

Report to the Standing Committee on Public Accounts: The Response from the Department of Energy, Mines and Resources to the *Report of the Auditor General of Canada to the Yukon Legislative Assembly – 2017 Government Transfer to Societies - Yukon*

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INTRODUCTION

The Department of Energy, Mines and Resources (EMR) participated in the recent audit of government transfers prepared by the Auditor General of Canada (OAG). *The Report of the Auditor General of Canada to the Yukon Legislative Assembly – 2017 Government Transfer to Societies – Yukon* provides recommendations and information to the department to improve the management of government transfers.

This report addresses OAG recommendations directed towards the department as well as areas that may impact EMR but are not specific recommendations directed to the department. The contents are organized such that the general topic is followed by a text box which contains portions of the audit report. Following this, are the department actions or activities that address that topic.

The draft report from the OAG was available to departments in October of 2016. The final report was officially released on March 6, 2017. The department was able to act on all of the recommendations by the time the final report was released. As a result, this document is not a plan of action but a summary of the current state given that the activities around improving processes have already taken place.

Core versus Operational Funding

Audit Report Findings:

20. The policies for managing government transfer payments contained contradictions and undefined concepts.

27. In addition, we found a contradiction in the 1998 NGO Funding Policy regarding core funding and operational funding. The policy states that departments are not permitted to provide core funding to non-governmental organizations, which include societies registered under the Societies Act. However, the same policy states that the government may provide funding to these organizations for general or operational purposes. In our opinion, these two statements are contradictory, because core funding and operational funding can be used to support similar services and functions, such as paying the salaries of a society's employees. Furthermore, this policy does not define the term "core funding." Officials in two departments told us that they considered the terms "core funding" and "operational funding" to be synonymous, even though core funding is not permitted.

28. We found that departments approved both core and operational funding to societies, even though only operational funding was allowed. We found 2 instances of funding – totaling \$140k that were categorized as providing core funding. One transfer was through CS and other was EMR. We also found that CS categorized 16 instances of funding to societies as operational.

These 2 policies are to be reviewed by ECO and Finance and clarity around the conflicting policies will be incorporated into the creation of future Agreements by EMR when available. EMR will continue to follow the newer 2008 Government Transfers Policy on this issue.

EMR has ensured the wording of current and any future agreements does not reference core funding in order to be in compliance with both the General Administration Manual and Financial Administration Manual policies.

EMR Finance staff reviewed Agreements that may reference “core funding’ including those analyzed by the Auditor and advised program areas to change the wording. The wording has been corrected.

Legal Reporting Requirements, Outstanding Debts, Transfers versus Contracts.

Audit Report Findings:

51. **Recommendation.** The Department of Community Services and the Department of Energy, Mines and Resources should comply with policy requirements for government transfers, including verifying a society’s compliance with its **legal reporting requirements**, determining that a society does not have any **outstanding debts** to the government, and determining when to use a government **transfer instead of a goods and services contract**.

The Department of EMR response:

Agreed. EMR will comply with policy requirements related to government transfers. EMR will start working within the next few months and will request that when a government transfer agreement is created in the commitment system, it is saved with documentation showing that the society is in compliance with legal reporting requirements and that it does not owe outstanding debts to the Government of Yukon. EMR will also review the process on how to decide whether to use a government transfer or contract. This work will be completed by 1 April 2017.

Legal Reporting Requirements

The Agreements considered in the audit were multi-year, meaning they went over more than one fiscal year. The agreements did have verification with the Registrar for the initial year when the agreement was signed but did not have further verification in each of the fiscal years’ that the agreement was active.

EMR now requires that multi-year agreements have a verification from the Registrar of Societies for each fiscal year of the Agreement.

EMR Finance staff will not process any payments for an Agreement unless a verification is on file.

Outstanding Debts

The Auditor found that all of the samples from EMR were in compliance (Audit Report, page 10) EMR requires that all Transfer Payment Agreements have a standard clause indicating they must identify any outstanding debts to Yukon government:

The Recipient warrants that it has declared all amounts owing to YG and that the Recipient is not in default of any payment schedule in respect of the amounts owing to YG.

In addition, program area staff have the option of checking with the Department of Finance to see if the recipient has any outstanding debt. This would be done on a case-by-case basis if warranted by the risk profile for the Agreement.

Government Transfer instead of a goods and services contract

Review of draft Agreements now includes examining if the work described is best handled by a contract. Additional training was provided to staff to provide clarity on this issue. Briefings were held for those involved in this work and the differences and use of contracts vs. TPAs was discussed. EMR finance staff also review Agreements and identify to the program area those that may be best served through a contract.

Risk Assessment

Audit Report Findings:

62. Recommendation. The Department of Community Services, the Department of Economic Development, and the Department of Energy, Mines and Resources should consistently use a risk-based approach in their assessments of all funding requests. The departments should adequately document both project and capacity risk for government transfers and include funding agreement provisions, monitoring requirements, and other elements that reflect the level of risk identified.

The Department of EMR response:

Agreed. In its assessments of all funding requests, EMR will more methodically apply a risk-based approach and require documentation when implementing government transfers. EMR will work with Finance to create and provide a government transfer agreement checklist and a risk assessment worksheet for staff to use, will make these new forms available on the internal website, and will present a short information session as a refresher for various levels of staff. Work is being done on this, effective immediately. This work will be completed by 1 April 2017.

EMR Finance has added the risk assessment worksheet (Appendix A) as part of the process for developing a Transfer Payment Agreement (TPA). Relevant staff have been trained on the use of the document. The document must be included with the TPA document in the financial commitment system and signed by two EMR senior staff in order for any Agreements to take effect.

Exceptions are the funding programs Yukon Mineral Exploration Program and Growing Forward 2 which have risk assessments included in the funding proposal review process. The proposals are reviewed by a group and rated/ranked before any funding is agreed to.

Summary

In response to the audit report, EMR has introduced specific, targeted actions to improve the handling of government transfers. Appendix B shows a revised checklist that can assist program staff in completing a Transfer Payment Agreement. Several of the items on the checklist are new and are a result of this audit. In addition, EMR Finance staff will be doing occasional spot-audits of Agreements in order to monitor compliance.

APPENDIX A: Risk Form

	No Risk ①	Low Risk ②	Moderate Risk ③	High Risk ④	Extreme Risk ⑤	Mitigation Strategies:
Scoring Metrics:						
A. Project Timeline?						
B. Dollar Range?						
C. Prior History/Success?						
D. Project Barriers?						
E. NGO Capacity?						
G. NGO Project ownership?						
J. Project sensitivity?						
K. Potential conflict of interest?						
P. Precedent setting?						
Definitions:						
A. Project Timeline?	1 Immediate (0 - 6 months)	2 Short Term (6 months - 1 year)	3 Medium Term (1 - 3 years)	4 Long Term (3 - 7 years)	5 Legacy Project (7 - 25 years)	
B. Dollar Range?	>\$10k	\$10k - \$25k	\$25k - \$50k	\$50k - \$100k	>\$100k	
C. Prior History/Success?	Excellent working relationship	Good working relationship	Some history/success	Poor past relations	Non-Existent	
D. Project Barriers?	None	Low	Moderate	High	Extreme	
E. NGO Capacity?	(Inter)nationally renowned	Well Established	Fair organizational structure	Recent startup	Little/no infrastructure	
G. NGO Project ownership?	100%	76 - 99%	51 - 75%	26 - 50%	1 - 25%	
J. Project sensitivity?	None	Some public interest	Moderate public interest	High public/political interest	Extremely contentious	
K. Potential conflict of interest?	No	Low risk	Indirect possibility	Direct/arms-length possibility	Yes	
P. Precedent setting?	No, many prior similar TPAs	Some similar past TPAs	Few similar past TPAs	No past similar TPAs	Very different from all prior TPAs	
Determination:	Project is Moderate Risk					
	Reviewer: #1:	Project Officer	Reviewer: #2:	senior staff		

APPENDIX B: EMR TPA Check List

Transfer Payment Agreement Checklist A - Comprehensive Documentation file				
Organizational Name:			Transfer Payment #	
Project Name:				
			Yes	No
1	Basic contact information (ensure entered correctly in f/e)			
2	Corporate structure (what type of receipt - FN/NGO etc)			
3	Board of Directors and key employees (points of contact when any follow up has to be done)			
4	Copies of latest financial statements, including budgets (may need to show for other sources of funding)			
5	Latest Society filing (needs to be saved as part of f/e paperwork to show in compliance with reporting requirements)			
6	Mission statement/website info/media			
7	Organizational Chart - optional			
8	Transfer payment original - or signed copy signed by both parties			
9	Confirm this is not a new program or that the TPA is in excess of three years	FAM 5.9.2.5		
10	If the risk indicates high, attach a copy of the review by Department of Justice	FAM 5.9.5.2 and FAM 5.9.5.4		
11	If your TPA is with a FN - attach a copy of the review by Aboriginal Affairs	GAM 1.12		
12	If your TPA is with another level of government attach a copy of the review by Justice			
13	Transfer payment schedules			
14	Are your report deliverables (Schedule A) aligned with the installment and advance schedule?			
15	If this TPA is an operating TPA- are you using the right table in FAM? Based on total value of funding	FAM 5.9.1 (h) and (i)		
16	If this TPA is a project-based TPA - are you using the right table in FAM? Based on performance or reimbursement	FAM 5.9.1 (h) and (i)		
17	Transfer payment amendments (both to the TPA and for f/e)			
18	Has your client complied with all the requirements in Schedule A and Section 6 of the TPA prior to payments and advances?			
19	Have you reviewed Schedule B to see if dollar amounts need to be reallocated within the Budget?			
20	Are your payments in line with Schedule C of the agreement?			
21	If the project has been overfunded have you collected the money?	FAM 5.9.5.6 B		
22	Front End documentation (EMR Finance needs copies of all paperwork saved in f/e)			
23	Risk analysis - worksheet to be done (signed copy to EMR Finance with TPA) and attached in f/e			
24	Debt off-set - usually handled as part of the TPA in one of the clauses - remind recipient they need to be aware if they owe, funds cannot be released.			
25	Communication-all emails and other correspondence should be saved on the file			
26	Reports of any YG monitoring results or auditing (all financial reports provided by recipient)			
27	Cheque requisitions - copies to show payments			
28	Copies of invoices for costs, if required, or financial reports			
29	Interim reporting			
30	Final reporting - both financial and progress to match deliverables in TPA			
31	Notes for next year/recommendations			
	Program/Project Officer (signature)		Date:	