



2019 Report of the Auditor General of New Brunswick

Volume I

AUDITOR GENERAL
OF NEW BRUNSWICK



VÉRIFICATEUR GÉNÉRAL
DU NOUVEAU-BRUNSWICK

Presentation Chapters

- **Medicare Cards** – Department of Health
- **Outsourcing of Highway Maintenance and Construction Work** – Department of Transportation and Infrastructure
- **Overdue Property Tax: Collections and Forgiveness** – Department of Finance
- **City of Saint John Funding Agreement** – Special Review - Executive Council Office



Medicare Cards

Department of Health

Volume I Chapter 2



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Why We Did This Audit

- **Healthcare** represents one of government's most significant programs
- There are significant risks associated with weak controls over Medicare cards and related personal information
- Medicare cards, or their equivalent, have been reviewed by other Auditor General offices in Canada

Medicare Cards & Costs

- About 765,000 active Medicare cards at March 31, 2018
- Medicare cards must be presented to access health services

Average annual costs per Medicare cardholder:



\$850

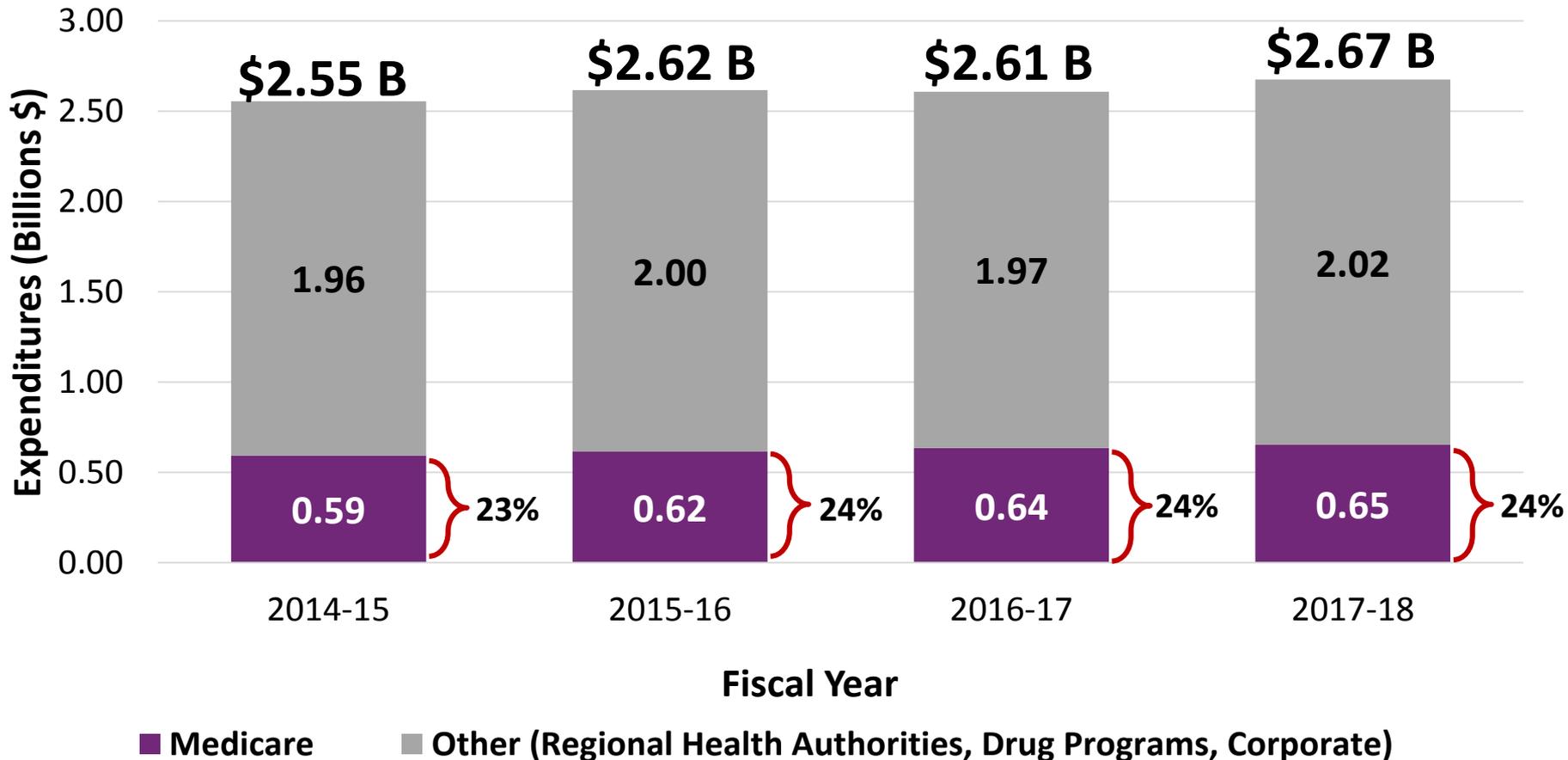
per cardholder for
doctor visits

\$2,050

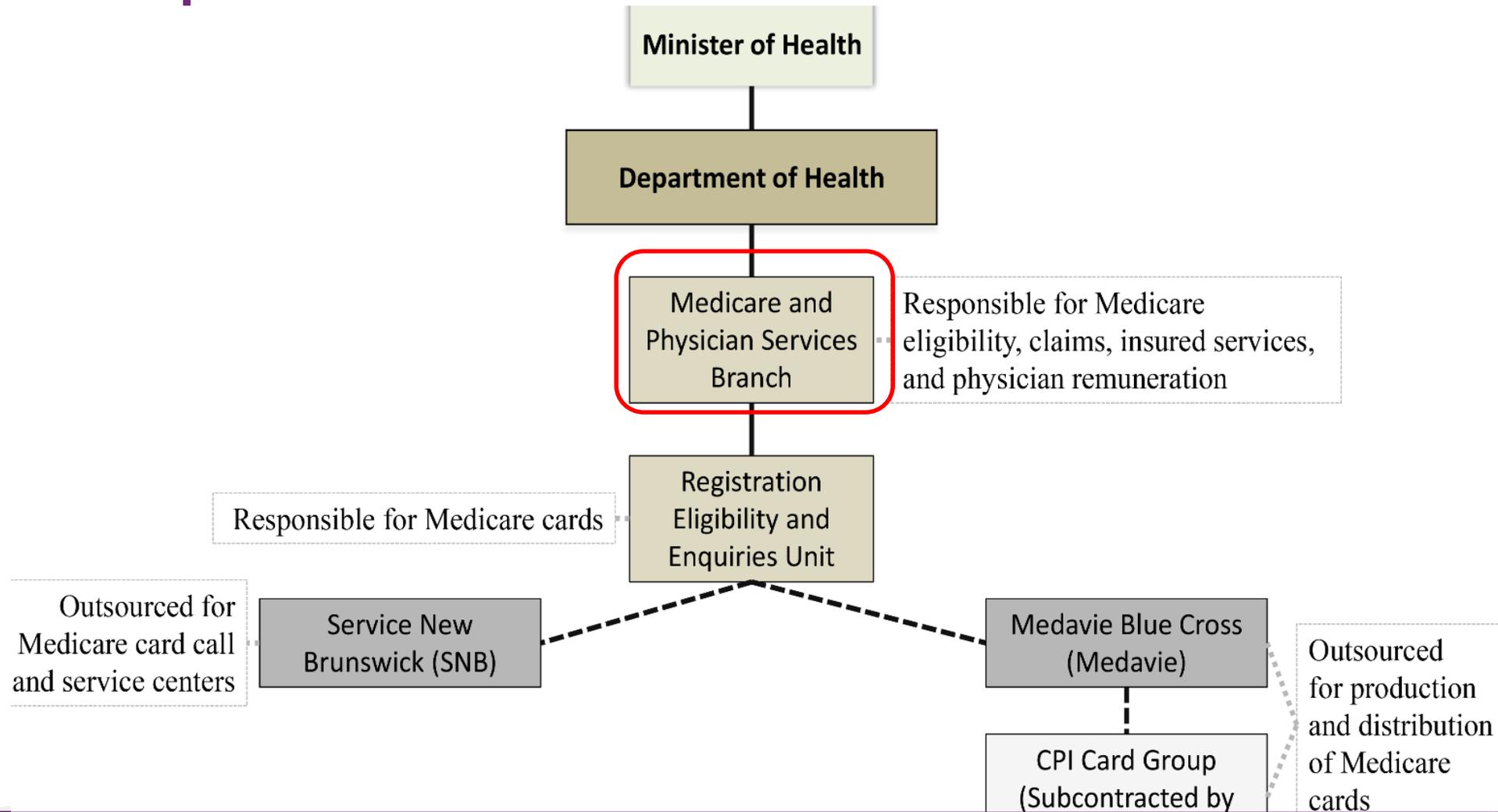
per cardholder for
hospital services



Department of Health Expenditures (Billions \$)



Background - Medicare program roles and responsibilities



Objective of our Audit

To determine if the Department of Health (the Department) has processes and controls to ensure:

- Only eligible residents are issued a Medicare Card; and
- The security and privacy of cardholder's information is protected.

Conclusions

- Processes and controls are in place to ensure only eligible residents are issued a Medicare card
- Insufficient procedures to identify cardholders who subsequently become ineligible
 - For example upon leaving the Province
- Steps could be taken to enhance the security features of Medicare cards
- Privacy breaches are occurring due to changes to the Medicare card renewal policy

Overall Highlights & Topics - *Medicare Cards*

- Continued eligibility not well monitored
- Risks linked to outsourced and automatic Medicare card renewal process
- Inefficiencies in Medicare system



Continued Eligibility Not Well Monitored

Initial Application Process is Adequate

- Process for **initial registration** and approval for a Medicare card is **adequate** to ensure that only eligible residents of NB receive a card
- Documents accepted for registration purposes are the same as those accepted in other provinces
- However, we noted an online application for NB Medicare cards would expedite process



Risk of Ineligible NB Medicare Cards

It is important to identify ineligible NB Medicare Cards. Examples of risk:

- Ineligible cardholder (e.g.: former resident) who continues to use their NB Medicare card
- Insured health services they receive (in or out of province) would be inappropriately paid for by NB
 - In this case, their current province of residence is meant to pay for their insured health services

Identifying Ineligible NB Medicare Cards

- We found Medicare **does not** have sufficient procedures to timely identify/cancel ineligible NB Medicare cards
- Department **could not fully explain** why there were more active Medicare cards than NB residents

We found Medicare **does not**:

- Assess card usage patterns (e.g. lack of usage)
- Thoroughly review if cardholders who receive out-of-province health services are NB residents

Risks Linked to Outsourced and Automatic Medicare Card Renewal Process

More Risk For Unknown Savings

- We found the automatic renewal process adopted in 2014 has **weakened controls** over Medicare cards
- The automatic card renewal process was anticipated to save \$218,000 annually
- However, the Department provided **no evidence** as to how cost savings were calculated or ever achieved

Medicare Card Automatic Renewal Process

- NB is the only province where cardholders are **no longer required to reapply** when their card expires
- Once initially approved, cardholders may **never again be evaluated** for eligibility
- The **risk** of a usable Medicare card getting into the wrong person's hands **has increased** under the automatic renewal process

Risks Associated With Contracting Out to Medavie Blue Cross

- In 2013, Medicare card production and distribution was contracted out to Medavie Blue Cross (Medavie)
 - Medavie further subcontracted this work to CPI Card Group (CPI)
- This placed a **key process outside of government**
- We found Medicare **receives no independent assurance** on controls from Medavie or CPI

Privacy Risks & Breaches

- We found Medicare cards are mailed **without** confirming mailing addresses
- **5,800** automatic renewal cards returned as undeliverable between 2015-2019
- **157** recorded Medicare privacy breaches since 2017



Inefficiencies in Medicare System

Areas Medicare System Could Be Improved

- Upgrading Medicare's registration system could reduce the number of manual procedures
- NB Medicare cards do not include photo identification as a security feature
 - QC, ON, BC include photo on their health cards
- Quebec doctors bill NB Medicare directly resulting in high administrative burden for NB
 - Reciprocal billing was agreed to by all other provinces
 - Auditor General of Quebec has expressed concerns around errors and overbilling by Quebec doctors

AGNB Recommendations

- **16 recommendations** to the Medicare Branch of the Department of Health:
 - Improve registration and continued eligibility monitoring process
 - Evaluate risks / savings
 - Enhance card security and privacy controls
 - Upgrade registration system
 - Negotiate reciprocal billing with Quebec
 - Develop procedures, plans & performance indicators



Outsourcing of Highway Maintenance and Construction Work

Department of Transportation and Infrastructure

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Why We Did This Audit

Follow-up Work

- In 2018, we completed follow-up work on our 2013 Pre-Mixed Asphalt Procurement report
- We found risks related to how certain capital maintenance programs in the Department had been outsourced
- We also found inconsistencies in who did road repair work throughout the province (i.e. outsourced vs. in-house)

Objective of our Audit

To determine if:

The decision-making process followed by the Department of Transportation and Infrastructure (DTI) to outsource capital rehabilitation, maintenance work and related equipment procurement is evidence based.

Background - Outsourcing



- Outsourcing work is at times necessary and beneficial
 - Common reasons: Inadequate staffing, lack of expertise and need for specialized equipment
- Events in other provinces and countries have highlighted the risk and negatively affected residents
- Outsourcing critical construction and maintenance work has risks:
 - Company bankruptcy, services not delivered on time or to appropriate quality

Outsourcing in NB

Examples of DTI outsourced activities include:

- Paving
- Grading
- Line painting
- Brush cutting



Total highway construction tenders awarded by DTI (in millions)

2015-16	2016-17	2017-18
\$219	\$172	\$223

Conclusions

- In certain cases, decisions to outsource work were **not based on evidence** nor supported by an objective analysis of costs and consequences.

The Department of Transportation and Infrastructure:

- **Focused on economic development** and relied on subjective judgement when making outsourcing decisions
- Outsourced work at the taxpayer's expense to **support the private sector** and encourage **economic growth**

Overall Highlights & Topics - *Outsourcing of Highway Maintenance and Construction Work*

- No framework for outsourcing decisions
- Programs knowingly outsourced at higher cost

No Framework for Outsourcing Decisions

Department's 2016-2018 Reorganization and Improvement Initiative

1. Guiding Principles & Objectives

1. Minimal competition with the private sector
2. Stronger, more focused, core program delivery with reduced silos, duplication, waste
3. Increase responsiveness to economic development opportunities and partnerships
4. Asset management for all of GNB
5. Accountability and transparency, with enhanced public engagement
6. Performance based organization
7. Not always a business case analysis, but sometimes a philosophical decision
8. Long term savings overall

Source: DTI Strategic Program Review



No Outsourcing Policy or Decision-making Framework

- We found the Department **does not** have a **policy** or a decision-making **framework** to determine what to outsource
- This could lead to decisions influenced (or perceived to be) by other factors such as assisting certain industry groups or regions at the taxpayer's expense

Risk of Supplier Over-dependence

- We found the Department **does not** assess risk of supplier over-dependence when outsourcing
- Supplier availability can affect competitiveness and cost of outsourcing work

We found 55 tenders awarded where only one bid was received:

- Tenders valued at \$46 million

Programs Knowingly Outsourced At Higher Cost

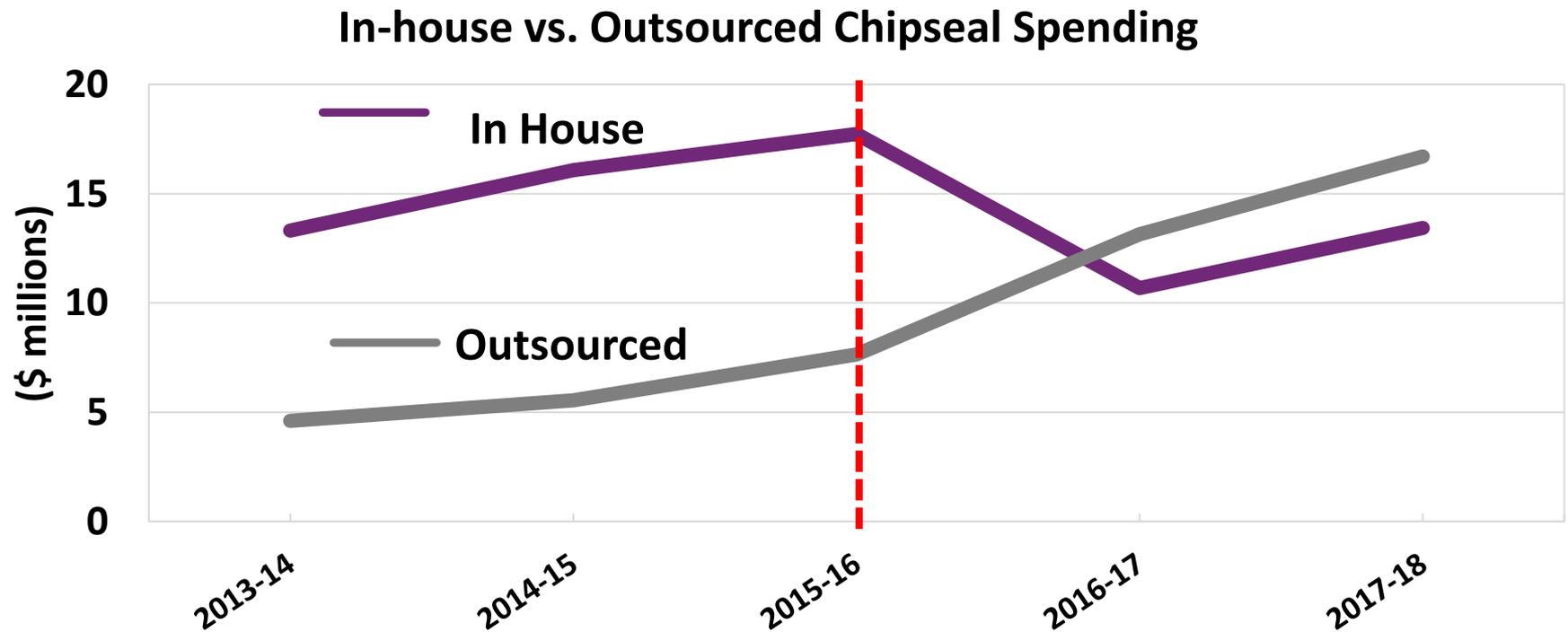
Experts Found Chipseal Outsourcing More Expensive

- Prior to 2016, Department analysis found it would be **up to 18% more expensive** to outsource chipseal work
- However, in 2016, Minister announced decision to outsource chipseal work throughout the province
- Minister at the time believed chipsealing through private sector was “*the right thing to do*”



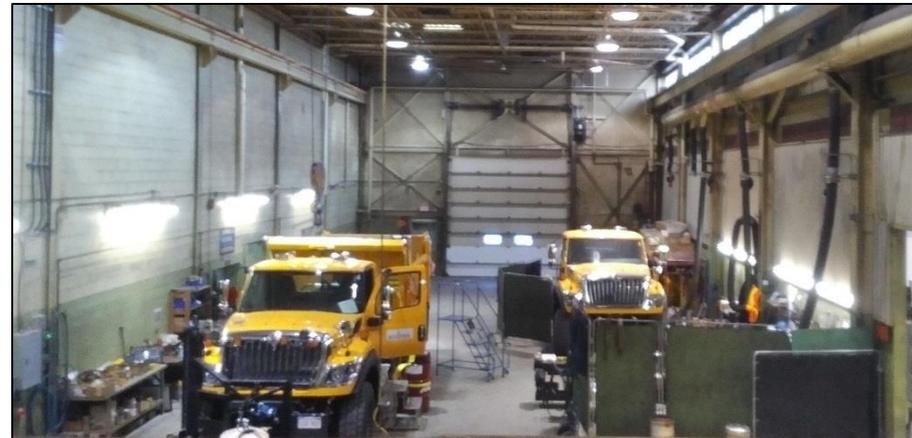
Chipseal Outsourced Despite Known Higher Cost

- We estimate increase in outsourced chipseal work between 2016-2018 cost an extra \$1.7 million



Plough Truck Procurement Outsourced Despite Known Higher Cost

- In 2016, Department found buying pre-assembled plough trucks cost roughly **\$25,000 (or 10%) more** per truck than building in-house
- **Despite analysis, Department outsourced** another 30 trucks
- Total **added cost was nearly \$1 million**, equivalent to the cost of building four more trucks



Government Responded to Private Sector Request for More Work Even if it Cost More

- Department was directed to outsource **more work to the private sector**
- In certain cases for large culverts, tender and design **costs were significant** compared to cost of actual work
 - This meant outsourcing was more expensive than doing the work in-house
- Also critical to keep **in-house capability** for bridge and culvert work for **faster emergency response**

AGNB Recommendations

7 recommendations to the Department of Transportation and Infrastructure:

- Develop an evidence based outsourcing policy and a decision-making framework
- Plan and evaluate using evidenced-based business case analysis (cost-effective and timely manner)
- Assess the risk of over dependence on a single supplier



Overdue Property Tax: Collections and Forgiveness

Department of Finance

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Why We Did This Audit

- Property tax represents over \$1 billion per year in revenue for the Province and municipalities
- Over \$30 million in property tax and penalties was forgiven in six years (2012-2018)
- Forgiveness of overdue property tax represents lost tax revenue and creates a perception of unfairness to taxpayers who remain current

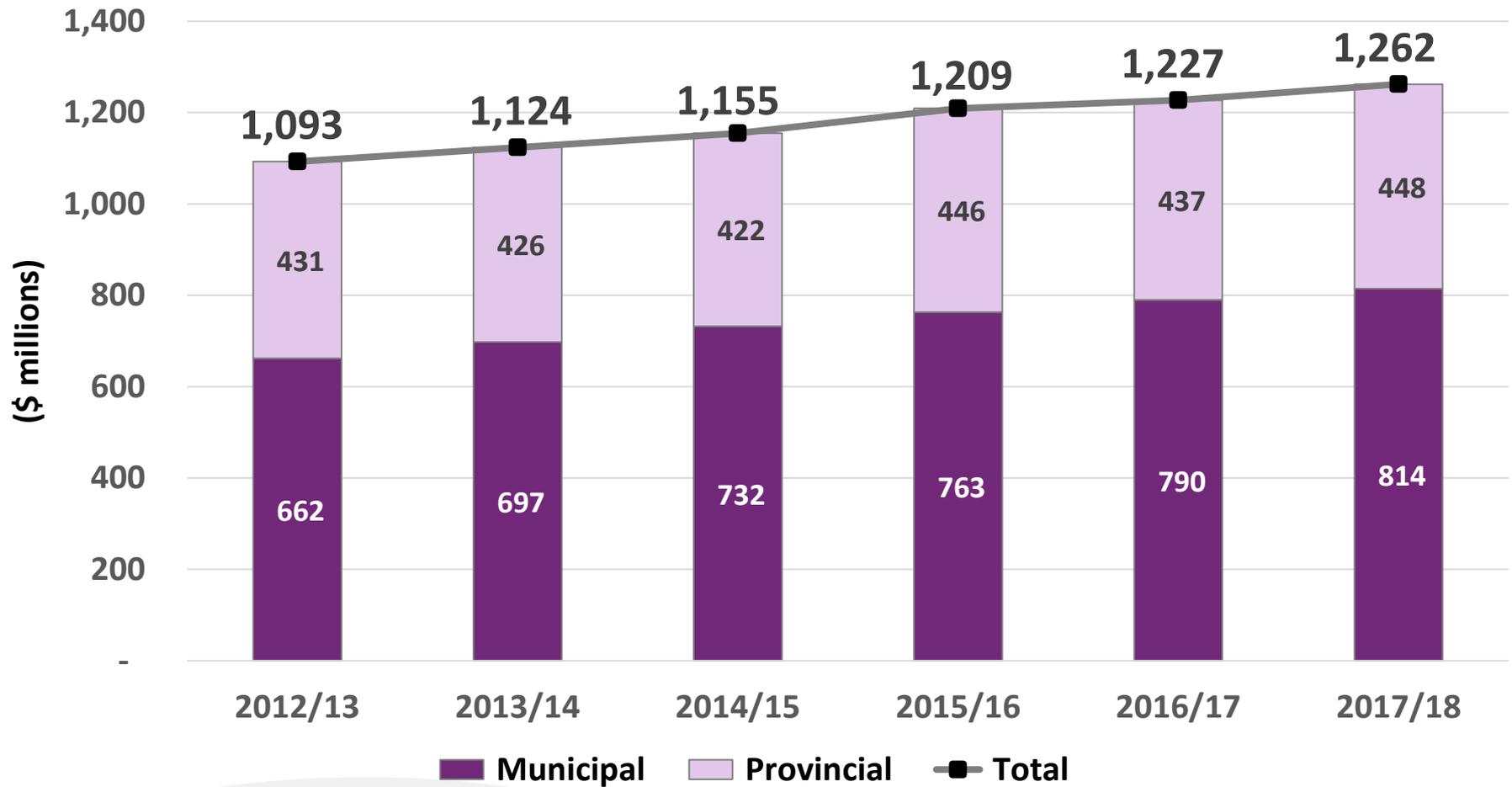
Objective of our Audit

To determine if the Department of Finance:

- Collects overdue property tax in accordance with the *Real Property Tax Act*
- Makes property tax forgiveness decisions or recommendations in accordance with applicable policies and legislation

Background

Annual Property Tax Billed (\$ millions)



Property Taxes in NB

- We found about **\$9 million per year** is not collected in property tax



As of March 31, 2018 about:

- **\$109 million** in total overdue property tax and penalties
- **51,000 properties** with overdue property tax

Background

- **Property tax is forgiven** where the property owner has filed for bankruptcy or ownership of the property has transferred to the Province
- **Discretionary forgiveness** is used to resolve instances where hardship has occurred or is likely to
- **Province bears the cost** of forgiveness in its entirety (both provincial and municipal taxes)

Conclusions

We concluded that the Department of Finance:

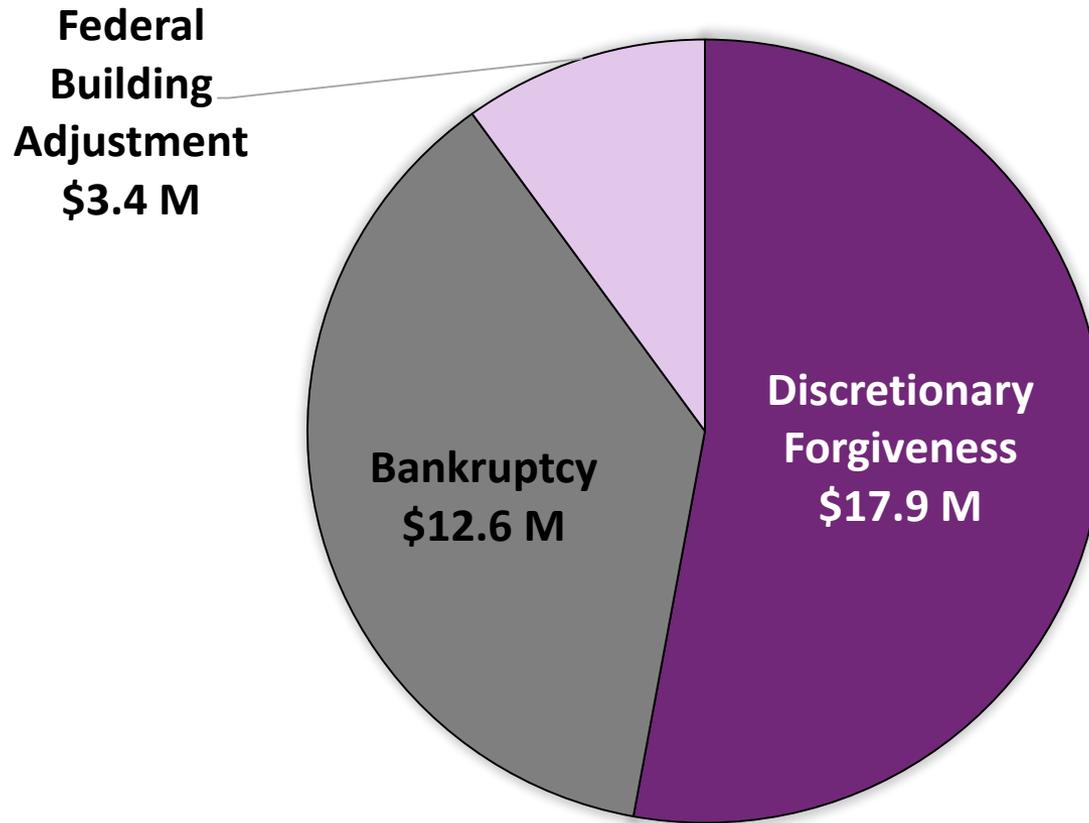
- **Lacks policies** to direct its use of discretionary property tax forgiveness
- **Does not actively manage** the property tax collections efforts of Service New Brunswick
- **Lacks detailed criteria and prioritization** of properties to be sold for non-payment of property tax

Overall Highlights & Topics - *Overdue Property Tax: Collections and Forgiveness*

- Property Tax Forgiveness
- Overdue Property Tax Collections

Property Tax Forgiveness

Over \$30 Million of Forgiven Property Tax and Penalties in Six Years (2012-2018)



No Policies For Discretionary Forgiveness

- Despite millions in discretionary property tax forgiveness, Department has **no policies** to guide Tax Commissioner in exercising authority
- Property tax forgiveness decisions **are not publicly reported** (unlike grant payments)
- Debt forgiveness **may** be awarded in an **inconsistent** and **inequitable** manner
- **For example:** We found two commercial properties were forgiven a total of \$680,000 in response to proposals received

No Control Mechanisms to Detect Errors

- We found the Department processed six claims for bankruptcy property tax forgiveness **twice in error**
 - This allowed double the benefit intended to these property tax accounts
- Department **was not aware** of duplication issue
- Internal audit needed to ensure system controls are functioning



Department Did Not Respond to Treasury Board Directive

- In 2014, Treasury Board directed the Department to review the *Real Property Tax Act*
- Department indicated it did not respond as responsibility for collections had shifted to SNB
 - However, **Act clearly states** Minister of Finance is responsible for collections of property tax
- In our view, delegating the collections process **does not absolve the Department** of its responsibility under the *Act*

Overdue Property Tax Collections

Department Unable to Resolve Overdue Property Tax in a Timely Manner

- It is Department's practice to proceed to property tax sale if four years overdue and over \$500
- Department processes about **830 properties** through property tax sales each year
- However, about **6,000 properties** were eligible to be sold for non-payment of property tax in 2018
- Potential **revenue will remain uncollected** given it could take years to process

No Prioritization for Property Tax Sale

- Selection of the **most impactful** properties, while ensuring fairness, is critical given Department's limited processing ability
 - For example, we found 43 properties represent \$12 million in overdue taxes and penalties; or
 - In some cases, property tax sale may not be appropriate or practical (e.g.: causing homelessness or due to contamination)
- Finance **has not provided direction** to SNB for identifying properties appropriate for property tax sale beyond “four years / \$500” criteria

Department Does Not Actively Manage SNB Collections Performance of Overdue Accounts

- We found the Department does not actively manage the performance of SNB collections
- We've previously reported a **lack of clear direction** of SNB has **contributed to decreasing effectiveness** of collections
- **Our recommendation** to register overdue property tax accounts with CRA Refund Set-off Program (garnishing tax refunds) has **not been implemented**

AGNB Recommendations

- **6 recommendations** to the Department of Finance:
 - Develop policy, criteria and controls
 - Calculate and track impact of uncollected municipal property tax
 - Clarify SNB performance expectations and monitor
 - Arrange internal audit by Comptroller
 - Consult with Treasury Board to determine if 2014 directive to review *Act* is still appropriate



City of Saint John Funding Agreement Special Review - Executive Council Office

Volume I Chapter 5

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Why we reviewed the City of Saint John Funding Agreement

The Auditor General chose to review this funding agreement due to potential:

- Inherent risk to provincial taxpayers and
- Non-compliance with provincial Acts and regulations

Background

- City of Saint John was facing an anticipated budget deficit of about \$6 million in 2018
 - Due in part to population decline, property tax assessment freeze, etc.
- July 2017, Mayor stated City was in “*crisis*” and asked Province for a “*new deal*” to address financial situation
- September 2017, Premier pledged Province would work with City on a “*new deal*”



Key Terms and Conditions of Final Signed Agreement

- **Province to:** provide up to \$22.8 million to the City of Saint John over a 3-year period to address anticipated budget deficits
- **City to:** limit impact on frontline services and meet reporting requirements, among other things
- Together, establish of a joint working committee to evaluate the success of the Agreement and review long term solutions

Conclusions

We concluded the City of Saint John Funding Agreement constitutes excessive risk to taxpayers by:

- not including specific outcomes to be achieved;
- failing to address City's challenges or mitigate inherent risk to the Province (as of April 2019); and
- providing funding based on the City's anticipated deficit level, creating an inappropriate incentive for the City to incur deficits in order to maximize funding

Conclusions - Continued

- We believe the Agreement circumvented requirements under the *Local Governance Act* discouraging municipalities from having ongoing operating deficits.
- Treasury Board (TB) did not comply with the *Financial Administration Act* to ensure proper legislative authority through an Environment and Local Government (ELG) budgetary appropriation before providing funding

Overall Highlights & Topics –

City of Saint John Funding Agreement

- Excessive Risk to New Brunswick Taxpayers
- Agreement Was Rushed
- AG Concerns with Legislative Compliance

Excessive Risk to New Brunswick Taxpayers

Financial Assistance Dependent On City Reporting Deficits

- Agreement was based off deficit projections
- We found decision support documents were difficult to follow, lacked clarity and in our opinion **did not** include adequate analysis to support final Cabinet decision

Year	Anticipated Agreement Funding	Payments to Date
2018	\$3.5 M	\$1.75 M
2019	8.9 M	-
2020	10.4 M	-
Total	\$22.8 Million	\$1.75 Million

Removal of Key Clauses Protecting Province's Interests

Two clauses removed after City disagreed, representing increased risk to Province:

- Public Sector Accounting Standards clause
 - Provincial negotiators wanted to ensure City could not manipulate size of reported deficit and thereby affect funding
- Budget appropriations clause
 - Clause meant Province would not be obligated to make payment before obtaining budget appropriation, as required under legislation

Key Committee Report Not Delivered

- Joint working committee was established to evaluate the success of Agreement and review long term solutions to improve City's fiscal condition
- We found **a key working committee report**, due January 1, 2019 under Agreement, **had not been completed**
- Delaying this report could impact City's ability to address future financial challenges

Risk of Setting a Precedent

- Agreement is meant to respond to Saint John’s so called “unique” circumstances
- However, providing funding to a municipality to address a projected, ongoing deficit **could incite others to seek the same funding**
- This precedent would represent additional risk for Province

Agreement Was Rushed

Former Premier Appeared to Guarantee Assistance Prior to Cabinet's Approval

- In a **December 2017** letter, former Premier stated to mayor:
 - *“We can begin by making investments today that will alleviate short-term budget pressures in the upcoming 2018 fiscal year”*
 - *“you have my guarantee that the Province will work with you towards short-term assistance for investments in a growth agenda while we continue to work shoulder to shoulder on a new deal for Saint John”.*
- Letter **did not** indicate apparent guarantee was subject to Cabinet approval, departmental consultation, confirmation of legal, appropriation and budget authority

Rushed Agreement Decisions Led To Issues

- City leveraged 2018 provincial election timing to gain support
- \$23 million Agreement negotiated and developed in 2-months
 - We believe this resulted in development and implementation issues
- Public communications in advance of agreement ratification
 - Errors in news release flagged by Department of Post-Secondary Education, Training and Labour

Key Department Not Involved in Decisions

- Key staff in Office of the Premier were intricately involved in development of Agreement
- However, Environment and Local Government (ELG) officials indicated it was not involved
 - ELG only made aware of funding responsibility after Cabinet decision in February, 2018
 - Next day, Executive Council Office (ECO) gave unsigned, incomplete contract to ELG

Department Struggled to Implement Agreement

- Lack of information made it difficult for ELG to manage Agreement
- Communications between staff highlight **confusion** around responsibility
- ELG was to provide funding of \$1.75 million at the end of August 2018, however ELG was:
 - Still verifying terms and conditions with the City in July 2018
 - Trying to determine how it would obtain necessary budget authority in mid-August

Unauthorized Spending Decision

- ELG made \$1.75 million payment to City in August 2018, however:
 - No budget appropriation or supplementary estimate was approved by Legislative Assembly, despite Cabinet direction to do so
 - No budget transfers were made to ELG
 - Treasury Board staff stated these would be completed at end of year, as their standard practice, and believed this was compliant with *Financial Administration Act*
- However, Treasury Board noted the Act was outdated and as such, open to interpretation

AG Concerns with Legislative Compliance

Treasury Board Not Compliant With Act

- We believe the process undertaken in this instance **does not comply** with *Financial Administration Act*
- In our June 2018 report, **we raised similar concerns** and believe the Act requires modernization
- We believe this to be another example where the **spirit of the Act was ignored** and appropriate approval was not obtained

Agreement Effectively Circumvented Legislation

- Section 100(8) of the *Local Governance Act* **discourages** New Brunswick municipalities from operating with ongoing deficits
- In our view, the Agreement effectively circumvented the Act as the Province agreed to fund the city's deficit for three years

AGNB Recommendations

- **4 recommendations** to the Executive Council Office (ECO)
- **1 recommendation** to ECO and Treasury Board
- **1 recommendation** to Treasury Board and Comptroller:
 - Ensure funding decisions follow due process, are justified, supported, authorized, etc.
 - Ensure funding agreements do not effectively override the spirit and intent of legislation
 - Involve all relevant provincial entities
 - Review and update *Financial Administration Act*
 - Develop a records retention policy for Premier's Office throughout government transitions

Potential Auditor General Act Obstruction

- We found evidence that departments involved **did not provide all** documentation and communications we requested
- No records provided to our office by the Premier's Office
- Attorney General (OAG) cited solicitor-client privilege and **did not provide any information**
- **Uncertain** whether our findings and conclusions would be altered had we received this information

Auditor General Closing Remarks

Reoccurring theme of risk, whether it be relating to:

- Privacy breaches
- Outsourcing programs and services without a business case
- Lacking policies and internal controls
- Removing contractual safeguards protecting the Province

Questions?