by other jurisdictions’ Auditors General. Further guidance was obtained from documents published by Canadian Radio-television and Telecommunications Commission; Innovation, Science and Economic Development Canada; Infrastructure Canada; Treasury Board of Canada and the Atlantic Growth Strategy.

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## **Appendix II – About the Audit**

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This independent assurance report was prepared by the Office of the Auditor General of New Brunswick on Opportunities New Brunswick (ONB) and Regional Development Corporation (RDC) on Funding for Rural Internet. Our responsibility was to provide objective information, advice, and assurance to assist the Legislative Assembly in its scrutiny of ONB's and RDC's provision and administration of funding for rural internet.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook – Assurance.

AGNB applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Rules of Professional Conduct of Chartered Professional Accountants of New Brunswick and the Code Professional Conduct of the Office of the Auditor General of New Brunswick. Both the Rules of Professional Conduct and the Code are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

In accordance with our regular audit process, we obtained the following from management:

- confirmation of management's responsibility for the subject under audit;
- acknowledgement of the suitability of the criteria used in the audit;
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided; and
- confirmation that the findings in this report are factually based.

### **Period covered by the audit:**

The audit covered the period between April 1, 2018 and March 31, 2020. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters that preceded the starting date of the audit.

### **Date of the report:**

We obtained sufficient and appropriate audit evidence on which to base our conclusion on September 23, 2021, in Fredericton, New Brunswick.

## Appendix III – Subsequent Events

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Under the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook – Assurance; paragraph 66 states the following in respect to subsequent events:

*When relevant to the engagement, the practitioner shall consider the effect on the underlying subject matter and on the assurance report of events up to the date of the assurance report, and shall respond appropriately to facts that become known to the practitioner after the date of the assurance report that, had they been known to the practitioner at that date, may have caused the practitioner to amend the assurance report.*

The subjects below were matters which occurred outside of our period of audit but were significant undertakings by the auditees in respect to funding for rural internet. In all cases, we considered the effect on the underlying subject matter and conclusions of our report.

### ***Phase I towers completed 30 April 2020***

According to the information provided by ONB, the 15<sup>th</sup> and final tower upgrade was finished 30 April 2020.

### ***Phase II agreement dated 20 May 2020***

According to information provided by RDC, maximum Federal funding for phase two, under the *Canada-New Brunswick Integrated Bilateral Agreement for the Investing in Canada Infrastructure Program*, was approved in the amount of \$40 million. The funding will be awarded at a contribution rate of 49.95% of eligible costs.

### ***Announcement of completion of phase one 13 November 2020***

RDC published a press release on 13 November 2020 with the headline *Further broadband upgrades coming to rural New Brunswick*. The release stated: “Phase one was funded in 2018 with a \$10-million non-repayable contribution from the province and a \$20-million investment by Xplornet and is now complete.”

### ***Announcement of 100/10 availability 18 May 2021***

Xplornet published a press release on 18 May 2021 with the headline *Faster Speeds Available: Xplornet providing access to 100/10 Mbps speeds to more than 11,000 homes and businesses in New Brunswick*. The release stated: “Xplornet . . . launched Xplore 100×10 UNLIMITED service today across 48 rural communities in New Brunswick, offering download speeds up to 100 Mbps and upload speeds up to 10 Mbps with full speed unlimited data to more than 11,000 homes and businesses.”

### ***Evaluation of final claim and holdback ongoing as of reporting date***

ONB informed us that progress toward an evaluation of the final claim and holdback, worth \$791 000 and \$1 million respectively, was made as of the date of our report.

At the time of our report, nine of 15 tower completion certificates, indicating the coverage area of each tower, had been received and validated by ONB. Additional work was conducted to validate the number of households in each of the coverage areas. The nine towers provided service to 7,800 of the 10,000 households per ONB’s analysis.

According to ONB, evaluation of the remaining deliverables was ongoing.

## Appendix IV–Definitions and Technical Terms

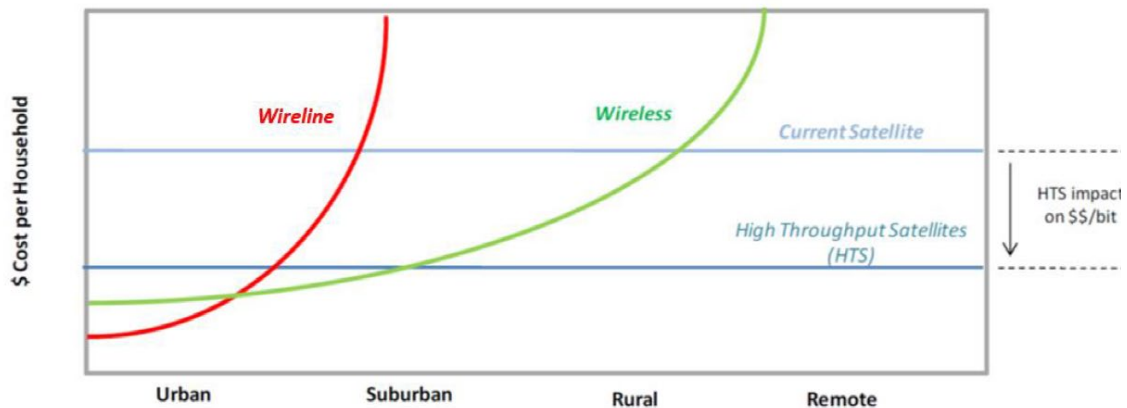
Term	Defined
<b>50 megabits per second for download and 10 megabits per second for upload (50/10 Mbps)</b>	Speed identified by CRTC for Canadians to take advantage of cloud-based software applications, multiple government services, online learning resources and high-definition streaming videos.
<b>Atlantic Growth Strategy</b>	A strategy launched by the Government of Canada and the Atlantic provincial governments to accelerate the growth of Atlantic Canada’s economy.
<b>Bandwidth</b>	The amount of data that can be sent through a connection, usually measured in bits per second.
<b>Coaxial cable (COAX)</b>	A copper wire surrounded by insulation which is itself surrounded by a grounded shield of braided wire, minimizing electrical and radio frequency interference.
<b>Contribution</b>	A conditional transfer whereby specific terms and conditions must be met or carried out by a recipient before costs are reimbursed.
<b>Digital subscriber line (DSL)</b>	A family of digital telecommunications protocols designed to allow high-speed data communication over the existing copper telephone lines between end-users and telephone companies.
<b>Download speed</b>	The speed at which data, including pictures and video, is being delivered to you from the Internet.
<b>Fiber</b>	A type of cable that uses glass threads or plastic fibres to transmit data using pulses of light.
<b>Fixed wireless</b>	A service for providing high-speed internet to a fixed location, such as a home or business. The wireless signal is typically transmitted from a tower to an antenna installed on the roof of the home or business in question.
<b>Guaranteed household percentage</b>	The percentage of subscribing households that are guaranteed to achieve a specific set of download/upload speed requirements simultaneously, while all other households would still get a minimum download/upload speed.
<b>Internet Service Provider (ISP)</b>	The company that provides access to the internet.
<b>Last Mile</b>	The connection between the broadcast tower and the customer’s premises.
<b>Latency</b>	The time it takes for data to travel from a source to a destination. A shorter latency is better.
<b>Loan guarantee</b>	A promise by the Province to pay all or a part of the principal and / or interest on a debt obligation in the event of default by the funding recipient.

**Appendix IV–Definitions and Technical Terms – continued**

<b>Term</b>	<b>Defined</b>
<b>Maximum resource requirement to serve farthest subscribing household</b>	Limit on percentage of spectrum resources used by the farthest subscribing household at the edge of the coverage area to achieve the target download/upload speed requirements.
<b>Maximum oversubscription ratio</b>	Ratio of a specific set of download/upload speed requirements to the system capacity per required number of subscribers. Whereas a ratio of 1 would mean all subscribers can access 100% of the specified download/upload speed simultaneously, a ratio of 20 would mean all subscribers can access 5% of the specified download/upload speed simultaneously.
<b>Minimum service standard</b>	Providing a target download/upload speed when required by subscribing households up to the farthest edge of the service area and providing a minimum QoS to all subscribing households at all times.
<b>Megabits per second (Mbps)</b>	The most common unit of measurement for describing the speed of high-speed internet connections.
<b>Needs assessment</b>	Is a process that would identify high speed internet service gaps across rural New Brunswick. The assessment should include as a minimum identification of internet service needs of different users and mapping of assets/ properties with potential internet needs after collecting detailed unbiased community-level data to scope out the requirements to meet the 50/10 objective.
<b>Quality of service (QoS)</b>	Evaluates whether a technical solution meets criteria for latency, packet loss and jitter.
<b>Satellite</b>	A microwave receiver, repeater, and regenerator in orbit above earth.
<b>Spectrum</b>	The full range of radio waves used to transmit sound and data wirelessly.
<b>Spectrum License</b>	The Canadian government regulates access to spectrum under the authority of Industry, Science, and Economic Development (ISED) Canada, which provides access to the radiofrequency spectrum by issuing authority for its use.
<b>“Uncabled” residences</b>	Xplornet’s determination of their target customers.
<b>Upload speed</b>	The speed at which data travels to you from the Internet, such as the speed to upload a video.
<b>Uptime</b>	Refers to the percentage of time a machine or system is in operation.
<b>Wireless transceiver</b>	A device consisting of a transmitter and a receiver.

## Appendix V– Brief Technology Explanation

The most common delivery methods for internet to residences fall under wireline, wireless and satellite technology. Offering internet in rural areas is a challenge due to the cost of equipment in relation to the number of households. In areas of higher population density, expensive equipment becomes more feasible as the investment can be recovered over time from a greater distribution of internet subscribers. By contrast, in rural areas, more investment is required to reach fewer subscribers. Private investment in equipment is less attractive in these areas. The following table depicts the three technologies and their cost in relation to types of population centre.



Source: Bright Star Canada: *Nova Scotia Department of Business Last Mile Strategy*

The following table shows speed capabilities of the alternative internet technologies. Generally, running physical cables to houses in rural and remote areas is costly and, in the case of DSL and cable, performance becomes an issue over long distances as well. Fixed Wireless and Satellite solutions become attractive options for these areas, although potential speeds currently lag what is possible with a cable or fiber-optic connection.



## Appendix V– Brief Technology Explanation – *continued*

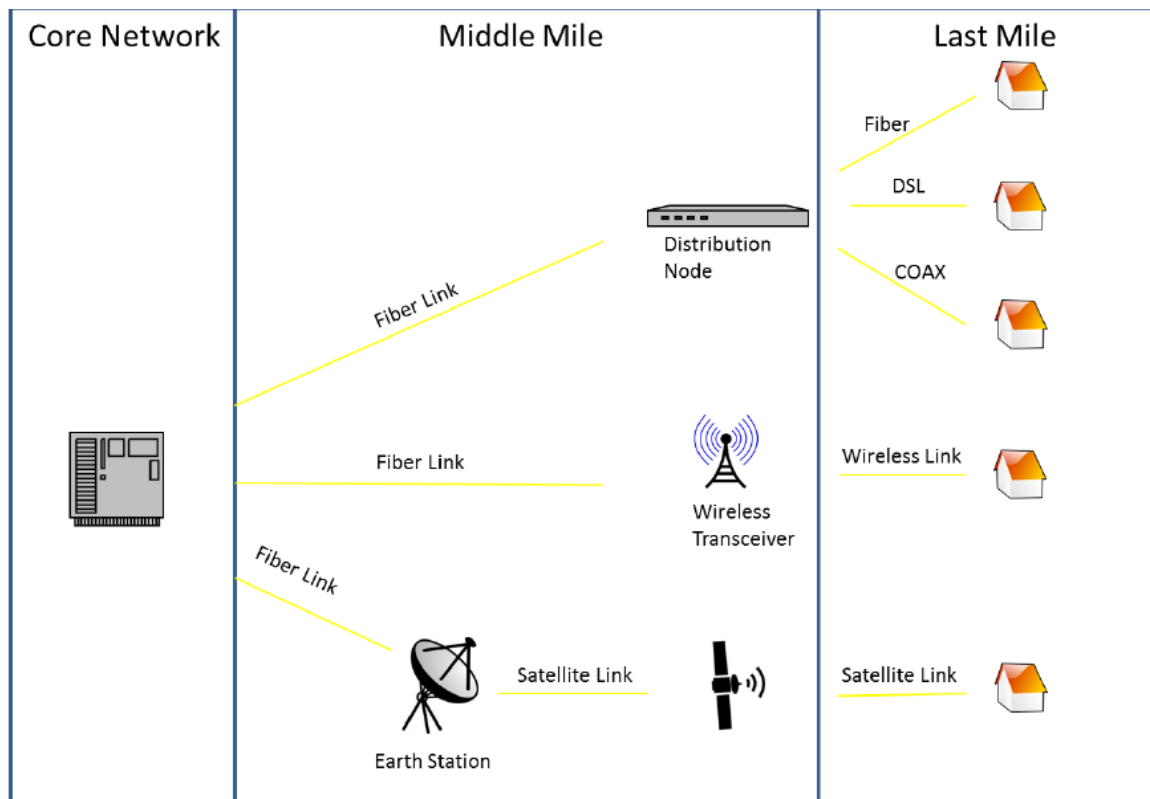
Technology Type	Speed Capabilities	Most Common Usage	Trend
<b>DSL</b>	1.5 – 25 Mbps	Lower speeds in rural areas due to long copper loops, higher speeds in urban due to fibre	Speeds increasing in urban areas, but not being matched in rural settings
<b>Fibre to the Home</b>	25 – 1,000 Mbps	Used to offer bundles of TV and high-speed Internet access	Most deployments in urban areas and new developments
<b>Cable (DOCSIS)</b>	6 – 250 Mbps	Used to offer bundles of TV and high-speed Internet access	Speeds typically increasing throughout service areas
<b>Fixed Wireless</b>	<1 – 150 Mbps	Used in rural areas where there are some facilities to carry traffic	Although high speeds theoretically possible, most residential offerings are 5 Mbps and below
<b>Mobile Wireless</b>	<1 – 150 Mbps	Used either with smartphones and tablets, or for home access in some areas	Speed varies greatly by location, and depends on number of users; highest speeds in urban areas
<b>Satellite</b>	<1 – 10 Mbps	Used mainly in regions that do not have reliable alternative options, or as backup	Speeds increasing due to new satellite technology (up to 25 Mbps), but still lag behind more advanced options

Source: Federation of Canadian Municipalities

Fixed wireless uses a broadcast tower to provide a wireless signal to a receiver installed at the subscriber's location. The advantage is a broadcast signal can cover a wide geographic area with a reduced investment in physical cable. Fixed wireless technology has limitations in that physical obstacles and adverse weather conditions may interrupt the wireless signal.

Satellite internet service is similarly a wireless solution which covers a wide geographic area. Satellite can be similarly interrupted by adverse weather conditions. Additionally, satellite solutions are limited by the physical distance of satellites from the earth, which increases latency; the term used to describe the delay incurred in moving data across a network. The following table depicts common internet technologies and their linkages, consisting of core network, middle mile to distribution technology and last mile to the end user.

## Appendix V– Brief Technology Explanation – *continued*



Source: Ernst and Young: *Review of Alternatives for Rural High Speed Internet*

The rural internet upgrade proposed by Xplornet primarily uses fixed-wireless technology, consisting of a fiber link to radio towers which then transmit a signal to equipment at the customer premises. Radio transmission is via a frequency band (spectrum), measured in hertz (Hz) of which there are a variety and consist of varying signal strength characteristics and data transfer potential. The project also included limited and temporary use of satellite, but this technology is unable to achieve the required download speed.

Phase one of the project uses 2.5GHz and 3.5GHz spectrum. In April, 2019, Xplornet purchased licences to allow the use of 600 MHz. For Phase two, Xplornet proposes to use 600MHz in addition, but with fewer wireless transmission towers. This is a significant engineering design change of Xplornet’s original proposal.

It is possible that a fixed-wireless deployment plan utilizing 600MHz but with fewer towers can provide the same data rate to the end users as compared to an alternative plan utilizing 2.5GHz and 3.5GHz alone and more towers. This is because the 600MHz band has better wireless signal strength characteristics. However, some customers will now be farther away from the nearest tower because there are fewer towers overall, so their signal strength in the 2.5GHz and 3.5GHz spectrum will drop.

The design was meant to provide 73,000 “uncabled” residences with access to 100 Mbps download speed. The 100 Mbps speed is an advertised peak data rate. The actual data rate that the customers experience will depend on how far away the customers

## Appendix V– Brief Technology Explanation – *continued*

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are located from the wireless tower and how many customers are being served simultaneously by the tower at any given time.

The revised Phase two proposal is premised on reducing the number of wireless tower sites from 170 to 148. In Xplornet’s new deployment plan, because the number of wireless towers is reduced, each needs to support a larger number of subscribers. In the current design, the 73,000 “uncabled” residences would need to share 148 towers, each with a rated capacity of 1.7 Gbps. Assuming 500 customers per base-station, this would give only 3.4 Mbps simultaneously per subscriber.

It is unlikely, however, that all subscribers would require full access to a tower simultaneously at any given time. Innovation, Science and Economic Development Canada (ISED) suggests the use of an oversubscription ratio to predict the integrity of a fixed wireless network, calculated as the rate requirement (100 Mbps) divided by the available rate to targeted customers. ISED suggests a value of 20 or lower is reasonable for the oversubscription ratio<sup>8</sup>.

Based on the deliverable, which states 73,000 “uncabled” residences is the target, the oversubscription ratio based on 100 Mbps required and 3.4 Mbps available would be 29, which falls outside of ISED’s suggested acceptable range for the metric.

Xplornet’s original proposal anticipated a market penetration rate of 40%, indicating they expected approximately 30,000 subscribers, or 200 per tower, would sign on to the service. Assuming 200 customers per tower, this would give 8.5 Mbps per customer. With 8.5 Mbps available to 30,000 subscribers, the result would be an oversubscription ratio of 11.8, which falls within the reasonable range.

For phase one of the project, the deliverable stated 10,000 residences would have access to 100 Mbps download speed. Upgrades to 15 towers in this phase resulted in each having 1.7 Gbps capacity, which would serve an average of 667 subscribers. The oversubscription ratio for the phase one work calculates as 39, outside of the acceptable range as per ISED. It appears the technical solution was not designed to support the number of users quoted in the proposal and required by the contract.

Future contracts for funding similar projects would benefit from the use of oversubscription ratio and other such metrics to ensure results are achieved. Possible metrics for evaluating the wireless service include compliance with:

<sup>8</sup> Communications Research Centre Canada: *Capability Evaluation of Fixed Wireless Access Systems to Deliver Broadband Internet Services*  
[https://www.ic.gc.ca/eic/site/139.nsf/vwapj/CapabilityEvaluationBroadbandInternetService.pdf/\\$file/CapabilityEvaluationBroadbandInternetService.pdf](https://www.ic.gc.ca/eic/site/139.nsf/vwapj/CapabilityEvaluationBroadbandInternetService.pdf/$file/CapabilityEvaluationBroadbandInternetService.pdf)

**Appendix V– Brief Technology Explanation – continued**

<b>Metric</b>	<b>Definition</b>
<b>Oversubscription Ratio</b>	Combined service capacity that a group of end users have subscribed to divided by the network capacity provisioned to support those end users.
<b>Minimum Service Standard</b>	Minimum download/upload speed subscribing households are capable of achieving simultaneously.
<b>Guaranteed Household Percentage</b>	Percentage of subscribing households that are guaranteed to achieve target download/upload speeds simultaneously, while all other households would still get a minimum quality of service.
<b>Maximum Resource Requirement to Serve Farthest Subscribing Household</b>	Maximum percentage spectrum resource to provide the farthest subscribing household at the edge of the coverage area target download/upload speed without significantly reducing service quality to other subscribing households.
<b>Quality of Service</b>	Expectations for latency, packet loss and jitter.
<b>Uptime Availability Standards</b>	Measure of reliability expressed as the percentage of time in which a network is operational.

Source: Communications Research Centre Canada: *Capability Evaluation of Fixed Wireless Access Systems to Deliver Broadband Internet Service*

**Appendix VI– Atlantic Canadian Jurisdictional Information**

	<b>NS</b>	<b>NL</b>	<b>PEI</b>	<b>NB</b>
<b>Planning</b>	<ul style="list-style-type: none"> <li>• A needs assessment was conducted</li> <li>• Key stakeholders were consulted</li> <li>• Strategic plans<sup>9</sup> in place</li> </ul>	<ul style="list-style-type: none"> <li>• A background study was conducted in 2005</li> <li>• Rural Broadband Initiative (RBI) launched in 2011 to provide incentives to ISPs to expand broadband access into unserved and underserved rural and remote areas</li> </ul>	<ul style="list-style-type: none"> <li>• A broadband internet network build and operations – Planning worksheet<sup>10</sup> in place</li> </ul>	<ul style="list-style-type: none"> <li>• No needs assessment was conducted</li> <li>• Except for a platform commitment, there is no strategy</li> </ul>

<sup>9</sup> [Internet-for-Nova-Scotia-Initiative-Strategic-Plan.pdf \(developns.ca\)](#)

<sup>10</sup> [Broadband Internet network build and operations - Proponent Instructions | Government of Prince Edward Island](#)

	NS	NL	PEI	NB
<b>Target</b>	<ul style="list-style-type: none"> <li>50/10 Mbps speeds for wired, 25/5 Mbps for wireless, with a demonstrated plan to reach 50/10 Mbps</li> </ul>	<ul style="list-style-type: none"> <li>Unknown</li> </ul>	<ul style="list-style-type: none"> <li>50/10 Mbps speeds for 90 per cent of homes and businesses</li> </ul>	<ul style="list-style-type: none"> <li>To exceed CRTC mandated speeds of 50 megabits per second (Mbps) and upload speeds of 10 Mbps for 90 per cent of households by:                             <ul style="list-style-type: none"> <li>providing up to 100 Mbps download speeds and up to 10 Mbps upload speed via fixed wireless technology; and</li> <li>providing up to 25 Mbps download speeds and up to 5 Mbps upload speed via satellite technology.</li> </ul> </li> </ul>

	NS	NL	PEI	NB
<b>Contracting</b>	<ul style="list-style-type: none"> <li>• An initial call to organizations interested in providing internet issued in Dec 2018, led to 10 pre-qualified organizations</li> <li>• A request for proposal for projects issued in May 2019 led to contract with five ISPs</li> <li>• Five more pre-qualified were added leading to 15 pre-qualified proponents<sup>11</sup></li> </ul>	<ul style="list-style-type: none"> <li>• A request for proposal for the RBI resulted in four companies being successful to connect to 81 communities<sup>12</sup>.</li> <li>• The Province contracted Bell Aliant to extend broadband coverage to 13 rural communities<sup>13</sup></li> <li>• In 2018, there was a Federal-provincial agreement to serve up to 70 rural and remote communities<sup>14</sup></li> </ul>	<ul style="list-style-type: none"> <li>• A request for proposal issued in 2018 for expansion of broadband across the Province<sup>15</sup></li> <li>• Two separate agreements signed with Bell and Xplornet</li> <li>• Agreements in place for Islanders through the PEI Broadband Fund (PEIBF). The fund provides funding up to \$150,000 to local companies. As of October 2020, over 15 companies had been supported</li> </ul>	<ul style="list-style-type: none"> <li>• No tendering process</li> <li>• In 2018, the Province approved a \$10 million contribution for phase one of a two-phased project with Xplornet. The Province conditionally approved the second phase of the project with a total estimated project cost for both phases of \$150 million.</li> </ul>

<sup>11</sup> [FAQs | Internet for Nova Scotia Initiative | Develop Nova Scotia \(developns.ca\)](#)

<sup>12</sup> [Broadband Service Extended to Over 5,000 Additional Households \(gov.nl.ca\)](#)

<sup>13</sup> [Thirteen Communities to Receive Broadband Service \(gov.nl.ca\)](#)

<sup>14</sup> [Significant Investments to Improve Internet Access in Newfoundland and Labrador - News Releases \(gov.nl.ca\)](#)

<sup>15</sup> [Expansion of Broadband Internet Services Across PEI | Government of Prince Edward Island](#)

	NS	NL	PEI	NB
<b>Administration</b>	<ul style="list-style-type: none"> <li>Funding managed by Develop Nova Scotia, a Crown Corporation<sup>16</sup></li> </ul>	<ul style="list-style-type: none"> <li>Funding managed by the Department of Innovation, Business and Rural Development (IBRD)</li> </ul>	<ul style="list-style-type: none"> <li>Funding for local ISPs managed by PEIBF</li> <li>eligibility and application process publicly available</li> </ul>	<ul style="list-style-type: none"> <li>Funding is provided by the Regional Development Corporation and administered by Opportunities New Brunswick</li> </ul>

<sup>16</sup> [Project Background | Internet for Nova Scotia Initiative | Develop Nova Scotia \(developns.ca\)](#)



	NS	NL	PEI	NB
<b>Monitoring and Accountability</b>	<ul style="list-style-type: none"> <li>• SLAs include provisions that require quality and service reporting as well as inspection and audit of network installation</li> <li>• Regular meetings with partners to check progress against objectives</li> <li>• Checks on equipment and installation progress remotely and through in-person inspection by an experienced engineer when safe to do so</li> </ul>	<ul style="list-style-type: none"> <li>• Not publicly available</li> </ul>	<ul style="list-style-type: none"> <li>• Funding is provided incrementally as companies meet performance and construction milestones</li> </ul>	<ul style="list-style-type: none"> <li>• No formalized accountability framework.</li> <li>• Funds are provided irrespective of project completion status.</li> </ul>
<b>Public Reporting on Progress</b>	<ul style="list-style-type: none"> <li>• Coverage maps of underserved areas, timeline and progress</li> </ul>	<ul style="list-style-type: none"> <li>• Not publicly available</li> </ul>	<ul style="list-style-type: none"> <li>• Coverage maps of underserved areas, timeline and progress available for large contracts</li> <li>• Approved projects for the PEIBF available</li> </ul>	<ul style="list-style-type: none"> <li>• No public reporting on progress</li> </ul>

# Chapter 3

## Covid-19 Funding – New Brunswick Workers’ Emergency Income Benefit – Department of Post- Secondary Education, Training and Labour

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# Covid-19 Funding – New Brunswick Workers’ Emergency Income Benefit – Department of Post-Secondary Education, Training and Labour

Report of the Auditor General – Volume I, Chapter 3 – October 2021

## Why Is This Important?

- Oversight and monitoring of programs to help the most vulnerable should be a priority for government
- Government paid nearly \$37 million in total emergency benefits to over 40,000 applicants (\$900 per applicant) and an additional \$2.1 million to a third-party service provider to administer the emergency benefit program
- This was a new program area for the Department, resulting in higher risk of an inefficient and ineffective implementation

## Overall Conclusions

The Department:

- did not adequately plan for delivery of the New Brunswick Workers’ Emergency Income Benefit program;
- utilized a weak contract for services that was underdeveloped; and
- did not monitor program delivery to ensure required results were effectively and efficiently achieved.

While this program successfully aided over 40,000 New Brunswickers, planning for future provincial emergency response programs needs improvement.

## What We Found

### Poor Controls

- Social Insurance Number was requested but no control was in place to ensure its validity
- Department failed to obtain 827 applicant Social Insurance Numbers during the program, increasing fraud risk
- Advancing \$54.5 million in lump sum payments effectively negated a key contract control
- \$15.8 million in unused funding not reimbursed until January 2021
- No program risk assessment or Department-wide fraud risk completed

### Lack of Transparency and Accountability

- Department could provide little evidence for program planning or rationale for key decisions made
- Department did not share service-provider debrief information with SNB
- No public reporting of program results planned by the Department

### Weak Contract

- Roles and responsibilities between contract parties were unclear
- Program-critical activities added outside contract terms required additional Department resources
- No appeals process was planned
- Department had only five days to plan the program, design and negotiate the contract

### Inadequate Monitoring

- Department did not request or receive weekly reports required by the contract
- Service-provider payments of \$2.1 million not verified by Department
- No one at Department monitored program activities against contract terms and took corrective action
- Program final report not finalized until December 2020 – program ended June 2020

## Key Findings and Observations Table

### New Brunswick Workers' Emergency Income Benefit – Department of Post-Secondary Education, Training and Labour

Paragraph	Key Findings and Observations
	<b>Poor Controls and Weak Contract</b>
3.27	<i>Department did not have adequate time to plan the NBWEIB program</i>
3.29	<i>Department overestimated service provider capacity</i>
3.31	<i>Inadequate planning led to increased Department resource needs</i>
3.34	<i>Department was not aware of key third-party operational document</i>
3.38	<i>Controls over accuracy of SIN provided by applicants were weak</i>
3.40	<i>Poor communication between Department and service provider led to breakdown of key program control</i>
3.44	<i>Directive to halt identity validation may have delayed payments to affected applicants</i>
3.49	<i>No appeal process included in program planning</i>
3.53	<i>Contract did not fully detail roles and responsibilities of Department and service provider</i>
3.54	<i>Department continued negotiation with service provider after the contract was finalized to more fully determine roles and responsibilities</i>
3.55	<i>Department was not aware of Virtual Operations Team (VOT) resource requirements during contract negotiation</i>
3.60	<i>Poor oversight of redeployed Department resources under management of contracted service provider</i>
3.64	<i>Service New Brunswick directed Part I and Part II entities to follow a temporary emergency procurement process</i>
3.66	<i>Required purchase order not issued for nearly a year following Cabinet approval of program</i>
3.67	<i>Department did not forward service provider challenges to SNB</i>
3.69	<i>Department did not perform risk analysis for the program</i>
3.72	<i>Total demand for program ten times number forecasted by Department</i>
3.74	<i>Weak controls over verification of payments to service provider</i>
3.75	<i>Lump sum payment effectively negated control over contracted reporting requirement</i>
3.78	<i>Department had up-to-date Emergency and Pandemic Influenza plans in place</i>

3.84	<i>Contract did not sufficiently outline objectives of the program to allow program administration to align with objectives</i>
	<b>Inadequate Program Monitoring</b>
3.90	<i>Department did not have an assigned staff member actively monitoring the contract</i>
3.91	<i>Department did not enforce weekly monitoring reports required by in the contract</i>
3.92	<i>Department not requesting monitoring reports set out in the contract led to missed opportunities to discover and fix issues throughout program implementation</i>
3.93	<i>Final program report delivered five months late</i>
3.96	<i>Department has yet to verify the payments made to service provider</i>
3.100	<i>Department made over \$40,000 in payments to service provider outside the terms of the contract</i>
	<b>Lack of Transparency and Accountability</b>
3.105	<i>Rationale for key decisions were not well documented</i>
3.108	<i>Department does not plan to publicly report on the performance of NBWEIB</i>

## Recommendations and Responses

Recommendation	Department’s response	Target date for implementation
<b>We recommend the Department of Post-Secondary Education, Training and Labour:</b>		
<b>3.36 request supporting details or documentation from third-party service providers for inclusion in schedules attached to third-party contracts.</b>	<i>The Department agrees with this recommendation and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers’ Emergency Income Benefit.</i>	<i>Ongoing</i>
<b>3.43 plan for the collection of all necessary information to satisfy tax requirements when developing programs such as the New Brunswick Workers Employment Income Benefit.</b>	<i>The Department agrees with this recommendation and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers’ Emergency Income Benefit.</i>	<i>Ongoing</i>
<b>3.48 when developing new programs, design key controls to mitigate fraud risk and maintain the control structure throughout a program implementation.</b>	<i>The Department agrees with this recommendation and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers’ Emergency Income Benefit.</i>	<i>Ongoing</i>

*Recommendations and Responses (continued)*

Recommendation	Department's response	Target date for implementation
<b>We recommend the Department of Post-Secondary Education, Training and Labour:</b>		
<b>3.52 ensure an appeals process is present in programs that provide financial benefits to applicants to ensure fairness in program implementation.</b>	<i>The Department does not agree that a formal appeals process is always required when providing financial assistance, particularly when the eligibility criteria for the program are very clear. With respect to the New Brunswick Workers' Emergency Income Benefit, applications were re-considered due to data entry errors or misunderstanding of the questions; individuals who did not meet the criteria were not allowed to appeal their eligibility in the program.</i>	<i>Not applicable</i>
<b>3.59 clearly document program roles and responsibilities during program and contract development when using a third-party service provider.</b>	<i>The Department agrees with this recommendation and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers' Emergency Income Benefit.</i>	<i>Ongoing</i>
<b>3.68 provide feedback to Service New Brunswick on challenges faced when working with third-party service providers to promote continuous improvement in contracting services.</b>	<i>The Department agrees with this recommendation and will provide feedback to SNB Strategic Procurement on any challenges with third-party service providers.</i>	<i>Ongoing</i>

*Recommendations and Responses (continued)*

Recommendation	Department's response	Target date for implementation
<b>We recommend the Department of Post-Secondary Education, Training and Labour:</b>		
<b>3.76 perform and record risk analysis including appropriate mitigation strategies during the development of new programs.</b>	<i>The Department agrees with this recommendation. The Department's Internal Audit unit will develop a fraud risk analysis template to be used during the development of new programs.</i>	<i>December 31, 2021</i>
<b>3.77 periodically perform a formal fraud risk assessment of its organization, then design and implement adequate controls over programs to address identified risks.</b>	<i>The Department agrees with this recommendation. The Internal Audit unit will work with the Audit Committee and the Senior Management Committee to complete a formal fraud risk assessment of the Department.</i>	<i>March 31, 2021</i>
<b>3.88 develop objectives using SMART or another system to ensure program objectives clearly state what will be accomplished, and to further enhance the Department's ability to report and use performance metrics to improve services.</b>	<i>The Department agrees with this recommendation and has now adopted a performance-based funding model for all new contracts.</i>	<i>Ongoing</i>
<b>3.95 actively monitor contract performance and ongoing results when contracting with third-party entities to deliver provincial programs and take corrective actions to address performance deficiencies when necessary.</b>	<i>The Department actively monitors contract performance and results and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers' Emergency Income Benefit.</i>	<i>Ongoing</i>



*Recommendations and Responses (continued)*

Recommendation	Department's response	Target date for implementation
<b>We recommend the Department of Post-Secondary Education, Training and Labour:</b>		
<b>3.99 validate the payments made to Red Cross were used solely for NBWEIB program purposes.</b>	<i>The Department agrees with this recommendation. The Internal Audit unit of PETL will be conducting a further validation of the financial information and expense reports that were provided by the Canadian Red Cross and reviewed by the Department's Financial Services unit.</i>	<i>December 31, 2021</i>
<b>3.103 follow best practices to address the need for changes and unforeseen circumstances in future contracts.</b>	<i>The Department actively monitors contract performance and results and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers' Emergency Income Benefit.</i>	<i>Ongoing</i>
<b>3.107 create a policy to support and reinforce record keeping for meetings and decisions made when developing programs to ensure accountability and transparency.</b>	<i>The Department agrees with this recommendation and notes that this was an isolated situation due to the exceptional nature of the New Brunswick Workers' Emergency Income Benefit.</i>	<i>Ongoing</i>

*Recommendations and Responses (continued)*

Recommendation	Department’s response	Target date for implementation
<p><b>We recommend the Department of Post-Secondary Education, Training and Labour:</b></p>		
<p><b>3.111 publicly report on the performance of significant programs.</b></p>	<p><i>There are a number of existing mechanisms through which program performance and information are reported, including the departmental Annual Report, the Standing Committee on Public Accounts, the Standing Committee on Estimates and Fiscal Policy, responses to Right to Information requests, and performance audits by the Office of the Auditor General. PETL will continue to use these existing accountability and transparency mechanisms to report on program performance and will consider any additional reporting mechanisms that may be appropriate.</i></p>	<p><i>Ongoing</i></p>

*Recommendations and Responses (continued)*

Recommendation	Department’s response	Target date for implementation
<p><b>We recommend the Executive Council Office:</b></p>		
<p><b>3.82 create a formalized process to provide direction, guidance, and resources to departments that are tasked with new activities during an emergency not covered under defined Mission Critical Business Functions within their respective Emergency Preparedness Plans.</b></p>	<p><i>The Department of Justice and Public Safety, through the NB Emergency Measures Organization, monitors risks and coordinates planning, resulting in the Provincial Emergency Plan. Established risks and plans include the need for emergency social supports, including financial supports, during events. Arrangements under this plan were leveraged to develop and then deliver the New Brunswick Workers' Emergency Income Benefit.</i></p>	<p><i>Completed</i></p>

**Audit Introduction**

**3.1** On March 19, 2020 New Brunswick declared a state of emergency due to the Novel Coronavirus (Covid-19) pandemic. Public health measures set out in the state of emergency caused many businesses to close temporarily and affected workers to be laid off. The New Brunswick Workers’ Emergency Income Benefit (NBWEIB) program was developed to provide bridge funding for those whose income was affected by the pandemic closures until the promised Federal employment program launched.

**Why we chose this topic**

**3.2** We chose to audit the New Brunswick Workers’ Emergency Income Benefit program for the following reasons:

- Oversight and monitoring of programs designed to help the most vulnerable should be a priority for government.
- The potential transfer of up to \$100 million to a third-party service provider to deliver the program in four-weeks constituted significant financial risk to the Province.
- This was a new program area for the responsible Department, resulting in higher risk of an inefficient and ineffective program implementation.

**Audit Objective**

**3.3** The objectives of this audit were to determine if the Department of Post-Secondary Education, Training and Labour:

- planned and contracted for the effective delivery of the Covid-19 funding initiative; and
- monitored the delivery of Covid-19 funding to eligible recipients.

**Audit Scope**

**3.4** We examined the Department of Post-Secondary Education, Training and Labour’s New Brunswick Workers’ Emergency Income Benefit Program planning and implementation. We collected audit evidence from other stakeholders including the Executive Council Office, Service New Brunswick, and Canadian Red Cross – New Brunswick. Canadian Red Cross – New Brunswick was the third-party contracted to deliver the New Brunswick Workers’ Emergency Income Benefit program on behalf of the Province. We did not audit Canadian Red Cross – New

Brunswick. Our work focused on the Department's implementation of the program.

**3.5** More details on the audit objectives, criteria, scope and approach used in completing our audit can be found in Appendix I and Appendix II.

## Conclusions

**3.6** While this quickly deployed program successfully aided over 40,000 New Brunswickers, there are valuable lessons learned and opportunities for improvement for any future provincial emergency benefit response program. Based on our observations and findings, we concluded the Department of Post-Secondary Education, Training and Labour:

- did not adequately plan for the implementation of the New Brunswick Workers' Emergency Income Benefit program;
- utilized a weak, underdeveloped contract for services; and
- did not adequately monitor the program to ensure required results were achieved in an efficient and effective manner.

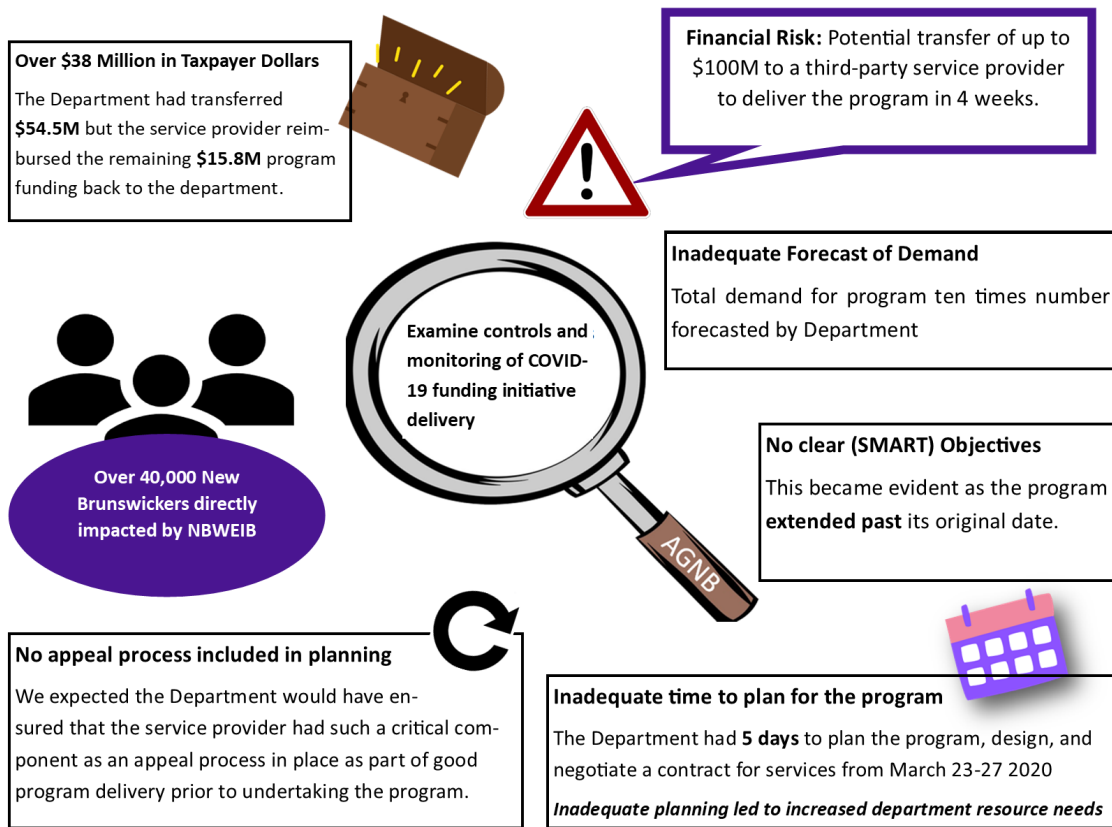
**3.7** We understand the Department was tasked with implementing this program on short notice, however the weaknesses identified are important to understand in planning for future emergency benefit response programs. Planning for future emergency benefit programs needs improvement to protect against risk of fraud, program ineffectiveness and unclear roles and responsibilities if third-party service providers will be involved and regardless of which department is responsible.

## Background Information

**3.8** The Department of Post-Secondary Education, Training and Labour (the Department), through the WorkingNB branch, was tasked with developing and implementing an emergency employment income replacement benefit payable to eligible New Brunswick citizens in partnership with the Canadian Red Cross - New Brunswick (Red Cross).

**3.9** An overview of the program is found in Exhibit 3.1.

*Exhibit 3.1 - Overview of New Brunswick Workers’ Emergency Income Benefit Program*



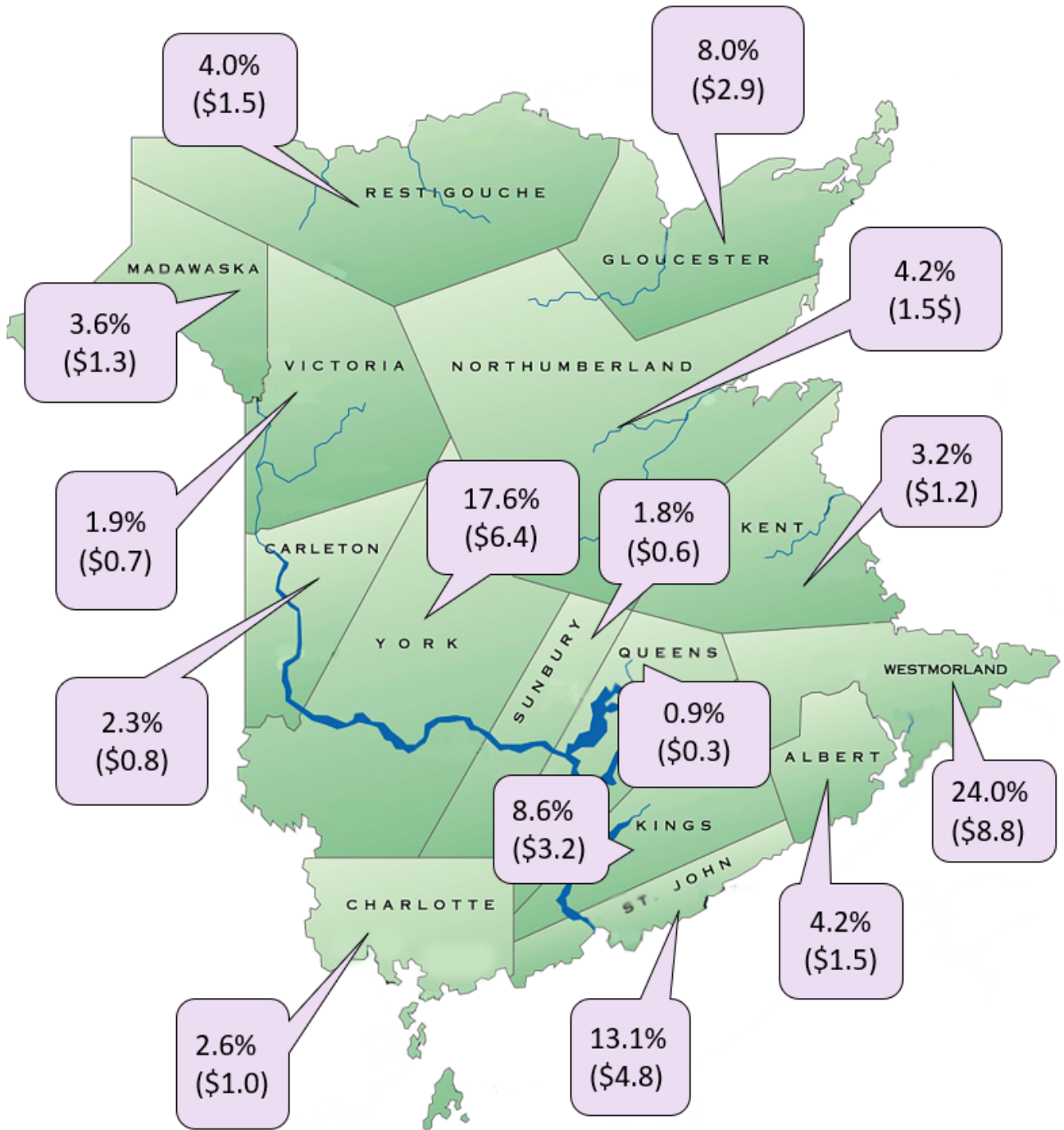
Source: Created by AGNB with information from the Department of Post-Secondary Education, Training and Labour and Red Cross (unaudited).

**3.10** The intent of the New Brunswick Workers’ Emergency Income Benefit (NBWEIB) was to mirror the Canadian Emergency Response Benefit (CERB) from the Government of Canada, providing a similar level of income replacement for a two-week period. The program was developed to ensure citizens of New Brunswick would not be without income if the Federal program experienced delays.

**3.11** Exhibit 3.2 shows an estimated regional breakdown of successful applicants to the program by county and the corresponding estimate of benefits delivered to the applicants in each county.

Exhibit 3.2 - Estimated Regional Breakdown by County of Applicants Who Received New Brunswick Workers' Emergency Income Benefit.

**Estimated Regional Breakdown by County of Successful Applicants (in percentage, \$ millions)**



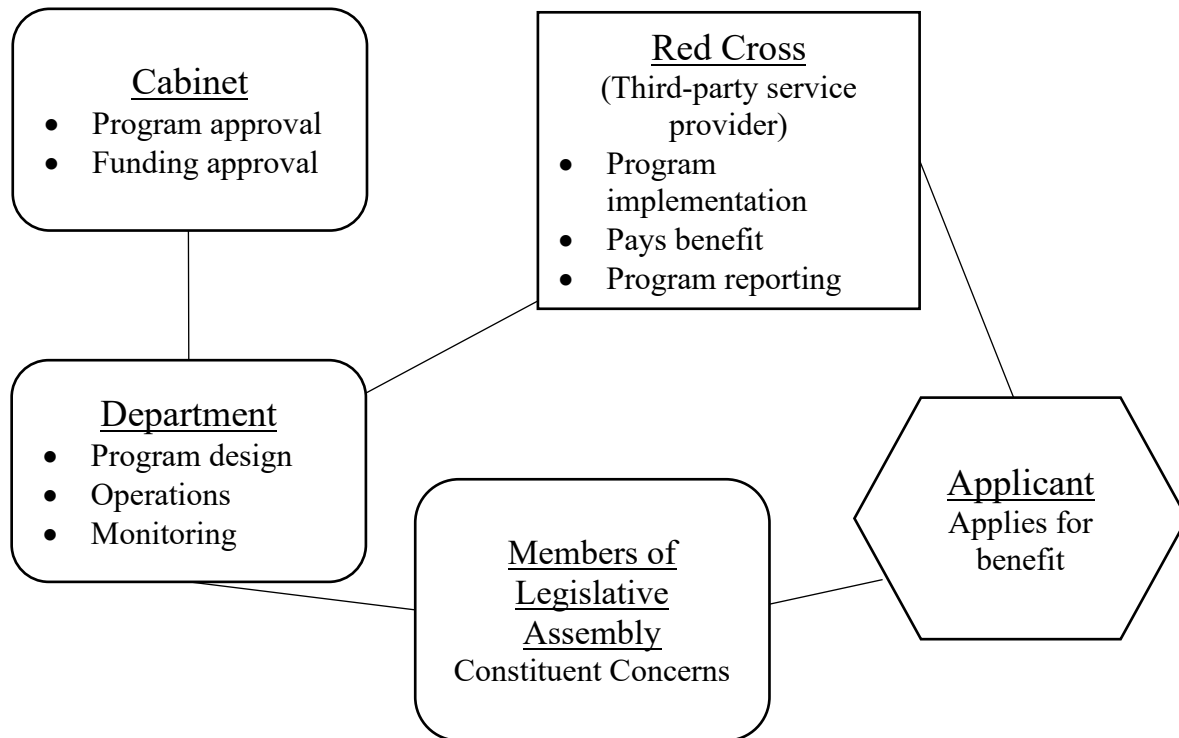
Source: Created by AGNB with information from Red Cross, the Department of Post-Secondary Education, Training and Labour, and postal code sorting (unaudited)

**3.12** The objectives of the NBWEIB program were to:

- register applicants online and by telephone;
- assess online and telephone applications and determine eligibility; and
- provide a one-time income benefit payment of \$900 to eligible applicants.

**3.13** NBWEIB was announced on March 26, 2020 and set to launch March 30, 2020 with a website and phonenumber for individuals to register for the program. A summary timeline of the NBWEIB program is presented in Appendix III. A diagram of the key players and a brief description of their roles in the NBWEIB program is presented in Exhibit 3.3.

*Exhibit 3.3 - Diagram of Key Players Involved in New Brunswick Workers' Emergency Income Benefit Program*



*Source: Created by AGNB with information from Department of Post-Secondary Education, Training and Labour (unaudited)*



**3.14** Potential applicants were required to register and have their identity validated prior to submitting applications for the benefit. Overall, the number of registrations on the first day (March 30, 2020) was far greater than the Department anticipated (37,768 registered). The Department was concerned the number of successful applicants in the first few days would exceed Red Cross's available cashflow (by April 1, 2020, 21,734 applications were submitted equaling \$19.6 million in benefits).

**3.15** To address this concern, the Department sought Cabinet approval to increase the total funding available for the program. Cabinet approved a maximum of \$100 million in funding for the program. In addition to the approved initial advance of \$4.5 million to Red Cross, the Department subsequently advanced \$50 million in additional funding to the service provider to cover the remainder of the program. The Department planned to verify program costs after the program was complete instead of verifying costs throughout program implementation as described in the contract.

**3.16** Exhibit 3.4 presents abbreviated financial information for the NBWEIB program.

*Exhibit 3.4 - New Brunswick Workers' Emergency Income Benefit Comparison of Budgeted Cost to Actual Cost of Program (\$ millions)*

**New Brunswick Workers' Emergency Income Benefit  
Budget vs Actual (\$ millions)**

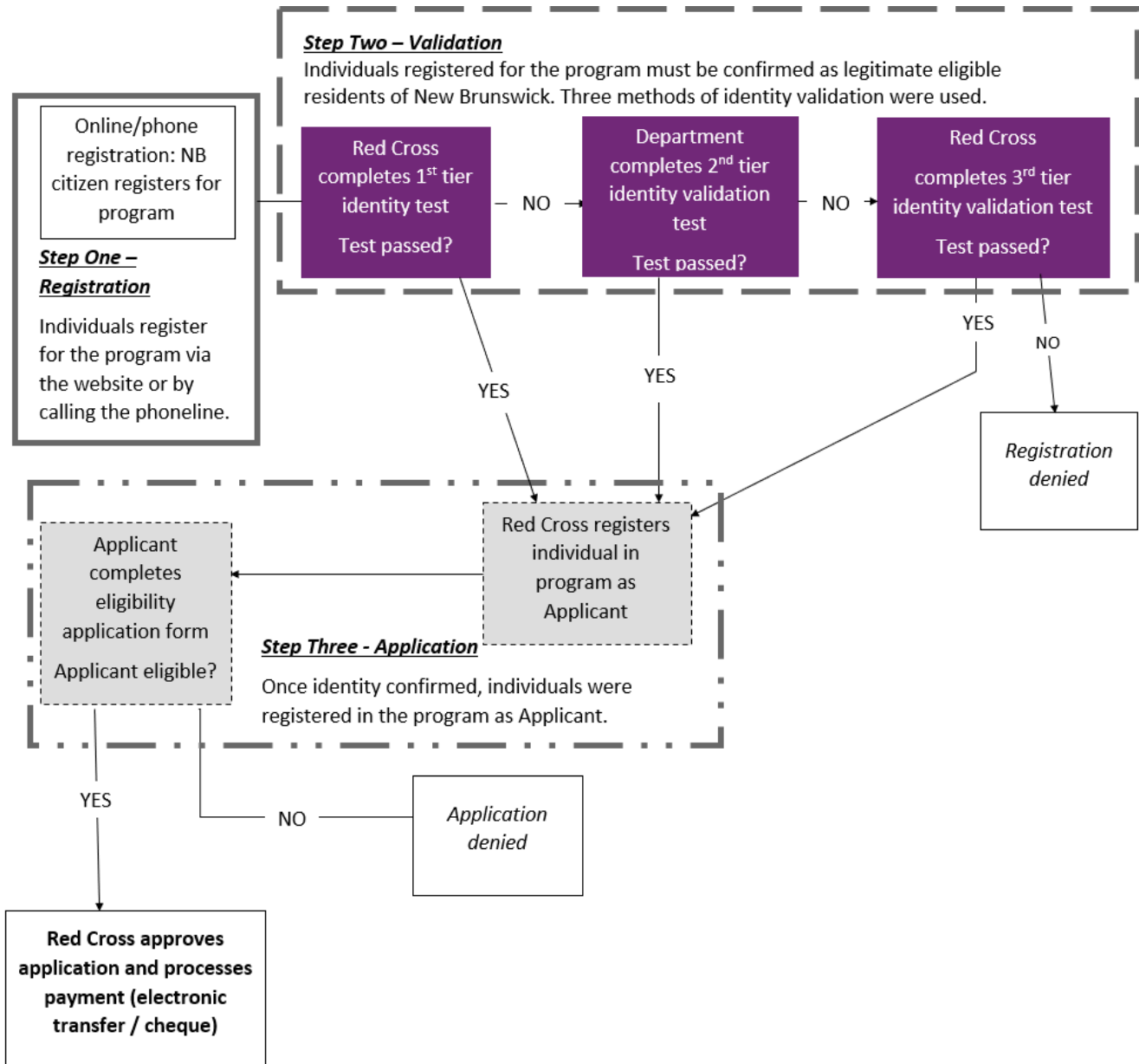
<b>Expense</b>	<b>Budgeted</b>	<b>Actual</b>	<b>Unspent</b>
Program Costs	\$4.0	\$0.8	\$3.2
Administrative Fee	2.5	1.3	1.2
<b>Sub-total service-provider cost</b>	<b>\$6.5</b>	<b>\$2.1</b>	<b>\$4.4</b>
Benefit Payments to 40,582 Applicants	68.4	36.6	31.9
<b>Total</b>	<b>\$75.0</b>	<b>\$38.7</b>	<b>\$36.3</b>
<b>Total funding advanced to service</b>		<b>54.5</b>	
<b>Total recovered from service-provider in 2021</b>		<b>\$15.8</b>	

*Source: Created by AGNB with information from Department of Post-Secondary Education, Training and Labour (unaudited and rounded).*

*Note: Program received a second approval from Cabinet for up to \$100 million in funding, \$25 million over the original budget of \$75 million. Total amount advanced to service provider was \$54.5 million, of which \$15.8 million was recovered.*

- 3.17** After the contract was finalized, the Department added additional resources to the program in the form of secondments to Red Cross for a virtual operations centre, management of a program email inbox, and identity validation work (described below). The Department had to deploy a total of 77 employees to the NBWEIB program.
- 3.18** On March 30, 2020, Red Cross informed the Department a second method to validate the identity of applicants would be necessary to ensure all applicants were legitimate New Brunswick residents. This was because Red Cross could not account for all applicant information using their established method (checking an Equifax database for name and address). The Department's second tier validation method (checking Motor Vehicle Inspection database for name and address) could not validate all applicants either, requiring Red Cross to then use a third method to validate applicant identities (visual inspection of documentation).
- 3.19** On April 6, 2020, the Federal CERB was launched. Due to this, the end date of NBWEIB was moved up to April 9, 2020 from the original April 30, 2020 delivery date. This change caused some uncertainty for potential applicants experiencing difficulties with the application process or who experienced technical problems with the application form.
- 3.20** The Department fielded requests from the Premier's Office and Members of the Legislative Assembly to review some individuals' applications. The Department could not provide us the total number of re-submitted applications when we made the request. VOT staff contacted applicants who had problems applying for the program or had questions that required escalation from their original registration.
- 3.21** Exhibit 3.5 provides a simplified outline of the process followed by Red Cross to register and evaluate program applications.

Exhibit 3.5 - Simplified Version of New Brunswick Workers' Emergency Income Benefit Registration and Application Process.



Source: Created by AGNB with information from Department and Red Cross (unaudited)

**3.22** The process in Exhibit 3.5 includes the three steps used to validate the registrant’s identity:

- Tier I validation was completed by Red Cross through their normal internal process;
- Tier II validation was completed by the Department and consisted of a motor vehicle verification process; and
- Tier III validation was completed by Red Cross using applicant-submitted identity documentation.

**3.23** We estimated the average applications processed in April for the program totalled approximately 1,800 per day. Due to the re-application and identity validation issues, program participants continued to submit applications up until June 23, 2020. An estimated average of 30 applications were processed per day in May and an estimated average of 12 were processed in June. The time between successful application and payment being issued averaged approximately 3 days.

**3.24** We recognize the Department was operating under an accelerated timeline and external pressure to develop and implement the NBWEIB program. We believe this led to gaps in the planning process and implementation.

## Poor Controls and Weak Contract

**3.25** While the Department succeeded in achieving their objective of providing financial assistance to eligible applicants, there were various areas where we believe improvements could be made to better streamline this type of program delivery in future such events.

**3.26** We began our work by reviewing the planning completed by the Department to implement NBWEIB. Planning is an important stage of any project; it takes time and care to create a plan that leads to a successful program. In the case of NBWEIB, time pressures placed on the Department limited staff's ability to fully plan the program.

*Department did not have adequate time to plan the NBWEIB program*

**3.27** The Department had five days to plan the program design and negotiate a contract for services (see Appendix III for program timeline). While Department senior management first discussed what the Department could do to help New Brunswickers affected by the pandemic lockdown March 18th, it wasn't until March 23<sup>rd</sup> Department staff were tasked with designing a program by senior management.

**3.28** Department personnel stated "*we did not have any time to effectively plan, trouble-shoot or problem-solve*". We learned the Department's planning process was mostly operational in nature; staff were focused on "*trying to quickly adapt as the benefit rolled out and launched*".

*Department overestimated service provider capacity*

**3.29** The Department expected Red Cross to have a service delivery implementation model already available and the Department's role would be limited to managing the contract. NBWEIB was a new program area for the Department and for Red Cross. While Red Cross had an emergency payment system, it required additional steps to meet the needs of the NBWEIB program (validation of identity and recording applicant's SIN).

**3.30** Red Cross was chosen by the Department based on the Red Cross's reputation as a national and international emergency responder. The Department was aware of Red Cross participating in similar benefit programs in Alberta and Quebec which provided a certain level of confidence in Red Cross's ability to roll out a program like NBWEIB.

There was an added benefit of a local presence with Red Cross having an office in Saint John, NB.

***Inadequate planning led to increased department resource needs***

**3.31** The Department initially relied on Red Cross to authenticate all registrants and validate their identity. Red Cross’s system automatically performed a soft check through Equifax to validate the identity of applicants, but this method rejected too many (over 17,000) applicants of NBWEIB for the program to achieve its objectives (Equifax’s database did not have the data for all applicants). After the program launched, the Department learned they would need to provide a second method of identity validation, which was not planned for or contained in the contract.

**3.32** The Department had to react quickly to create a second identify validation method or the program would have failed entirely. The Department contacted Service New Brunswick (SNB) and obtained access to the Motor Vehicle Inspections (MVI) database to validate applicant identification using the applicant’s name and address. Of the 77 total staff redeployed, 21 Department staff were deployed to support the second method of identity validation.

**3.33** The MVI database did not contain the necessary information for all applicants. Therefore, Red Cross performed a third validation process. This method involved applicants submitting identification documents through email, over the phone, or by video-call.

***Department was not aware of key third-party operational document***

**3.34** Red Cross created a program description document detailing how the program would operate, which included additional Department resources required that were not covered in the contract. We expected this program document to be a schedule to the contract, but this was not the case. The Department was not aware of this key operational document until our audit.

**3.35** We were pleased to see Department staff complete internal debrief sessions after the program was completed, recognizing shortcomings of program development and implementation which provided possible solutions. One such solution was to establish and document roles and responsibilities with external service providers and request standard operating procedures from the service provider.

**Recommendation**

**3.36 We recommend the Department of Post-Secondary Education, Training and Labour request supporting details or documentation from third-party service providers for inclusion in schedules attached to third-party contracts.**

**3.37** NBWEIB provided 40,582 successful applicants with a \$900 benefit through wage-loss replacement. Wage-loss replacement income in Canada requires the issuance of a T4A Statement of Pension, Retirement, Annuity, and Other Income for income tax purposes. While the Department made inquiries for the tax requirements of the program, they did not fully develop a solution before the program launched. Red Cross informed us they do not issue T4A statements. When we asked the Department, who would be issuing the T4A statements, they could not provide an answer. Ultimately, the Department issued the T4A statements as it was not feasible for the service provider to issue them. We expected the Department to require a valid Social Insurance Number (SIN) to apply for NBWEIB to facilitate sending out T4A statements.

**Controls over accuracy of SIN provided by applicants were weak**

**3.38** An applicant's SIN was one of the required fields on the application for NBWEIB. To ensure accuracy of the SIN provided by the applicant, a process control required the entered SIN be at least nine characters in length to be considered valid. However, no steps were taken to verify that an entered SIN was valid for the specific applicant. A unique SIN is created for each Canadian citizen or permanent resident that requests one from the Federal government; the SIN can be verified using a mathematical equation named the Luhn algorithm.

**3.39** The weakness of the SIN control led to several instances of an invalid SIN being entered. It also resulted in many errors regarding the validity of the applicant-provided SIN, for example:

- 266 applicants provided no SIN;
- 455 applicants provided an invalid SIN;
- 106 applicants used a duplicate SIN; resulting in
- A total of 827 problem cases related to SIN

Using a SIN in this manner was not an effective control over the application process.

***Poor communication between Department and service provider led to breakdown of key program control***

**3.40** Additionally, some applicants were not comfortable with providing their SIN when they registered. For this reason, the Department allowed Red Cross to waive the requirement for providing a SIN in one specific case. While the Department maintains they did not direct Red Cross to provide a general waiver of the SIN requirement to reluctant applicants, Red Cross did waive this requirement whenever an applicant refused to provide their SIN. We could not determine from either entity why Red Cross interpreted the Department's direction so broadly. This effectively defeated any benefit the SIN could provide as a control.

**3.41** Weak controls over the SIN and the breakdown of requiring a SIN to apply for the NBWEIB program led to increased resource needs, delays in providing T4A statements to applicants and increased risk that applicants could be provided with more than a single payment of the benefit. In response to these risks, the Department sent out notices after payments were made requesting an accurate SIN be provided to be eligible for NBWEIB, or the paid benefit would have to be returned.

**3.42** In addition to the risks noted above, delays in processing T4A statements can result in fines being applied by the Canada Revenue Agency (CRA) if appropriate efforts are not made. The Department stated they are working with the CRA to resolve all issues surrounding T4A statements. At the end of the audit period this work was still ongoing, and no fine had been issued against the Department by the CRA.

***Recommendation***

**3.43** **We recommend the Department of Post-Secondary Education, Training and Labour plan for the collection of all necessary information to satisfy tax requirements when developing programs such as the New Brunswick Workers Employment Income Benefit.**

***Directive to halt identity validation may have delayed payments to affected applicants***

**3.44** Department staff deployed to validate applicant identity were directed by Department management to cease identity validation activities April 3, 2020. This decision was made due to the Federal CERB launching earlier than anticipated and the high volume of validation work still pending for the Department; the Department paused the work to determine if there were other solutions available to more quickly get payments out to applicants. This delay was only two days, but due to the very short timeline for the delivery of this



program, it caused disruption for Department staff resulting in increased frustration during an already stressful time and may have delayed payment to affected applicants.

- 3.45** The program included three main steps for applicants: 1) program registration; 2) identity validation; and 3) completing an application form. We expected the Department to ensure controls in place remained intact to reduce the possibility of fraud within the NBWEIB program. We were surprised Department senior management considered continuing the program without identity validation even though Red Cross opposed this suggestion.
- 3.46** Department staff believed there was wasted effort when a potential applicant's identity was validated and they were deemed ineligible later in the process at the application stage. Department personnel thought the process should have been reversed (application then identity validation instead of identity validation then application). This would have reduced the work performed by the Department, but the application stage resulted in a 76% eligibility rate. Therefore, we do not believe the reduction would have been significant (program controls ensured 12,475 applications were appropriately denied).
- 3.47** Eliminating the validation requirement entirely, which was the intent of halting the validation work, would have increased the risk of fraud for the program. If this control had been removed, we believe the remaining fraud controls would not have been enough to prevent undue financial risk to the program.

***Recommendation***

- 3.48 We recommend the Department of Post-Secondary Education, Training and Labour, when developing new programs, design key controls to mitigate fraud risk and maintain the control structure throughout program implementation.**

***No appeal process included in program planning***

- 3.49** We found the Department did not include an appeal process for the NBWEIB program. We expected the Department would have ensured the contracted service provider had such a critical component of good program delivery in place prior to undertaking the program. This was not the case.

**3.50** Applicants could re-submit the application questionnaire due to data entry errors, misunderstanding of application questions, or technical glitches that occurred with the application page. The names of these applicants came to the Department from Members of the Legislative Assembly (MLAs) and the Office of the Premier. The Department provided the names to Red Cross and VOT staff contacted applicants to redo the questionnaire. However, this was not part of an overall planned appeal process designed to address rejected applicant concerns and complaints, and it was not communicated to the public in any manner. The Department stated they did not have time to develop an appeals process or framework. We found the lack of a formal appeal process troubling.

**3.51** A clear, well-designed appeal process is critical in efficiently and effectively addressing applicant complaints and concerns. An appeals process ensures those who were mistakenly considered ineligible have an effective process to address their concerns and rectify incorrect decision when warranted.

***Recommendation***

**3.52 We recommend the Department of Post-Secondary Education, Training and Labour ensure an appeals process is present in programs that provide financial benefits to applicants to ensure fairness in program implementation.**

***Contract did not fully detail roles and responsibilities of Department and service provider***

**3.53** While we expected the contract for services between the Department and Red Cross to outline the roles and responsibilities of each party, we found this was not the case. The contract and process failed to address these critical elements for program success.

***Department continued negotiation with service provider after the contract was finalized to more fully determine roles and responsibilities***

**3.54** Roles and responsibilities for all aspects of the program were not clearly stated in the contract and some program activities had not been designed (e.g. additional identity validation and appeals process). The Department and Red Cross continued to negotiate how program responsibilities would be divided until the contract was signed April 1, 2020, although no changes were made to the contract resulting from these negotiations. Program implementation continued to evolve throughout the timeline of NBWEIB.

*Department was not aware of Virtual Operations Team (VOT) resource requirements during contract negotiation*

**3.55** Red Cross requested the Department provide human resources to staff a new Virtual Operations Team (VOT) for NBWEIB. This request occurred after the contract was approved by Department senior management. The Department moved quickly to find available staff and ensure the reassignment of staff was appropriate under the applicable collective agreements. Of the 77 redeployed Department staff, 27 were assigned to the VOT in Saint John.

**3.56** Red Cross uses outsourced call centre contractors to handle the initial registration for programs it operates (FrontLine Group, a British Columbia based company with staff at locations across Canada). Red Cross sets up a VOT for programs to address escalations or issues that arise from the registration process; in the case of NBWEIB, the VOT was set up in Saint John, New Brunswick.

**3.57** Because the VOT was not considered in planning, roles and responsibilities of VOT staff were not clear. This failure in planning led to an inefficient use of VOT staff during the first days of program implementation. At that time, VOT staff were only authorized to inform applicants they would be contacted on a later date but could not directly assist applicants with their issues. The VOT staff were slowly provided more responsibilities as the program was implemented and problems needed to be addressed.

**3.58** This issue of unclear roles and responsibilities extends to the whole NBWEIB program. Unclear roles and responsibilities caused confusion between Red Cross and the Department and led to inefficiencies in program implementation.

*Recommendation*

**3.59** **We recommend the Department of Post-Secondary Education, Training and Labour clearly document program roles and responsibilities during program and contract development when using a third-party service provider.**

*Poor oversight of redeployed Department resources under management of contracted service provider*

**3.60** We were told by Department staff redeployed to the VOT that there was very little contact with the Department directly. We were also told there was confusion for the VOT team as program rules and work tasks changed frequently, sometimes multiple times per day. We expected the Department would have some contact with staff re-

deployed to a service provider under a contract for services, but this was not the case.

**3.61** We believe if the Department had regular contact with its redeployed staff working under Red Cross, the Department would have been aware of the challenges and limitations VOT staff faced (lack of authorization to solve problems and frequently changing program rules and tasks) and could have taken steps earlier to allow the VOT staff to better administer the program. This likely would have had the effect of reducing the additional resource requirements of the Department to run NBWEIB.

**3.62** We recognize this was a unique situation involving redeployed staff to a third-party service provider. We believe it was a missed opportunity for the Department to create a feedback loop with their staff working under Red Cross to ensure effective communication between the Department and the service provider.

**3.63** While interviewing Department staff, we discovered issues with the procurement process for NBWEIB. While Cabinet approved the spending in March 2020, a purchase order was not created for the program until nearly a year later February 2, 2021.

***Service New Brunswick directed Part I and Part II entities to follow a temporary emergency procurement process***

**3.64** Service New Brunswick (SNB) provided a directive March 17, 2020 to all departments for requesting emergency procurement exemptions in light of the pandemic's effects on SNB operations. Departments were to provide details of their exemption request to SNB's procurement branch through a specific email process, after which they were to apply for an exemption through the New Brunswick Opportunities Network (NBON).

**3.65** The Department followed the general guidelines of the directive but did not include the exact requested wording in the subject line of the email, which may have led to the request being missed by SNB. The Department did copy the email to key SNB staff to ensure it was seen, but SNB did not respond to the Department's request.

***Required purchase order not issued for nearly a year following Cabinet approval of program***

**3.66** The Department followed up with SNB in September 2020 and was directed to submit an application through NBON. The Department submitted the necessary documentation and, after explaining the situation that occurred in March 2020, SNB approved the exemption. A

purchase order was issued for NBWEIB February 2, 2021, nearly a year after the program was approved by Cabinet.

*Department did not forward service provider challenges to SNB*

**3.67** We expected the Department to provide some of this information on challenges they faced (such as unclear roles and responsibilities between the contracting parties) to Service New Brunswick if the Province considers Red Cross as a third-party service provider again in the future, but we were informed this was not the case. A debrief between the Department and SNB would promote continuous improvement in contracting services.

*Recommendation*

**3.68** We recommend the Department of Post-Secondary Education, Training and Labour provide feedback to Service New Brunswick on challenges faced when working with third-party service providers to promote continuous improvement in contracting services.

*Department did not perform risk analysis for the program*

**3.69** We expected the Department to perform a risk analysis for the program to determine what controls should be in place to protect against fraud and misuse of NBWEIB. The Department informed us that no risk analysis was completed for the program and there has been no formal fraud risk assessment performed at the Department.

**3.70** Since NBWEIB was approved for up to \$100 million funding and considering the nature of the program, we were surprised risk assessment and a fraud prevention strategy were not part of the planning process. Timely risk assessments and strong fraud prevention strategies can strengthen the overall control structure of programs.

**3.71** We expected the Department to forecast demand for the program based on New Brunswick workforce data. The Department informed us they used New Brunswick workforce data but could not provide documentary evidence in support of their statement. After reviewing the available evidence, we determined the forecast was based on another province's Covid-19 employment replacement program (Quebec vs New Brunswick) with an adjustment made for population difference between the two provinces. Quebec's program was targeted at individuals self-isolating at home to prevent the spread of Covid-19. This target group was different from the NBWEIB program's target audience, making the forecast target unsuitable for the New Brunswick program.

**Total demand for program ten times number forecasted by Department**

**3.72** The inaccuracy of the forecast was clear on March 30, 2020 when registration for NBWEIB opened; 37,768 individuals registered to apply for the program which far outpaced the forecast of over 7,000 made by the Department. On launch day, April 1, 2020, almost 22,000 NBWEIB applications were completed. By program end, over 50,000 New Brunswick residents applied to NBWEIB (ten times the original projection made by the Department).

**3.73** The unanticipated high interest in NBWEIB caused the Department to return to Cabinet and request further funding be advanced to Red Cross; the Department was concerned Red Cross would not have the cash available to process so many applications without further funding from the Department. After the initial \$4.5 million payment, a further \$50 million was transferred to Red Cross, expecting it to cover the remainder of program costs. Red Cross reimbursed the unused \$15.8 million program funding (from the \$54.5 million funding advances) to the Department January 29, 2021. The timing of payments and reimbursement is presented in Exhibit 3.6.

*Exhibit 3.6 - Payments to Service Provider and Reimbursement to Department for New Brunswick Workers’ Emergency Income Benefit Program*

<b>Payment to Service Provider and Reimbursement to Department for New Brunswick Workers’ Emergency Income Benefit Program</b>		
<b>Date Transaction Complete</b>	<b>Transaction</b>	<b>Amount (\$ millions)</b>
April 2, 2020	Initial payment to service provider	\$4.5
April 6, 2020	Second payment to service provider	50.0
January 29, 2021	Reimbursement to Department	(15.8)
<b>Total NBWEIB cost</b>		<b>\$38.7</b>

*Source: Created by AGNB with information from the Department of Post-Secondary Education, Training and Labour (unaudited).*

**Weak controls over verification of payments to service provider**

**3.74** Under the contract, Red Cross was to submit monthly invoices to the Department, with payments made according to actual expenses incurred. The Department was supposed to verify the information contained in the invoices and make payments to Red Cross within 15 days of receiving the invoice. While technically allowed under the contract,

the Department's decision to provide a lump sum payment weakened the control set in place by the contract to verify invoices submitted by Red Cross.

***Lump sum payment effectively negated control over contracted reporting requirement***

**3.75** In addition, the contract allowed the Department to withhold final payment until Red Cross submitted a final report with a financial statement of program costs. Unfortunately, providing the \$50 million lump sum payment soon after program launch meant the Department could not leverage this contract control to receive timely reporting.

***Recommendations***

**3.76** We recommend the Department of Post-Secondary Education, Training and Labour perform and record risk analysis including appropriate mitigation strategies during the development of new programs.

**3.77** We further recommend the Department of Post-Secondary Education, Training and Labour periodically perform a formal fraud risk assessment of its organization, then design and implement adequate controls over programs to address identified risks.

***Department had up-to-date Emergency and Pandemic Influenza plans in place***

**3.78** We found the Department had both Emergency Preparedness and Pandemic Influenza plans in place and both were updated as of March 6, 2020. This conformed to a March 2001 directive by Finance and Treasury Board for all departments to create an Emergency Preparedness Plan.

**3.79** We observed the Department was prepared for continuity of service of mission critical business functions. What was not contemplated by the Department before the Covid-19 pandemic was how to fulfill different activities not part of their normal operations during an emergency situation such as the pandemic like the NBWEIB program the Department was tasked with creating and running.

**3.80** In the case of future emergencies, we believe it would be prudent and helpful for all government departments to have access to resources and guidance on how to adapt to changing circumstances in an emergency context. This could take the form of an emergency operations manual, a guide to accessing internal government expertise including a list of those knowledge holders, a living reference document detailing past emergency programs and lessons learned, etc. The critical features of any such development are: a formalized process, clear communication to

departments, ease of access, and recording lessons learned. It is also important for the lessons learned from past experiences to be put into practice by the appropriate departments.

**3.81** We also believe a better approach to providing funding to New Brunswick citizens in an emergency may be warranted. The Government of New Brunswick (GNB) has many resources at its disposal and it may be possible to develop an emergency funding system within the current infrastructure of GNB.

**Recommendation**

**3.82** We recommend Executive Council Office create a formalized process to provide direction, guidance, and resources to departments that are tasked with new activities during an emergency not covered under defined mission critical business functions within their respective Emergency Preparedness Plans.

**3.83** The planning process of a government project with a third-party often results in a contract between government and the third-party. Contracts dictate the responsibilities and expectations of each party to the contract. Topics often contained in these contracts include: program objectives, program activities, responsibilities of parties, etc.

**Contract did not sufficiently outline objectives of the program to allow program administration to align with objectives**

**3.84** According to the contract the objectives of the NBWEIB program were:

- *To register applicants on-line and by telephone.*
- *For those authenticated and living in New-Brunswick eligible to receive the survey, to assess on-line and telephone applications received from New Brunswick residents to the NB Workers Income Support Relief subsidy (the “Program”) and determine eligibility.*
- *To provide a one-time income benefit payment of \$900.00 up to approximately 76,000 individuals or self-employed individuals in New Brunswick who are eligible for the subsidy.*

**3.85** According to the Service Description (Schedule A to the contract) the objectives of the program were:

- *To provide financial support to workers residing in New Brunswick who have lost their job, been laid off or lost all revenues through self-employment due to the state of emergency in NB, and who have applied (or*



*plan to apply) for support through the Federal government (either EI or the Canada Emergency Response Benefit program). This measure helps to “bridge” the time between when they lose all revenues (on or after March 15<sup>th</sup>) and receive their federal benefit.*

- *Further objectives may be provided subject to discussion and mutual agreement between the Parties.*

**3.86** We expected NBWEIB to have clear objectives that are specific, measurable, achievable, relevant, and time-bound (SMART objectives). We believe the objectives do not fit within a SMART goals approach. The clearest objective of the program, to provide the one-time \$900 benefit, is the closest to being SMART, but is not time-bound. This became evident as the program extended past its original end date. Leaving open the possibility of adding objectives to the program after program launch shows how much uncertainty surrounded NBWEIB.

**3.87** The Department informed us the objective of the program was to get funding out as quickly as possible. The Department indicated there was a rush to formalize the letter of offer and get approvals in place. Department staff felt they did not have enough time to create the perfect contract, so they cast a broad net to try to catch anything that might come up in the program.

### ***Recommendation***

**3.88** We recommend the Department of Post-Secondary Education, Training and Labour develop objectives using SMART or another system to ensure program objectives clearly state what will be accomplished, and to further enhance the Department’s ability to report and use performance metrics to improve services.

## Inadequate Monitoring

**3.89** As the party requesting services from a third-party service provider, the Department had the responsibility to monitor the contract to ensure Red Cross performed its responsibilities in accordance with the contract. We assessed the Department’s monitoring activities throughout program implementation as well as their contract closing activities.

*Department did not have an assigned staff member actively monitoring the contract*

**3.90** When the Department learned of the increased resource needs of the program, the staff member originally responsible for contract management was required to take on operational responsibilities. Changes were occurring constantly throughout program planning and the early days of program implementation that required this staff member’s attention. The Department did not assign another staff member to monitor the program’s administration against the contract terms.

*Department did not enforce weekly monitoring reports required by the contract*

**3.91** The contract required Red Cross to submit daily and weekly reports. The Department received daily reports and Department senior management used these to understand the provincial emergency need. The Department did not receive weekly reports from Red Cross and did not enforce this contractual requirement. The daily reports provided by Red Cross included some of the weekly report information, but excluded important information required to monitor the program.

*Department not requesting monitoring reports set out in the contract led to missed opportunities to discover and fix issues throughout program implementation*

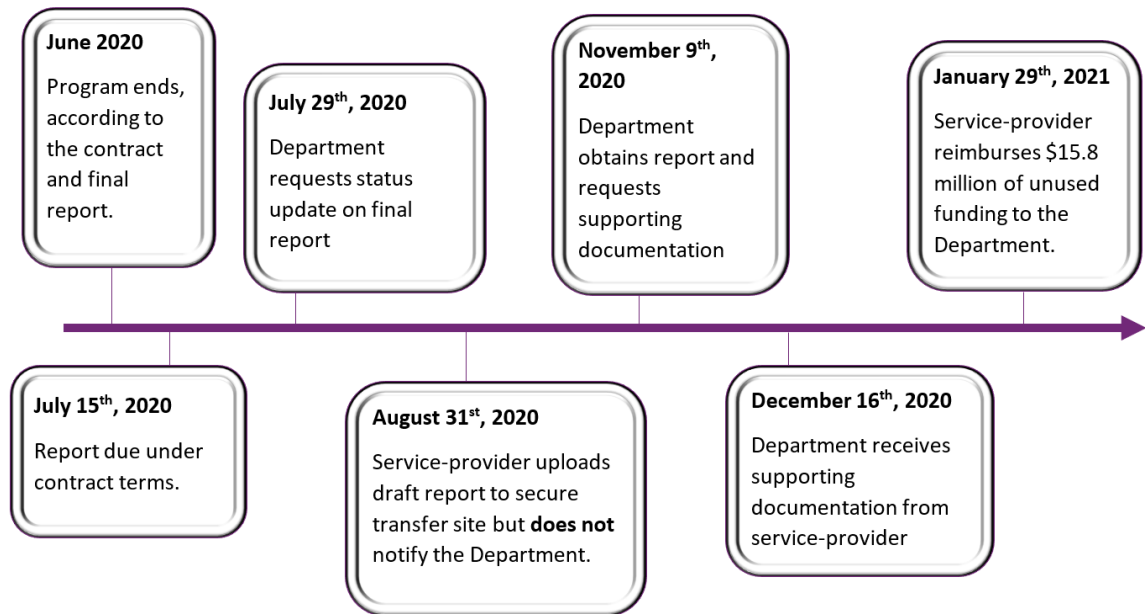
**3.92** The Department should have requested and received weekly reports, including various reports detailing the number of successful and unsuccessful applicants, key financial information detailing the costs of the program, and detailed applicant data. If the Department had monitored this information, they may have been able identify issues that required action after the program concluded. We believe better monitoring by the Department could have revealed options to leverage VOT staff to correct missing and invalid SINs by identifying the problem during implementation.

*Final program report delivered five months late*

**3.93** The Department was not notified by Red Cross when the final program report was uploaded to Red Cross’s secure transfer site. When the Department received the

report, they requested supporting documentation. The five-month delay in receiving the final report resulted in the Department being reimbursed for \$15.8 million unused funding on January 29, 2021, irrespective of the program ending in June 2020 according to the contract and the program final report. Exhibit 3.7 details the timeline of the service provider reporting and reimbursement to the Department.

*Exhibit 3.7 - Timeline Detailing Delayed Final Report and Program Funding Reimbursement by Service Provider*



*Source: created from information provided by the Department of Post-Secondary Education, Training and Labour (unaudited)*

**3.94** We believe the Department should have monitored NBWEIB as it was implemented. The Department was aware the program was rushed through planning, but they did not take sufficient steps to identify and manage problems as they arose.

**Recommendation**

**3.95** We recommend the Department of Post-Secondary Education, Training and Labour actively monitor contract performance and ongoing results when contracting with third-party entities to deliver provincial programs and take corrective actions to address performance deficiencies when necessary.

***Department has yet to verify the payments made to service provider***

**3.96** Red Cross submitted an expenditure summary with their revised final report in December 2020 and the Department requested supporting details to validate the amounts once the report was received. Red Cross provided the Department with three expenditure reports which included line-by-line transactions for different categories of costs. Department staff compared the expenditure summary to the expenditure reports. The Department informed us the expenditure reports were legitimate and the amounts were reasonable, leading to their conclusion the charges were valid. While the Department had performed some preliminary audit work on program processes, they had not performed audit work on program expenses at the end of our audit period.

**3.97** We expected the Department to verify the payments made to Red Cross. We believe the Department should have requested at least a sample of invoices for the line-by-line items and verify the payments made. The expenditure reports do not include sufficient detail to determine whether they were solely for NBWEIB program purposes. This is a troubling situation given there was no validation, test checks, or controls report of how the Department could rely on Red Cross's systems.

**3.98** Under the terms of the contract, Red Cross is required to make available all program information necessary for the Department to determine the validity of the payments made to Red Cross for a period of 36 months after the program's completion. The Department informed us their internal audit team will conduct work in this area in the future.

***Recommendation***

**3.99** **We recommend the Department of Post-Secondary Education, Training and Labour validate the payments made to Red Cross were used solely for NBWEIB program purposes.**

***Department made over \$40,000 in payments to service provider outside the terms of the contract.***

**3.100** We found Red Cross received \$43,055 in additional payments outside the terms of the contract between the months of July and November 2020. We expected the Department to keep tight controls over the spending of the program based on clear contract terms but found this was not the case.

**3.101** The contract stated Red Cross would not receive further reimbursements for work performed after June 30, 2020. However, the Department required Red Cross to continue

performing work for the NBWEIB program past the intended contract end date. Department personnel informed us that Red Cross was needed after the original work end-date to complete the registration work and provide payments to eligible applicants.

**3.102** We believe government departments should comply with the terms of their contracts and agreements. Contracts should be developed according to best practices to address unforeseen circumstances and potential future changes to contract terms such as written amendments signed by both parties to make changes to the original contract and written addendums to clarify or add new terms to the contract.

*Recommendation*

**3.103** We recommend the Department of Post-Secondary Education, Training and Labour follow best practices to address the need for changes and unforeseen circumstances in future contracts.

## Lack of Transparency and Accountability

**3.104** It is important for Department decisions, actions, and results to be transparent to the Legislative Assembly and the public. Accountability in the form of public reporting and well documented processes allows the public to understand the decisions made by departments and consider whether these decisions result in good value through efficient and effective processes. This is especially the case where large sums of taxpayer money are provided to third-party service providers.

*Rationale for key decisions not well documented*

**3.105** When we requested documentation from the Department, we were informed agendas and minutes were not kept for program planning meetings and discussions. The Department did provide some evidence of program planning in the form of notes. We expected the Department to keep records of meetings, key decisions, and the design of the program.

**3.106** Keeping a record of decision-making processes increases transparency and accountability and can lead to performance improvements. By not keeping track of what was discussed and decided, it is difficult to hold decision makers to account and to bring lessons learned forward to future initiatives. This can result in poor retainment of important knowledge when decision makers move on from their current roles.

*Recommendation*

**3.107** We recommend the Department of Post-Secondary Education, Training and Labour create a policy to support and reinforce record keeping for meetings and decisions made when developing programs to ensure accountability and transparency.

*Department does not plan to publicly report on the performance of NBWEIB.*

**3.108** We reviewed the Department’s annual reports and found the Department referenced the NBWEIB program in its 2019-2020 annual report. We asked the Department if they intended to report publicly on NBWEIB program performance. The Department indicated it may report on the program at a high-level in a future annual report.

**3.109** We expected the Department to have a plan to report publicly on NBWEIB’s performance. The program had a

high level of public engagement and cost over \$38 million. It was a major program and was a new program area for the Department.

**3.110** We believe public reporting on program expenditures of this nature increases transparency and public trust.

*Recommendation*

**3.111** We recommend the Department of Post-Secondary Education, Training and Labour publicly report on the performance of significant programs.

## Appendix I – Audit Objectives and Criteria

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The objective and criteria for our audit of the New Brunswick Workers' Emergency Income Benefit program are presented below. The Department of Post-Secondary Education, Training and Labour and senior management reviewed and agreed with the objective and associated criteria.

<b>Objective 1</b>	To determine if the Department of Post-Secondary Education, Training and Labour planned and contracted for the effective delivery of the Covid-19 funding initiative.
Criterion 1	The Department should develop a plan to deliver COVID-19 relief funding to ensure the initiative's objectives are met within the required timeline.
Criterion 2	The Department should have a signed service delivery contract with service providers with clear performance and reporting expectations.
<b>Objective 2</b>	To determine if the Department of Post-Secondary Education, Training and Labour monitored the delivery of Covid-19 funding to eligible recipients.
Criterion 1	The Department should monitor the initiative against the plan objectives.
Criterion 2	The Department should monitor service delivery against contract terms.
Criterion 3	The Department should publicly report on the initiative.

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*Source of Criteria: Developed by AGNB based on review of legislation, best practices and reports by other jurisdictions' Auditors General. Further guidance was taken from works published by Canadian Audit & Accountability Foundation.*



## **Appendix II – About the Audit**

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This independent assurance report was prepared by the Office of the Auditor General of New Brunswick on the Department of Post-Secondary Education, Labour and Training on Covid-19 Funding – New Brunswick Worker’s Emergency Income Benefit. Our responsibility was to provide objective information, advice, and assurance to assist the Legislative Assembly in its scrutiny of the Department of Post-Secondary Education, Training and Labour on contract management and program implementation practices.

All work in this audit was performed to a reasonable level of assurance in accordance with the Canadian Standard on Assurance Engagements (CSAE) 3001 – Direct Engagements set out by the Chartered Professional Accountants of Canada (CPA Canada) in the CPA Canada Handbook – Assurance.

AGNB applies Canadian Standard on Quality Control 1 and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Rules of Professional Conduct of Chartered Professional Accountants of New Brunswick and the Code Professional Conduct of the Office of the Auditor General of New Brunswick. Both the Rules of Professional Conduct and the Code are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

In accordance with our regular audit process, we obtained the following from management:

- confirmation of management’s responsibility for the subject under audit;
- acknowledgement of the suitability of the criteria used in the audit;
- confirmation that all known information that has been requested, or that could affect the findings or audit conclusion, has been provided; and
- confirmation that the findings in this report are factually based.

### **Period covered by the audit:**

The audit covered the period between March 16, 2020 and February 28, 2021. This is the period to which the audit conclusion applies. However, to gain a more complete understanding of the subject matter of the audit, we also examined certain matters that preceded the starting date of the audit.

### **Date of the report:**

We obtained sufficient and appropriate audit evidence on which to base our conclusion on September 17, 2021 in Fredericton, New Brunswick.

## Appendix III - New Brunswick Workers' Emergency Income Benefit Program Timeline

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<b>Date</b>	<b>Event</b>
<b>March 17, 2020</b>	SNB sends memo to Part I and II entities with temporary emergency exemption instructions for procurement.
<b>March 18, 2020</b>	WorkingNB management brainstorms ideas. WorkingNB is a branch of the Department of Post-Secondary Education, Training and Labour (Department).
<b>March 19, 2020</b>	One-pager concept created for program including projected \$4.5 million budget.
<b>March 23, 2020</b>	Department senior management approves concept, negotiations between Red Cross and Department begin, program and agreement drafting begins by WorkingNB team.
<b>March 25, 2020</b>	Memorandum to Executive Council submitted by Department, Department requested information on procurement exemption from SNB Strategic Procurement.
<b>March 26, 2020</b>	Cabinet approves spending by Department, Premier's Office announces NBWEIB, negotiation between Department and Red Cross ongoing.
<b>March 27, 2020</b>	Contract approved by Department, Department learns it must supply additional HR resources for Virtual Operations Team in Saint John.
<b>March 28, 2020</b>	GNB launches online landing page for NBWEIB, Virtual Operations Team redeployment scheduling occurs.
<b>March 30, 2020</b>	NBWEIB registration launched, eligibility criteria changed, NBWEIB inbox created, Department notified they would have to create a 2nd tier identity validation process, 37,768 registrations on first day.
<b>March 31, 2020</b>	Department approaches SNB to use MVI database for 2nd tier identity validation, 21 Department staff deployed to support 2nd tier identity validation.
<b>April 1, 2020</b>	NBWEIB email had been shared on social media drastically increasing number of emails, Two staff assigned to manage NBWEIB inbox, NBWEIB applications open, 21,734 applications completed day one, contract signed between Department and Red Cross.
<b>April 2, 2020</b>	SNB confirmed partnership and use of MVI, Cabinet approves increased program funding up to \$100 million, \$4.5 million program funding paid to Red Cross.
<b>April 3, 2020</b>	2nd tier identity validation team given more flexibility to approve identity, team ordered to halt all validation work.
<b>April 5, 2020</b>	Directive given by senior management to resume validation work.

### Appendix III - continued

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- April 6, 2020** Additional Department staff assigned to manage NBWEIB inbox, Federal CERB launched, decision made to end NBWEIB April 9, Red Cross asked to complete 3rd tier identity validation, \$50 million program funding paid to Red Cross.
- April 7, 2020** Registrants with out of province address informed they did not qualify via email.
- April 9, 2020** Four additional Department staff assigned to manage NBWEIB inbox, 8:00pm deadline to apply for NBWEIB.
- April 10, 2020 to April 13, 2020** Redeployed Department staff work over Easter weekend.
- April 14, 2020** Deadline for Red Cross to provide Department late applicant information.
- April 15, 2020** Virtual Operations Team staff authorized to redo survey directly with rejected applicants under specific criteria.
- April 18, 2020** NBWEIB inbox shut down.
- April 24, 2020** Cut-off to activate payment link for applicants who applied under normal program process.
- April 29, 2020** Last day Department staff at Virtual Operations Team.
- June 5, 2020** Red Cross notifies Department some files missed that require 2nd tier validation.
- June 8, 2020** Department receives 218 casefiles to process 2nd tier validation.
- July 29, 2020** Department requests status update on final report.
- August 31, 2020** Red Cross uploads program final report draft to their secure FTP site.
- September 18, 2020** Department follows up with SNB to ensure Purchase Order would be created for NBWEIB.
- September 21, 2020** Department submits procurement exemption request to NBON.
- November 8, 2020** Last payment to applicant made.

**Appendix III - continued**

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- November 9, 2020** Department obtains draft final report from Red Cross.
- December 16, 2020** Department received Red Cross final report and supporting expenditure reports.
- January 29, 2021** Department receives repayment from Red Cross of \$15.8 million.
- February 2, 2021** Purchase Order issued for NBWEIB by SNB.

*Source: Compiled by AGNB from Department and Red Cross documents and interviews.*

## Appendix IV – New Brunswick Workers’ Emergency Income Benefit Application Survey

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### APPLICATION FOR FINANCIAL ASSISTANCE UNDER THE NEW BRUNSWICK WORKERS EMERGENCY INCOME BENEFIT

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### APPLICATION FOR FINANCIAL ASSISTANCE UNDER THE NEW BRUNSWICK WORKERS EMERGENCY INCOME BENEFIT

The personal information collected by Department of Post-Secondary Education Training and Labour (PETL) and by the Canadian Red Cross on its behalf is required to assess this application for emergency financial assistance related to the New Brunswick State of Emergency and to manage the benefits.

Failure to provide the requested information may result in your application being denied.

The program provides financial support to workers residing in New Brunswick who have lost their job, been laid off or lost all revenues through self-employment.

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#### Consent to Collect, Use, and Disclose Personal Information and Attestation

1) IMPORTANT: You do not have to submit any supporting documents with your application. However, you must keep them for a period of three (3) years, as you will have to provide them if requested by PETL.

Personal information provided by you for this program is collected by PETL, its agents and service providers in accordance with paragraph 37(1)(b) of the Right to Information and Protection of Privacy Act, SNB 2009, c. R-10.6 (RTIPPA) and subsection 27(1) of the Personal Health Information Protection and Access Act, SNB 2009, c. P-7.05 (PHIPAA) for the purposes of administering the employment-related programs and services.

Personal information provided by you is protected and handled in accordance with RTIPPA, PHIPAA, and the Document and Record Management Policy. If you have any questions or concerns regarding this Consent Form, the handling of your personal information, or the programs and services, please contact your Department or Agency Representative

All personal information provided by you must be accurate; please immediately inform PETL, its agents, and service providers of any changes.

By submitting this application, I, hereby consent to allow PETL, its agents, and service providers to collect and use my personal information:

- to determine and verify my eligibility for the benefit for which I am applying and/or;
- to contact me for a period of up to three (3) years following my participation in the program, for the purpose of collecting information concerning my participation and to evaluate the program for research and effectiveness of the benefit.

I understand that in order to accomplish these purposes, my personal information may need to be shared. I hereby consent to allow PETL, its agents, and service providers to disclose my personal information, if and when necessary, to:

- other branches within PETL;
- other New Brunswick provincial departments;
- the federal Department of Employment and Social Development Canada; and
- third party evaluators.

**I acknowledge that this authorization is valid for the duration of my participation in the benefit and the monitoring associated with it, and to carry out the evaluation of the program as established by PETL.**

## Appendix IV – New Brunswick Workers’ Emergency Income Benefit Application Survey – continued

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I understand that I can revoke my consent in writing, at any time and in doing so, I understand that I will no longer be able to participate in the program.

All personal information provided by you must be accurate; please immediately inform PETL, its agents, and service providers of any changes.

\*

I agree

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### ATTESTATION:

#### 2) I attest that:

I will keep supporting documents proving my eligibility for the program for a period of three (3) years following my approval to the program for audit and compliance purposes.

I understand that any assistance paid without entitlement may be claimed from me by PETL.

All the information in this form is true and I understand that PETL may verify its accuracy by comparing it with information from other agencies or departments. \*

I agree

#### 3) Personal Details\*

First Name: \_\_\_\_\_

Last name: \_\_\_\_\_

4) Social Insurance Number (SIN)\* \_\_\_\_\_

5) Are you currently in receipt of Employment Insurance due to job loss that was prior to the State of Emergency and unrelated to COVID-19?\*

Yes  No

6) Are you currently in receipt of Social Assistance?\*

Yes  No

7) Are you currently in receipt of Old Age Security (OAS), Canada Pension Plan (CPP) or a Private/Provincial/Federal pension?\*

Yes  No

8) Are you currently in receipt of some form of income or benefit (e.g., salary, sick leave, disability insurance, workers compensation) to compensate for the temporary loss of your income unrelated to COVID-19?\*

Yes  No

9) Are you currently incarcerated in a Federal or Provincial institution?\*

Yes  No

10) Select which applies to your situation:\*

I am an individual and have lost my job (been laid off) on or after March 15, 2020 due to the State of Emergency in New Brunswick

I am self-employed and have lost all revenues through self-employment on or after March 15, 2020 due to the State of Emergency in New Brunswick.

## Appendix IV – New Brunswick Workers’ Emergency Income Benefit Application Survey – continued

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None of the above

11) Have you earned a minimum of \$5000 (gross) earnings in the last 12 months or in the last calendar year?\*

Yes  No

12) Have you applied or do you intend to apply for Employment Insurance?\*

Yes  No

13) Have you applied or do you intend to apply for the Canada Emergency Response Benefit?\*

Yes  No

---

### Employment Information

14) Employment Information

Last Day of Work: \_\_\_\_\_

Actual or estimated income in the last 12 months or last calendar year: \_\_\_\_\_

Job Title: \_\_\_\_\_

Name of Employer: \_\_\_\_\_

Employer email address: \_\_\_\_\_

Employer phone number: \_\_\_\_\_

15) Is a pay stub or Record of Employment available if requested?\*

Yes  No

---

### Self Employment Information

16) Self Employment \*

Registered legal name of business: \_\_\_\_\_

Year that business began: \_\_\_\_\_

CRA business number (if applicable): \_\_\_\_\_

Website or Facebook page for business (insert URL):  
\_\_\_\_\_

17) Is your business name listed on the New Brunswick Corporate Registry? \*

Yes  No

18) Is your 2018 Notice of Assessment available if requested?\*

Yes  No

*Source: provided by Red Cross (unaudited).*

# Chapter 4

## Risks Exist in Government's Oversight of Crown Agencies – Executive Council Office

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# Risks Exist in Government's Oversight of Crown Agencies – Executive Council Office

Report of the Auditor General – Volume I, Chapter 4 – October 2021

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## Why Is This Important?

Risks exist if the tools used in government's oversight of Crown agencies do not contain the information required by legislation:

- The best interests of New Brunswickers may not be served.
- The government and the public may not be fully informed on whether or not Crown agencies are meeting their mandated priorities and objectives such as the delivery of health care or economic development programs, etc.

## Overall Conclusion

- We found overall, the Executive Council Office and most Crown agencies did not comply with all of the requirements of the *Accountability and Continuous Improvement Act* when preparing critical documents needed for oversight.

## What We Found

### ECO Does Not Monitor if Crown Agencies Comply with Legislation

- The Executive Council Office does not monitor if annual plans or annual reports comply with the *Accountability and Continuous Improvement Act*
- The Executive Council Office has a mandate to “monitor the on-going progress in achieving government objectives.”

### The *Accountability and Continuous Improvement Act* Legislates:

- three critical documents to be prepared for government oversight: mandate letters, annual plans and annual reports; and
- what should be included in each critical document and who should prepare and approve each critical document.

But, the Act is silent when it comes to monitoring annual plans and annual reports for compliance with the Act.

### Critical Oversight Documents: Missing Required Legislated Information

- *Mandate letters* were not issued or issued late: Crown agencies may not be aware of government priorities and objectives or may not be able to implement them in a timely manner
- *Mandate letters* did not contain all the information required by legislation: Crown agencies may not have been fully informed of government priorities and objectives
- *Annual plans* did not fully contain the priorities and objectives included in the mandate letter: Crown agencies may not be considering how they will implement government priorities and objectives
- *Annual reports* did not fully contain results of how government priorities and objectives were met: Government and New Brunswickers may be unable to see if Crown agencies carried out government priorities and objectives

## Key Findings and Observations Table

### Risks Exist in Government's Oversight of Crown Agencies Executive Council Office

Paragraph	Key Findings and Observations
	<b>The Accountability and Continuous Improvement Act</b>
4.15	<i>The Accountability and Continuous Improvement Act sets out an annual oversight and accountability cycle for the majority of Crown agencies to follow</i>
4.16	<i>Mandate letters, annual plans and annual reports are critical tools in the oversight and accountability cycle</i>
4.23	<i>The Accountability and Continuous Improvement Act sets out critical documents and the role of key stakeholders</i>
4.24	<i>The Accountability and Continuous Improvement Act is silent when it comes to monitoring mandate letters, annual plans, and annual reports</i>
	<b>What We Found: Mandate Letters</b>
4.27	<i>Mandate letters are a collaborative process</i>
4.29	<i>We found five areas where ECO <u>complied</u> with the Accountability and Continuous Improvement Act</i>
4.31	<i>We found three areas where ECO <u>did not</u> comply with the Accountability and Continuous Improvement Act</i>
4.32	<i>Crown agencies prefer to receive their mandate letters well in advance of their fiscal year</i>
4.34	<i>Efforts are underway at the Executive Council Office to improve timing of mandate letters</i>
	<b>What We Found: Annual Plans/Business Plans and Annual Reports</b>
4.39	<i>We found annual plans/business plans and annual reports did not fully comply with Legislation and did not always align with the mandate</i>
4.22	<i>The Executive Council Office provides administrative services to Cabinet and is responsible to “monitor the on-going progress in achieving government objectives.”</i>
4.42	<i>The Executive Council Office does not monitor annual plans/business plans and annual reports for compliance with legislation</i>
4.43	<i>Government and the public may not be fully informed whether Crown agencies are meeting their mandated priorities and objectives</i>
4.44	<i>The Executive Council Office has no formal process to track if Crown agencies file their annual reports</i>

## Recommendations and Responses

Recommendation	Department's response	Target date for implementation
<b>We recommend the Executive Council Office (in its role to support the Executive Council):</b>		
<b>4.36</b> prepare, recommend for Ministerial approval, and issue mandate letters to Crown agencies with sufficient time (such as six months in advance) to enable Crown agencies to plan their upcoming fiscal year and address government priorities and objectives.	<i>ECO has undertaken work with Crown agencies and departments to improve the process.</i>	<i>Implemented</i>
<b>4.37</b> ensure mandate letters contain all information required by the <i>Accountability and Continuous Improvement Act</i> , such as including performance expectations, prior to Ministerial approval.	<i>ECO has worked to ensure performance expectations are included.</i>	<i>Implemented</i>
<b>4.45</b> collaborate with the responsible Minister, department and Crown agency to review Crown agency annual plans/business plans to ensure they comply with the <i>Accountability and Continuous Improvement Act</i> (or other relevant legislation such as the <i>Regional Health Authorities Act</i> ) before the documents are approved by the Minister responsible.	<i>While ECO is in agreement to collaborate in an oversight role to ensure compliance, it is important that departments play the main role related to the review of annual plans and annual reports.</i>	<i>Work is in progress to be completed 2021</i>

## Recommendations and Responses - continued

Recommendation	Department's response	Target date for implementation
<b>We recommend the Executive Council Office (in its role to support the Executive Council):</b>		
<b>4.46 collaborate with the responsible Minister, department and Crown agency to review Crown agency annual reports to ensure they comply with the <i>Accountability and Continuous Improvement Act</i> (or other relevant legislation such as the <i>Regional Health Authorities Act</i>) before the documents are approved by the Minister responsible.</b>	<i>While ECO is an agreement to collaborate in an oversight role to ensure compliance, it is important that departments play the main role related to the review of annual plans and annual reports.</i>	<i>Work is in progress to be completed 2021</i>
<b>4.47 develop and implement a formal process to monitor if Crown agencies file annual reports with the Clerk of the Legislative Assembly in the time frame specified by the <i>Accountability and Continuous Improvement Act</i>.</b>	<i>ECO has formalized its approach with the Clerk of the Legislative Assembly to monitor if Crown agencies file their reports on time.</i>	<i>Implemented</i>

## Government's Oversight of Crown Agencies

*Government oversight is necessary to ensure government priorities and objectives along with the associated programs and services are carried out as intended*

**4.1** Government oversight of Crown agencies and departments is needed to ensure government priorities and objectives are being carried out as intended. For example, government could introduce new programs, such as increasing access to affordable housing or the number of beds in hospitals. Without proper government oversight, these new programs may not be carried out as intended. Effective oversight is the foundation of good governance practices.

*Why we chose this topic*

**4.2** Given the significance of the oversight process, we wanted to determine if government oversight exists with respect to Crown agencies and complies with the *Accountability and Continuous Improvement Act* and the *Regional Health Authorities Act* as intended.

### Objectives and Scope of Our Work

*Objectives*

**4.3** The objectives of our work were to determine if:

- The Executive Council Office (in its role to support the Executive Council) complies with the *Accountability and Continuous Improvement Act* with regards to mandate letters;
- Crown agencies comply with the *Accountability and Continuous Improvement Act* with regards to annual plans and annual reports (or for the two regional health authorities, that they comply with *Regional Health Authorities Act* with regards to their business plans and annual reports); and
- Crown agencies appear before the Public Accounts Committee (PAC) and report to their Minister responsible on their progress in implementing government priorities and objectives.

*Scope of Work*

**4.4** To obtain evidence to support our findings and recommendations, we:

- conducted interviews with staff from the Executive Council Office and staff from the Legislative Assembly; and
- reviewed and analysed documentation and relevant legislation.

***We surveyed 13 Crown agencies for their 2019 fiscal year***

**4.5** We also surveyed 13 Crown agencies in November 2019 (prior to the COVID-19 pandemic) to determine if legislated government oversight processes were in place for the 2019 fiscal year. We surveyed the following Crown agencies:

- Collège communautaire du Nouveau-Brunswick (CCNB);
- Financial and Consumer Services Commission (FCSC);
- Horizon Health Network (Horizon);
- Kings Landing Corporation (KLC);
- New Brunswick Community College (NBCC);
- New Brunswick Liquor Corporation (ANBL);
- New Brunswick Power Corporation (NB Power);
- New Brunswick Research and Productivity Council (RPC);
- Opportunities New Brunswick (ONB);
- Regional Development Corporation (RDC);
- Réseau de santé vitalité (Vitalité);
- Service New Brunswick (SNB); and
- Worksafe NB

## Conclusions

***ECO did not always comply with the Act***

**4.6** We found the Executive Council Office (ECO) did not always comply with the *Accountability and Continuous Improvement Act* (the Act) with regards to:

- the timing of when ECO issues mandate letters to Crown agencies; and
- the content ECO includes in mandate letters, such as including performance expectations.

***Crown agencies did not fully comply with the Act<sup>1</sup>***

**4.7** We found, overall, Crown agencies did not fully comply with the *Accountability and Continuous Improvement Act* (or the *Regional Health Authorities Act* in the case of the two regional health authorities) with regards to:

- the content Crown agencies included in their annual plans/business plans and annual reports, such as including the priorities and objectives from the mandate letter; and
- posting annual plans online.

<sup>1</sup> In the case of the two regional health authorities, the *Accountability and Continuous Improvement Act* does not apply. The *Regional Health Authorities Act* serves as the accountability document.

***No one is monitoring if annual plans/business plans and annual reports comply with the Act<sup>2</sup>***

**4.8** We found no one is monitoring if Crown agency annual plans/business plans and annual reports comply with the requirements of the *Accountability and Continuous Improvement Act* (or the *Regional Health Authorities Act* in the case of the two regional health authorities).

***Crown agencies appear before PAC and reported they regularly communicate with their Minister***

**4.9** We also found Crown agencies:

- appear before the Public Accounts Committee (PAC) when requested, however, PAC has not called all Crown agencies to appear every year; and
- reported to us in their surveys that they regularly communicate with their Minister responsible regarding their progress in implementing government priorities and objectives.

***The Act<sup>2</sup> is essential to ensuring effective oversight of Crown agencies***

**4.10** Given PAC may not be able to provide timely oversight of all entities every year, the accountability cycle outlined in the *Accountability and Continuous Improvement Act* (the Act) (or the *Regional Health Authorities Act* in the case of the regional health authorities) is even more essential to ensuring effective oversight of Crown agencies.

**4.11** In our view, the following processes are critical to ensuring effective oversight of Crown agencies:

- preparing and issuing mandate letters which include information required by the Act;
- preparing and issuing mandate letters in a timely manner to allow Crown agencies time to plan their upcoming year;
- preparing and monitoring annual plans/business plans and annual reports to ensure they include information required by the Act<sup>2</sup>; and
- providing ongoing oversight of the Crown agency by the Minister responsible.

***We have made five recommendations to the Executive Council Office***

**4.12** We have made five recommendations to the Executive Council Office (in its role to support the Executive Council) to help ensure Crown agency mandate letters, annual plans/business plans and annual reports comply with the *Accountability and Continuous Improvement Act* (or the *Regional Health Authorities Act* in the case of the regional health authorities).

<sup>2</sup> In the case of the two regional health authorities, the *Accountability and Continuous Improvement Act* does not apply. The *Regional Health Authorities Act* serves as the accountability document.

## Who Provides Oversight?

### *Oversight and accountability defined*

**4.13** *Oversight* refers to the process of monitoring entities along with reviewing their strategic plans, programs, and projects to ensure they:

- are achieving expected results;
- represent good value for money; and
- comply with applicable policies, laws, regulations and ethical standards.<sup>3</sup>

*Accountability* means being responsible to those who provide this oversight.

### *Many stakeholders provide oversight*

**4.14** Oversight of Crown agencies in New Brunswick is provided by several different stakeholders, the main ones being:

- the Legislature;
- the Public Accounts Committee (PAC);
- Ministers responsible for the Crown agencies; and
- the Executive Council.

The Auditor General supports the oversight process by reporting to the Legislative Assembly through the Public Accounts Committee, on the results of audits of Crown agencies.

### *The Accountability and Continuous Improvement Act sets out an annual oversight and accountability cycle*

**4.15** The *Accountability and Continuous Improvement Act* (the Act) was introduced in 2013 to formalize the oversight and accountability processes of Crown agencies. The Act legislates an annual oversight and accountability cycle for the majority of Crown agencies to follow. Refer to Appendix II for a list of Crown agencies who are required to follow the Act. The steps in this cycle produce three different documents, or tools to help the Legislature, PAC, Ministers and the Executive Council, provide consistent, efficient and effective oversight of Crown agencies. The three critical documents are:

- a mandate letter;
- an annual plan; and
- an annual report.

<sup>3</sup> Canadian Audit & Accountability Foundation, *Practice Guide to Auditing Oversight* (2013) 8

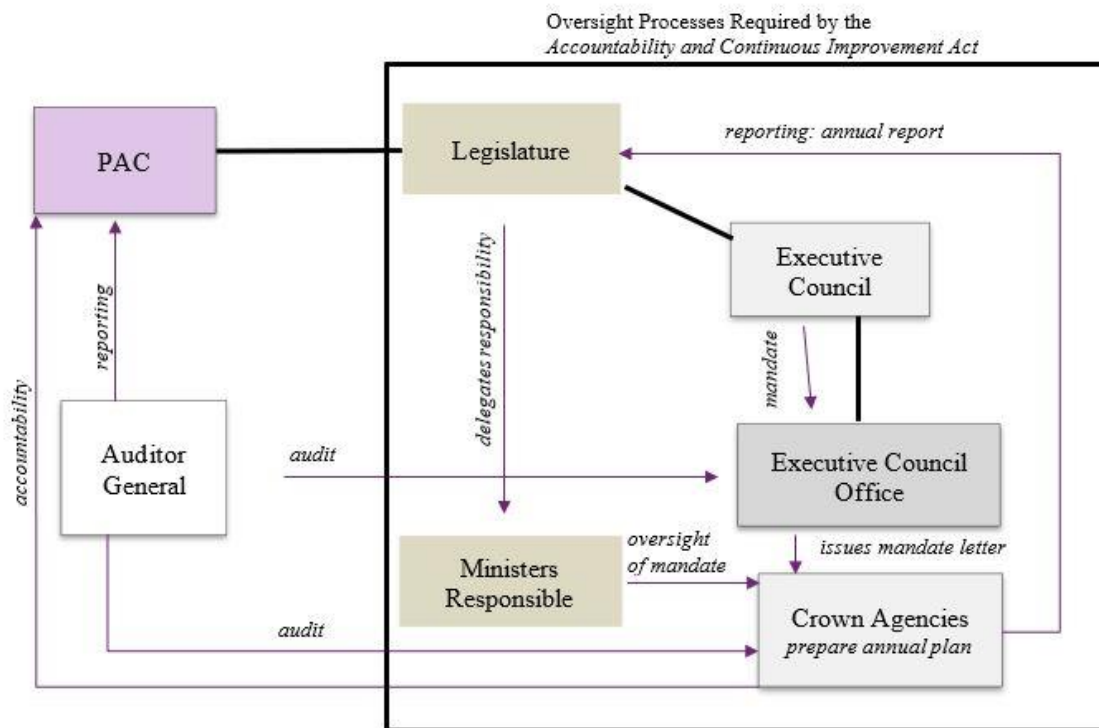


***Mandate letters, annual plans and annual reports are critical documents in the oversight and accountability cycle***

**4.16** Mandate letters, annual plans and annual reports are critical documents in the annual oversight and accountability cycle. These documents provide information on each Crown agency's mandate (directives from government), annual plan (how the Crown agency will deliver on these directives/mandate) and annual report (how the Crown agency did on achieving its mandate). The Act requires these documents be prepared in a similar manner and format for each Crown agency; this helps with the efficiency of the oversight and accountability process.

**4.17** Exhibit 4.1 shows the relationship of the key stakeholders who provide oversight of Crown agencies and what oversight processes are required by the Act.

*Exhibit 4.1 - Oversight Relationship – Key Stakeholders*



*Source: Prepared by AGNB with information provided from the Canadian Audit and Accountability Foundation*

***Legislature provides oversight by ensuring Crown agencies implement policies and programs***

**4.18** The Legislature is ultimately accountable to the people of New Brunswick. The Legislature provides oversight by “ensuring that governments implement policies and programs in accordance with the wishes and intent of the Legislature.”<sup>4</sup>

It does this by appointing a Public Accounts Committee and delegating responsibility for overseeing specific Crown agencies.

***PAC provides oversight by calling Crown agencies to appear before it***

**4.19** The Public Accounts Committee (PAC) is a standing (i.e. permanent) committee of the Legislature that provides oversight by calling Crown agencies to appear before it. At these hearings, PAC holds Crown agencies to account for implementing government’s priorities and objectives. PAC also holds Crown agencies accountable to implement recommendations made by the Auditor General.

**4.20** The Auditor General is appointed by the Lieutenant-Governor in Council and is responsible 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. The Auditor General tables reports with the Legislative Assembly and presents the results of these reports to PAC. Reports of the Auditor General are one source to help PAC provide oversight of Crown agencies.

***Ministers provide oversight by taking responsibility for Crown agencies***

**4.21** Ministers provide oversight of their assigned Crown agencies and are responsible to ensure these entities properly carry out government’s priorities and objectives, i.e. government’s mandate. Ministers are provided support from the department responsible for each Crown agency.

***The Executive Council Office supports the Executive Council***

**4.22** The Executive Council Office (ECO) supports the Executive Council (Cabinet). ECO provides administrative services to Cabinet and is responsible to “monitor the on-going progress in achieving government objectives.”<sup>5</sup>

<sup>4</sup> Stapenhurst, Pelizzo, and Jacobs, 2014, p.5.

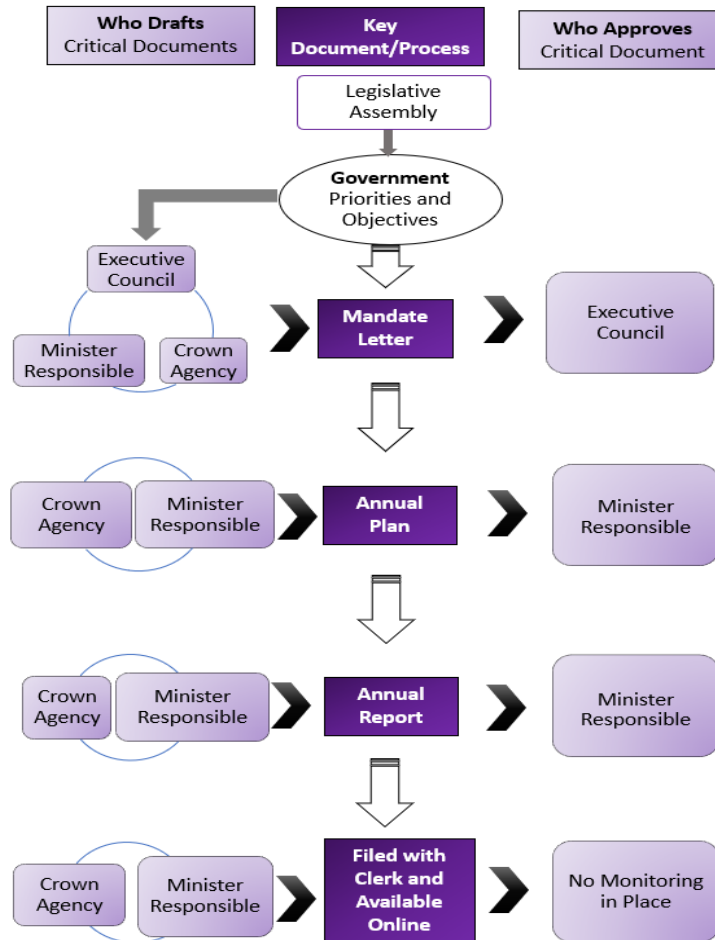
<sup>5</sup> Executive Council Office website

[https://www2.gnb.ca/content/gnb/en/departments/executive\\_council/contacts/dept\\_renderer.153.html#mandates](https://www2.gnb.ca/content/gnb/en/departments/executive_council/contacts/dept_renderer.153.html#mandates)

**The Act sets out the critical documents and the roles of key stakeholders**

**4.23** Exhibit 4.2 shows the order the three critical documents required by the Act are prepared and the roles of the key stakeholders. Refer to Appendix I for a summary of what the Act requires for each of these critical documents and stakeholders.

*Exhibit 4.2 - Critical documents and key stakeholders from the Accountability and Continuous Improvement Act*



Source: Prepared by AGNB

\* Ministers Responsible receive support from the department responsible for the Crown agency. For example, the Department of Post-Secondary Education, Training and Labour supports the Minister responsible for the two community colleges.

***The Act is silent when it comes to monitoring mandate letters, annual plans and annual reports***

**4.24** As shown in Exhibit 4.2 and Appendix I, the Executive Council is required to approve the mandate letter and the Minister responsible is required to approve annual plans and annual reports. The Act is silent, however, when it comes to who is responsible for monitoring each of these documents. In our view, the Executive Council Office (in its role to support the Executive Council) should be responsible to provide oversight and monitor these documents by collaborating with the responsible Minister, department and Crown agency to ensure they are prepared as required by the Act.

***Not all Crown agencies fall under the Act***

**4.25** Not all Crown agencies are subject to the *Accountability and Continuous Improvement Act*. The *Regional Health Authorities Act* legislates the oversight and accountability cycle for the two regional health authorities (Horizon and Vitalité health networks). This Act is closely aligned to the cycle in the *Accountability and Continuous Improvement Act*. As such, we have included both regional health authorities in our work where applicable.

## Executive Council Office and Crown Agency Compliance with Oversight Legislation

**4.26** In this section, we present the results of our audit work to determine if the Executive Council Office (ECO) and Crown agencies comply with the oversight required by the *Accountability and Continuous Improvement Act* or the *Regional Health Authorities Act*.

### What We Found: Mandate Letters

***Mandate letters are a collaborative process***

**4.27** Preparing mandate letters for each Crown agency is a collaborative process. It includes input from the Minister responsible for the Crown agency, the Board of Directors and staff of the Crown agency and the Executive Council Office. Once the mandate is established, the mandate letter is signed by the Minister responsible and then issued to the Crown agency by ECO. Refer to Appendix I for what the *Accountability and Continuous Improvement Act* requires to be included in each mandate letter.

***Regional Health Authorities are not included in our work on mandate letters***

**4.28** The two regional health authorities are not included in our work regarding mandate letters as they do not receive a mandate letter under the *Accountability and Continuous Improvement Act* (the Act). Instead, the *Regional Health Authorities Act* outlines their strategic and operational direction similar to a mandate letter. Refer to Appendix III for what the *Regional Health Authorities Act* requires.

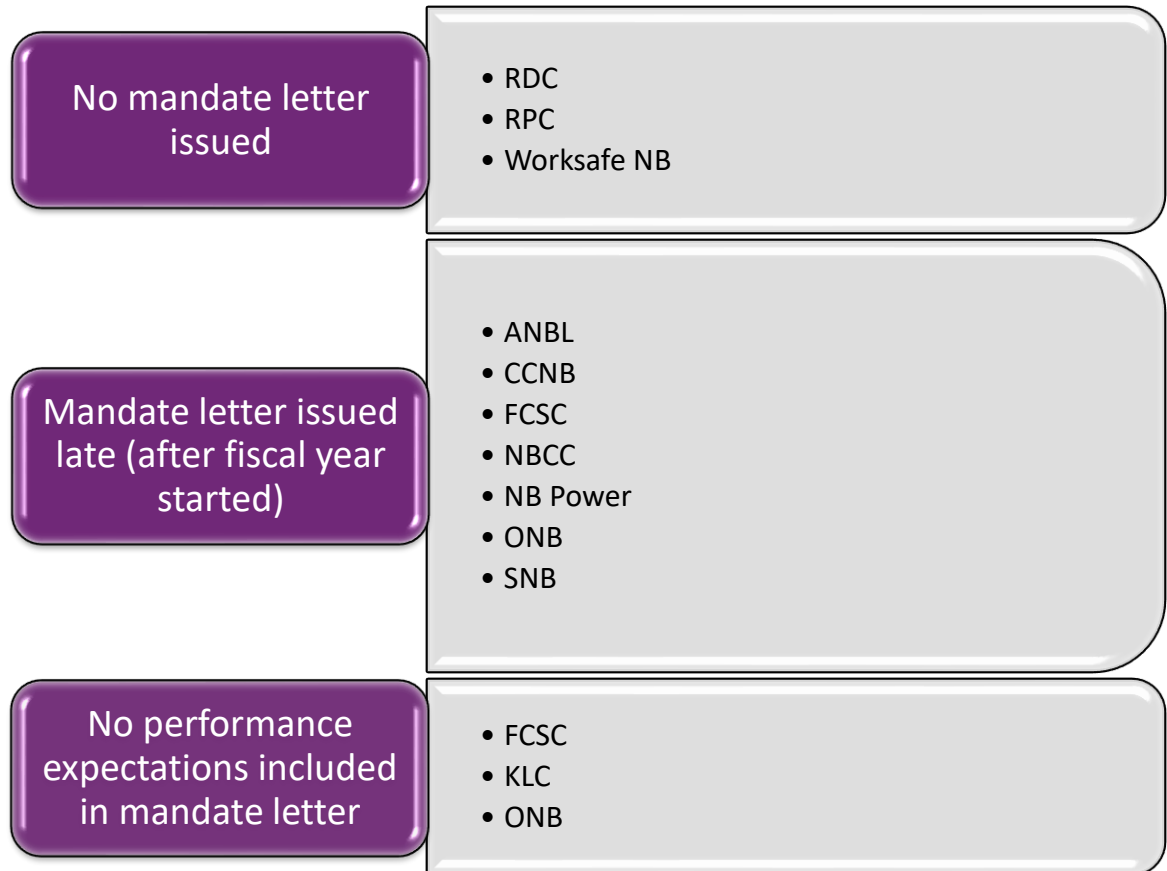
***We found five areas where ECO complied with the Act***

**4.29** We found ECO complied with the Act in five areas when it issued the fiscal 2019 mandate letters to the eleven Crown agencies we selected for this work. ECO complied in the areas of:

- ✓ preparing mandate letters in an approved format;
- ✓ addressing mandate letters to the Chair of the Crown agency;
- ✓ including strategic and operational direction of the Crown agency;
- ✓ including other information (such as government-wide priorities); and
- ✓ ensuring mandate letters were approved by the Executive Council.

**4.30** Exhibit 4.3, however, shows areas where ECO did not comply with the Act when it issued the fiscal 2019 mandate letters to the eleven Crown agencies we included in our work.

*Exhibit 4.3 - Instances where ECO did not comply with the Act when it issued fiscal 2019 mandate letters*



*Source: AGNB compiled based on review of mandate letters*

***We found three areas where ECO did not comply with the Act***

**4.31** We make the following observations from Exhibit 4.3 where ECO did not comply with the Act when issuing mandate letters for 2019. We found:

- ! three instances where ECO did not issue a mandate letter;
- ! seven instances where ECO issued a mandate letter late, during the fiscal year in question; and
- ! three instances where the mandate letter did not contain performance expectations of the Crown agency.

***Crown agencies prefer to receive their mandate letters well in advance of their fiscal year***

**4.32** Overall, Crown agencies responded to our survey that, in order to meet government objectives and priorities, mandate letters need to be received before they start their budget and planning process for the upcoming fiscal year. Ideally, this would be between nine and 12 months in advance. From our discussions with ECO, however, its staff indicated six months would be a more reasonable time frame to issue mandate letters given the changing priorities of government.

**4.33** When surveyed, six of the 11 Crown agencies noted they did not receive their mandate letters in enough time (or at all) to plan for and accomplish the objectives and timelines outlined in the mandate letter. This delay may have impacted the Crown agencies' ability to carry out government priorities and meet government objectives.

***Efforts are underway at ECO to improve timing of mandate letters***

**4.34** As part of our work, we found efforts are already underway at ECO to improve the timing of mandate letters. We make the following observations from our survey responses.

- ✓ In 2019, ECO had an accountability cycle project to improve the timing and content of mandate letters.
- ✓ ECO consulted with six of the 11 Crown agencies we surveyed to determine the best timing for mandate letters to be issued.
- ✓ Crown agencies generally responded favorably to the ECO project and found the process valuable.

**4.35** We found for the 2021 fiscal year (starting April 2020), ECO issued mandate letters to Crown agencies in November 2019, five months in advance of the start of the fiscal year. This may have helped Crown agencies to address government priorities and objectives when planning their fiscal 2021 year. We are pleased to see ECO has identified this weakness in the timing of mandate letters and is taking steps to address it. In our view, continuing this practice will help ensure Crown agencies receive their mandate letters in enough time to address government priorities and objectives when planning their upcoming fiscal year.

**Recommendations**

**4.36** We recommend the Executive Council Office (in its role to support the Executive Council) prepare, recommend for Ministerial approval, and issue mandate letters to Crown agencies with sufficient time (such as six months in advance) to enable Crown agencies to plan their upcoming fiscal year and address government priorities and objectives.

**4.37** We recommend the Executive Council Office (in its role to support the Executive Council) ensure mandate letters contain all information required by the *Accountability and Continuous Improvement Act*, such as including performance expectations, prior to Ministerial approval.

**What We Found: Annual Plans/Business Plans and Annual Reports**

*We examined annual plans/business plans and annual reports for 13 Crown agencies*

**4.38** We examined annual plans/business plans and annual reports to determine if Crown agencies prepared these documents to comply with the applicable legislation. We surveyed 11 Crown agencies who follow the *Accountability and Continuous Improvement Act* and two Crown agencies who follow the *Regional Health Authorities Act*. Exhibits 4.4 summarizes the results of our work.














Exhibit 4.4 - Summary of Crown Agencies Compliance with the Accountability and Continuous Improvement Act (the Act) or the Regional Health Authorities Act (RHA Act) with respect to Annual Plans/Business Plans and Annual Reports

Summary of Compliance with the Accountability and Continuous Improvement Act (the Act) with respect to 2019 Annual Plans and Annual Reports

Crown Agency (refer to paragraph 4.5)	Annual Plan			Annual Report			
	Prepared as Required by the Act (See Appendix I)	Includes Priorities and Objectives from 2019 Mandate Letter	Posted Online	Prepared as Required by the Act (See Appendix I)	Includes Priorities and Objectives from 2019 Mandate Letter	Posted Online	Filed with Clerk
CCNB	▲	▲	✓	▲	▲	✓	✓
FCSC	✓	▲	✓	◆	◆	✓	✓
KLC	●	▲	✗	▲	▲	✓	✓
NBCC	▲	▲	✓	◆	▲	✓	✓
NB Liquor	●	●	✗	▲	◆	✓	✓
NB Power	▲	▲	✗	◆	▲	✓	✓
ONB	●	●	✗	▲	▲	✓	✓
RDC	●	No Mandate Letter	✗	▲	No Mandate Letter	✓*	✓*
RPC	▲	No Mandate Letter	✗	◆	No Mandate Letter	✓	✓
SNB	✗	No Plan	No Plan	◆	▲	✓	✓
Worksafe NB	✗	No Mandate Letter and No Plan	No Plan	◆	No Mandate Letter	✓	✓

Summary of the Regional Health Authorities Compliance with the Regional Health Authorities Act (RHA Act) with respect to 2019 Business Plans and Annual Reports

Crown Agency (refer to paragraph 4.5)	Business Plan		Annual Report		
	Prepared as Required by the RHA Act (See Appendix III)	Posted Online	Prepared as Required by the RHA Act (See Appendix III)	Posted Online	Filed with Clerk
Horizon	 *	Not posted but not required to post		Posted but not required to post per the RHA Act	Filed but not required to file per the RHA Act
Vitalité	 *	Not posted but not required to post		Posted but not required to post per the RHA Act	Filed but not required to file per the RHA Act

Legend	
	100% of requirements met
 *	Late filing: RDC only filed its 2019 annual report on January 29, 2021
	75% - 99% of requirements met
 *	Both RHAs indicated that due to the number of existing programs, certain items, such as commercial arrangements, are only included in the business plan if they are new initiatives. We have still assessed these items as non-compliant.
	50% - 74% of requirements met
	<50% requirements met
	Document not prepared or posted online
No Plan	Not applicable as document was not prepared
No Mandate Letter	Not applicable as document was not prepared

***Annual plans/business plans and annual reports did not fully comply with the Act<sup>6</sup> and did not always align with the mandate***

**4.39** As shown in Exhibit 4.4, Crown agencies did not fully comply with the Act<sup>6</sup> when preparing annual plans/business plans and annual reports. Crown agencies who follow *the Accountability and Continuous Improvement Act* did not include all of the priorities and objectives from their mandate letters in their annual plans and annual reports.

**4.40** From Exhibit 4.4, we make the following observations regarding annual plans/business plans and annual reports.

#### **Annual Plans/Business Plans**

- ! Two Crown agencies did not prepare annual plans.
- ! No annual plans/business plans fully complied with the Act<sup>6</sup>.
- ! No annual plans fully included the mandate.
- ! Only three annual plans were posted online.

#### **Annual Reports**

- ! One Crown agency did not file its 2019 annual report until 2021.
- ! Only two annual reports fully complied with legislation.
- ! No annual reports fully included government priorities and objectives noted in the mandate letter.
- ✓ All annual reports were prepared.
- ✓ All annual reports were posted online.
- ✓ All annual reports were filed with the Clerk of the Legislative Assembly.

***Some annual plan and annual report information is presented elsewhere***

**4.41** We discussed our findings regarding annual plans and annual reports with some of the Crown agencies we surveyed. We were informed some Crown agencies present required information in other documents. In our view, presenting information in other documents does not relieve Crown agencies of the need to include the information in the annual plan or annual report as required by the Act. For example, we found the following.

Annual Plan: Some Crown agencies presented some of the required information in a long-range strategic plan instead of

<sup>6</sup> In the case of the two regional health authorities, the *Accountability and Continuous Improvement Act* does not apply. The *Regional Health Authorities Act* serves as the accountability document.

the annual plan. A long-range document may not indicate which targets or goals will be the focus of the upcoming year.

Annual Report: Some Crown agencies publish some of the required information in other documents such as Board sub-committee reports.

***ECO does not monitor annual plans/business plans and annual reports for compliance with the Act***<sup>7</sup>

**4.42** From our discussions with ECO, we were informed ECO does not monitor if Crown agencies' annual plans/business plans and annual reports comply with the Act<sup>7</sup>. ECO noted its role in the accountability process ends once it has provided mandate letters to Crown agencies. Given ECO has the mandate to “*monitor the on-going progress in achieving government objectives*”<sup>8</sup>, in our view, ECO still has a role to play in the accountability cycle by providing oversight and monitoring if annual plans/business plans and annual reports contain the information required by legislation. This oversight and monitoring will help ensure all legislated information is included future annual plans/business plans and annual reports.

***Government and the public may not be fully informed whether Crown agencies are meeting their mandated priorities and objectives***

**4.43** Without proper monitoring to ensure oversight documents contain the legislated information, the risk increases that gaps may exist in future oversight processes. As a result, the government and the public may not have all of the information necessary to be fully informed on whether or not Crown agencies are meeting their mandated priorities and objectives such as the delivery of health care or economic development programs, etc.

***ECO has no formal process to track if Crown agencies file their annual reports***

**4.44** Although all annual reports were filed with the Clerk of the Legislative Assembly, we found ECO has no formal process to monitor if Crown agencies file their annual reports as required with the timeframe specified in the Act. From our discussions with staff at ECO, however, we found they do have an informal process in place.

<sup>7</sup> In the case of the two regional health authorities, the *Accountability and Continuous Improvement Act* does not apply. The *Regional Health Authorities Act* serves as the accountability document.

<sup>8</sup> Executive Council Office website  
[https://www2.gnb.ca/content/gnb/en/departments/executive\\_council/contacts/dept\\_renderer.153.html#mandates](https://www2.gnb.ca/content/gnb/en/departments/executive_council/contacts/dept_renderer.153.html#mandates)

**Recommendations**

**4.45** We recommend the Executive Council Office (in its role to support the Executive Council) collaborate with the responsible Minister, department and Crown agency to review Crown agency annual plans/business plans to ensure they comply with the *Accountability and Continuous Improvement Act* (or other relevant legislation such as the *Regional Health Authorities Act*) before the documents are approved by the Minister responsible.

**4.46** We recommend the Executive Council Office (in its role to support the Executive Council) collaborate with the responsible Minister, department and Crown agency to review Crown agency annual reports to ensure they comply with the *Accountability and Continuous Improvement Act* (or other relevant legislation such as the *Regional Health Authorities Act*) before the documents are approved by the Minister responsible.

**4.47** We recommend the Executive Council Office (in its role to support the Executive Council) develop and implement a formal process to monitor if Crown agencies file annual reports with the Clerk of the Legislative Assembly in the time frame specified by the *Accountability and Continuous Improvement Act*.

### Oversight of Crown Agencies by the Public Accounts Committee (PAC) and the Minister Responsible

**4.48** In this section, we present information regarding the government oversight provided by the Minister responsible and PAC. See Exhibit 4.1 for an overview of this process.

*PAC also provides oversight of Crown agencies*

**4.49** Appearing before PAC is one of the most important steps in the oversight process. PAC typically holds hearings once per year and calls Crown agencies to appear before it. At these hearings, PAC questions Crown agencies on their effectiveness in delivering programs and services, as well as implementing policies.

*Regular communication between Ministers and Crown agencies also provides another level of oversight*

**4.50** Regular communication between Ministers and Crown agencies also provides another level of oversight. This type of oversight is typically timelier, can be provided on a regular or ad-hoc basis and, as a result, can be more proactive than oversight provided by PAC.

**4.51** As part of our work, we asked Crown agencies to provide information on when they last appeared before PAC

and on which fiscal years they were questioned. We also asked Crown agencies to provide information on how frequently they report to their Minister responsible. Exhibit 4.5 summarizes this information.

*Exhibit 4.5 - Summary of Crown Agencies' Reporting Activity (as of December 2019)(unaudited)*

<b>Crown Agency (refer to paragraph 4.5)</b>	<b>How Often the Crown Agency Reports to Minister Responsible (unaudited)</b>	<b>How Often the Crown Agency Appears before PAC (unaudited)</b>	<b>When the Crown Agency Last Appeared before PAC (unaudited)</b>	<b>Most Recent Crown Agency Results Presented to PAC (fiscal year) (unaudited)</b>
<b>CCNB</b>	Annually	As requested	October 5, 2017	2016
<b>FCSC</b>	Quarterly reporting and regular meetings	Annually	October 5, 2017	2016 and 2017
<b>Horizon</b>	Annually and bi- weekly	Annually, but PAC does not always meet annually	October 31, 2019	2019
<b>KLC</b>	Annually	Annually	October 31, 2019	2013, 2014, 2015, 2016, 2017, and 2018
<b>NBCC</b>	Semi-annually	Annually	October 30, 2019	2016, 2017, 2018 and 2019
<b>NB Liquor</b>	Annually, quarterly, and as required	Annually	November 5, 2019	2018 and 2019
<b>NB Power</b>	Annually, quarterly, and ad-hoc briefings	Annually and on request	February 5, 2019, with follow up on November 1, 2019	2017 and 2018
<b>ONB</b>	Weekly	Annually	January 31, 2019	2018
<b>RDC</b>	Weekly	Annually	Has not been called to PAC in past two years	Has not been called to PAC in past two years
<b>RPC</b>	As requested prior to November 19	As requested prior to November 19	November 6, 2019	2018 and 2019
<b>SNB</b>	Annually	Annually	January 31, 2019	2017 and 2018
<b>Vitalité</b>	Regular meetings, more frequently than monthly	Annually	November 1, 2019	2019
<b>Worksafe NB</b>	Semi-annually	Annually	February 1, 2019	2017

*Source: Prepared by AGNB using information provided by Crown agencies*

***All Crown agencies stated they regularly report to their Minister responsible***

**4.52** We note from Exhibit 4.5, not all Crown agencies appear before PAC every year. Given PAC must hold many Crown agencies and government departments (entities) to account, PAC may not have time to call each entity every year to appear before it.

**4.53** Regular oversight by the Minister responsible is needed (through means such as regular meetings and approval of the critical documents discussed in this Chapter) and especially in years when PAC is not able to call all Crown agencies.

**4.54** We noted from Exhibit 4.5, all Crown agencies responded to our survey stating they regularly report to their Minister responsible on their progress in implementing government priorities and objectives. As noted in Exhibit 4.5, however, we have not audited this information.

## Appendix I

### Summary of Key Stakeholders in the Accountability Process and Summary of the *Accountability and Continuous Improvement Act*

#### **Key Stakeholders in the *Accountability and Continuous Improvement Act*:**

- **Executive Council (Cabinet):** provides direction to ECO of the contents of mandate letters (considers speech from the throne, government priorities, budget, etc.) and approves mandate letters.
- **ECO (from direction of Cabinet):** prepares mandate letters in consultation with Ministers and Crown agencies
- **Ministers:** approve the annual plan, approve the annual report
- **Crown agencies:** prepare an annual plan, prepare an annual report

#### **Mandate Letter:**

##### *Sets Out Government Priorities and Objectives*

- Mandate letters must be prepared by the responsible Minister within a time prescribed by Executive Council.
- Mandate letters shall be in the form approved by Executive Council, which form may be different for different Crown bodies.
- Mandate letters shall be addressed to the Chair of the Crown body, if any, and shall include:
  - strategic and operational direction within the authority of the Minister responsible;
  - performance expectations; and
  - any other information required by the Executive Council.
- Mandate letters shall be approved by Executive Council.
- Mandate letters shall be provided to Crown agencies before the Crown agency prepares its annual plan.

*Continued on following page.*



**Appendix I** – *continued***Summary of Keystakeholders in the Accountability Process and Summary of the *Accountability and Continuous Improvement Act*****Annual Plan:*****Sets Out How Government Priorities and Objectives Will Be Met***

- Each Crown agency shall prepare an annual plan in the form approved by Executive Council, which form may be different for different Crown agencies.
- Annual plans should include:
  - goals and objectives to be met during the time period covered by the plan taking into account:
    - strategic direction of the government in the area of the Crown agency's mandate, as communicated by the Minister responsible;
    - Crown agency's mandate as set out in the Act or other instrument creating it; and
    - financial resources of the Crown agency.
  - objective performance measures specific to the goals and objectives set out in the plan;
  - a statement the Minister or Chair responsible is accountable for preparing the plan and achieving its goals and objectives; and
  - any other information prescribed by regulation, if any.
- Annual plans shall be submitted to the responsible Minister on or before a date determined by Executive Council and signed by the responsible Minister or Chair.
- The Minister responsible shall approve an annual plan if it is satisfied that the plan keeps with:
  - strategic direction of the government in the area of the Crown agency's mandate, as communicated by the Minister responsible;
  - mandate of the Crown agency; and
  - financial resources of the Crown agency.
- Annual plans must be published on the applicable department's website no later than 3 months after the beginning of the fiscal year of the plan.

*Continued on following page.*

**Appendix I** – *continued*Summary of Keystakeholders in the Accountability Process and Summary of the *Accountability and Continuous Improvement Act***Annual Report:*****Reports on if Government Priorities and Objectives Were Met***

- Each Crown agency shall prepare an annual report on its preceding fiscal year in a form approved by the Executive Council.
- Annual reports should include:
  - audited financial statements;
  - a comparison of actual results to projected results (as set out in the annual plan) and explanations of any variances; and
  - a statement the Minister responsible is accountable for preparing the report and achieving the specific goals and objectives of the report.
- Crown agencies provide the annual report to the responsible Minister for signature and approval on or before a date fixed by Executive Council.
- Annual report shall be filed with the Clerk of the Legislative Assembly before a date prescribed by regulation.
- Annual reports must be published on the website of the Minister responsible.

*Source: Prepared by AGNB.*

## Appendix II

### List of Crown Agencies which Follow the *Accountability and Continuous Improvement Act*

Arts Development Trust Fund
Collège communautaire du Nouveau-Brunswick
EM/ANB Inc.
Environmental Trust Fund
Financial and Consumer Services Commission
Forest Protection Limited
Kings Landing Corporation
New Brunswick Arts Board
New Brunswick Combat Sport Commission
New Brunswick Community College
New Brunswick Credit Union Deposit Insurance Corporation
New Brunswick Economic and Social Inclusion Corporation
New Brunswick Energy Marketing Corporation
New Brunswick Health Council
New Brunswick Highway Corporation
New Brunswick Housing Corporation
New Brunswick Legal Aid Services Commission
New Brunswick Liquor Corporation
New Brunswick Lotteries and Gaming Corporation
New Brunswick Municipal Finance Corporation
New Brunswick Power Corporation
New Brunswick Research and Productivity Council
New Brunswick Women's Council
Opportunities New Brunswick
Regional Development Corporation
Service New Brunswick
Workplace Health, Safety and Compensation Commission

## Appendix III

### Summary of the *Regional Health Authorities Act*

#### **Responsibilities of Regional Health Authority**

- A regional health authority shall provide for the delivery of health services in and shall administer health services in the region for which it is established
- A regional health authority shall:
  - Determine the health needs of the population it serves;
  - Determine the priorities in the provision of health services for the population it serves; and
  - Allocate resources according to the regional health and business plan

#### **Annual Report**

- The annual report shall contain:
  - Report on the activities of the regional health authority;
  - Report on the performance of the authority in relation to the performance targets set by the Minister;
  - Summary of the audited financial statements;
  - Summary of the budgeted and actual revenues and the anticipated and actual expenditures;
  - Report on the salaries paid to senior management; and
  - Any other information prescribed by the regulations

*Continued on following page.*

**Appendix III** – *continued*Summary of the *Regional Health Authorities Act***Regional Health and Business Plan**

- A regional health authority shall prepare and submit to the Minister, within the time and in the form specified by the Minister, a proposed regional health and business plan that includes:
  - Principles on which the provision of health services by the regional health authority are to be based;
  - Objectives and priorities for the provision of health services to meet the needs in the health region and, of persons in other parts of the Province when applicable;
  - Health services to be delivered and administered and where the services are to be provided;
  - Nature and scope of research initiatives in relation to health care and health services;
  - Programs for training of persons in the medical or other health professions, including practice settings;
  - Means by which persons outside the region will be able to access the provincial programs for the provision of health services that are delivered by the authority;
  - Methods by which performance in the delivery and administration of health services will be measured;
  - Initiatives respecting the delivery of health services that will involve the spending of money from foundations, trusts or other funds;
  - Any commercial arrangements or ventures in which the regional health authority participates or proposes to participate;
  - A comprehensive financial plan, including:
    - Statement of how resources will be allocated to meet the regional health authority's objectives and priorities;
    - Statement of how the authority proposes to eliminate or reduce a deficit, if it has one; and
    - Details of all investment's health by the authority or on its behalf
  - Any other matter prescribed by regulation
- A regional health authority shall prepare a plan for a period covering three fiscal years and shall review and update the plan each year for the forthcoming three fiscal years

Source: Prepared by AGNB.