January 22, 2019

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act (Our File #: EECD/001/2019)

On January 8, 2019, the Department of Education and Early Childhood Development received your request for access to the following records/information:

"Information notes, decision notes, analyses, and/or other background or briefing materials - in any and all formats, including paper and electronic - related to enhanced financial systems and controls at the N.L. English School District and/or the auditor general's report on procurement at the school district. Date range of request is Sept. 1, 2018, to the present."

A decision has been made by the Deputy Minister for the Department of Education and Early Childhood Development (the department) to provide access to some of the requested information and the appropriate copies have been enclosed.

Access to the remaining records, and/or information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Section 29: Policy advice or recommendations

29. (1) The head of a public body may refuse to disclose to an applicant information that would reveal

(a) advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible. In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

You may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act. A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL A1B 3V8
Telephone: (709) 729-6309; Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500
You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

The Access to Information and Protection of Privacy Act requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed by day 10, this letter also serves as our Advisory Response.

If you have any further questions, please feel free to contact the undersigned by telephone at 709-729-7180 or by e-mail at garynoftall@gov.nl.ca.

Sincerely,

[Signature]

Gary Noftall
ATIPP Coordinator

Attachment
Title: Report of the Auditor General (AG) on the Management of the Procurement of Goods and Services at the Newfoundland and Labrador English School District (NLESD or District).

Issue: The AG has completed her review into allegations of fraud within the NLESD and has advised that she will release her report on September 12, 2018.

Background and Current Status:
- On April 11, 2016, under the authority of Section 16 of the Auditor General Act (AGA or the Act), the Lieutenant-Governor in Council (LGIC) (OC2016-048) requested the AG to review the reported allegations of fraud within NLESD, including a review of the financial activities of NLESD, transactions for specific vendors and internal controls.
- The report will be provided to LGIC through the Minister of Finance in accordance with sections 16 and 31 of the Act.
- The audit covered the five year period July 1, 2011 to June 30, 2016 and focused on the procurement transactions of the Facilities Branch in the Eastern region of NLESD.
- The audit also included an assessment of policies, procedures and internal controls.
- The AG set out to review procurement transactions totaling $20.3 million (17,746 invoices). Transactions were broken down into two categories: "Vendors of Interest" ($9.9 million or 2,887 invoices) and remaining vendors ($10.4 million or 14,859 invoices).
- Due to ineffective record management processes within NLESD, the AG was not provided with 2,556 of the 17,746 invoices requested.

Analysis:
- The AG concluded that:
  - There was pervasive non-compliance by Facilities staff with NLESD's procurement policies and the Public Tender Act (PTA). This resulted in lack of an open procurement process. There were concerns with the legitimacy and integrity of the quotation process. Expenditures were often not properly authorized or reviewed.
  - There were numerous indicators of unethical behaviour and possible fraud which have been referred to the Royal Newfoundland Constabulary (RNC).
  - The Board of Trustees and senior management did not exercise the required oversight of NLESD internal control environment. This lack of oversight resulted in significant deficiencies in NLESD's control environment.
- Non-compliance with NLESD procurement policies and the PTA included:
  - Purchase orders were being split into several smaller purchases to avoid calling of tenders. 47 per cent of the "Vendors of Interest" purchase orders related to split purchases;
  - Buyers often exceeded purchasing authority. 22 per cent of the "Vendors of Interest" transactions were not properly approved as they were in excess of the buyers' purchasing authority;
  - There were invoices from "Vendors of Interest" totaling $1.3 million where there was no evidence that buyers obtained quotations from at least three legitimate vendors;
  - More than 50 per cent of invoices paid to "Vendors of Interest", using an electronic purchase order contained insufficient detail regarding the nature, extent and/or timing of goods and services purchased; and
  - Contract tenders did not always contain the necessary job specifications; invoices often included goods/services not captured in the tender.
- The District's accounting system did not support proper segregation of duties regarding the purchasing, payable and payment functions. There was a pervasive pattern of the same buyers creating, approving and validating their own transactions. 47 per cent of the "Vendor
of Interest” electronic purchase orders reviewed indicated that the same buyer initiated and approved the purchase order and validated the receipt of goods.

- The accounting system does not maintain a proper trail to track who initiated or approved a transaction. When creating a purchase order, users can enter other people’s names as the initiator of a transaction.
- There were numerous unusual instances identified which indicated unethical behavior and/or possible fraudulent transactions, some of which have been referred to the RNC for investigation. For example, there were:
  - Possible duplicate invoices, illegitimate invoices, missing invoices and document tampering;
  - Excessive requests for goods already in stock or for services provided by staff;
  - Inadequate evidence that NLESD always received goods/services requested;
  - Excessive charges for goods purchased (e.g., high rental fees);
  - Inexplicable purchases with no rationale (e.g., high end clothing and accessories);
  - Tires purchased that did not match NLESD vehicles but matched those belonging to employees of NLESD or EED (at least 67 tires costing $14,214);
  - Expensive favours arranged by buyers for Facilities’ employees (e.g., free snow clearing, free flooring and cabinets, gifts);
  - Billings to EED for goods and/or services not yet received. These billings were an attempt to avoid losing budgeted funds; a violation of the Financial Administration Act, section 30; and
  - The AG was also unable to confirm the existence of many assets including: 146 assets costing $100,948 purchased from vendors of interest and 143 assets costing $56,010 purchased from other vendors.

- The report notes that the District does not have sufficient governance mechanisms in place to properly manage and report material risks, including fraud risks. For example:
  - No written code of ethics or conduct;
  - No internal reporting mechanism to report suspected unethical behavior;
  - No evidence that allegations of unethical behaviour were investigated;
  - No evidence of proper oversight by the Board of Trustees;
  - Board of Trustees and senior management failed to address repeated recommendations of external auditors, internal audit and the Finance Division regarding non-compliance with policies and PTA;
  - No asset management system and no periodic inventory counts; and
  - Deficiencies identified in human resource procedures were noted.

Action Being Taken:

- The AG recommended that the Board of Trustees and senior management should set clear expectations for ethical behaviour.
- The AG recommended that the Board of Trustees and senior management should provide effective oversight of internal controls.
- The AG will be releasing her report entitled “Management of the Procurement of Goods and Services” to LGIC through the Minister of Finance in accordance with sections 16 and 31 of the Act on September 12, 2018.

Prepared/Approved by: S. Snow/B. O’Neill/AM. Miller/D. Hanrahan/B. Gardiner
Ministerial Approval: Received from Hon. Tom Osborne Hon. Al Hawkins

September 10, 2018
KEY MESSAGES

Education and Early Childhood Development (EECD)
Report of the Auditor General and the Newfoundland and Labrador English School District
September 12, 2018

Summary: The Auditor General (AG) has completed her review into allegations of fraud within the Newfoundland and Labrador English School District (NLES) and has advised that she will release today.

On April 11, 2016, under the authority of Section 16 of the "Auditor General Act" (the Act), the Lieutenant-Governor in Council (LGIC) (OC2016-048) requested the AG to review the reported allegations of fraud within NLES, including a review of the financial activities of NLES, transactions for specific vendors and internal controls.

The audit covered the five-year period from July 1, 2011 to June 30, 2016, and focused on the procurement transactions of the Facilities Branch in the Eastern region of NLES and included an assessment of policies, procedures and internal controls.

Key Messages:

- We thank the Auditor General and her staff for their thorough investigation of these matters, and are reviewing their recommendations in detail to determine next steps for our department.

- It is essential that public funds and assets are treated responsibly and that proper oversight is in place.

- Our government brought in the Auditor General to investigate this important matter. This highlights the seriousness of the issues that we identified at the time, as well as our commitment to greater accountability and ensuring that every taxpayer dollar is accounted for.

- On June 14, 2018, the Provincial Government released details on its new fraud management policy for core government employees.

- The policy includes zero tolerance for fraud and a reporting structure for those wishing to report fraud.

- The Department of Finance began an investigation into this issue 2016, but handed the investigation over to the Auditor General’s office that same year.

- We understand in discussions with NLES, that they have begun to implement various measures to mitigate risks identified in the AG Report, and we will continue to work with them to support implementation.
Secondary Messages

- It is not possible to eliminate the risk of fraud entirely, but the Provincial Government works to find better ways to reduce the risk of fraud and safeguard our assets.

- Our policy provides a framework to assist departments in developing fraud management practices, including fraud prevention and detection as well as awareness of fraud risks. The goal is to put in place an anti-fraud culture in government, and our educational entities are encouraged to adopt similar policies.

RECOMMENDATION 1: The Board of Trustees and senior management should set clear expectations for ethical behaviour, that should include establishing and communicating a written code of ethics and conduct that integrates conflict of interest prevention and management to all staff, including consequences of noncompliance with these standards

Key Messages:

- When we formed government we realized early on that a gap exists on a Code of Ethics, and core government did not have a Code of Ethics at that time.

- Staff in the Human Resource Secretariat have been working on a Code of Ethics for numerous months. They have undertaken extensive research, including a jurisdictional scan to see how other provinces and territories have approached this issue.

- We encourage NLESD to provide training to employees to promote a better understanding of the role and responsibility for ethical behaviour, including compliance with legislation and NLESD policies and procedures.

- NLESD is monitoring adherence to the standards of conduct, and working with government to establish a better reporting mechanism to help monitor standards and report suspected violations.

- We encourage NLESD to investigate allegations of violations of the standards on a timely basis and take appropriate actions when allegations are substantiated.
RECOMMENDATION 2: The Board and senior management should provide effective oversight on the development of performance of NLES’s internal controls that should encompass a fraud risk management program, establishing a periodic evaluation policy and engagement with the Board and internal and external auditors.

Key Messages:

- On June 14, 2018, the Provincial Government released details on its new fraud management policy for core government employees.

- The policy includes zero tolerance for fraud and a reporting structure for those wishing to report fraud.

- The Department of Finance began an investigation into this issue in 2016, but handed the investigation over to the Auditor General’s office that same year.

- Fraud is a reality for many large organizations, and Government holds the school districts and all organizations that we engage with to the highest standard.

- We encourage NLES to develop a fraud risk management program that includes risk assessment to identify specific fraud risks and to mitigate risks to an acceptable level.

- We support conducting board meetings with both internal and external auditors at least annually to discuss any concerns identified with respect to all legal and financial matters.

Conclusion: The AG will be releasing her report entitled “Management of the Procurement of Goods and Services” to LGIC through the Minister of Finance in accordance with sections 16 and 31 of the ‘Act’ on September 12, 2018.

Key Messages:

- The Department of Finance has made the AG Report available online.

- We support openness and transparency in providing detailed information to the public.

- The report has been provided to the RNC and RCMP for further investigation into this matter and we will continue to cooperate fully with any ongoing investigations.

Prepared by: EECD Communications
Approved By: Bob Gardiner DM
Department of Education and Early Childhood Development (EECD)
Report of the Auditor General and the Newfoundland and Labrador English School District
October 17, 2018

Summary:

The Auditor General (AG) has completed her review into allegations of fraud within the Newfoundland and Labrador English School District (NLES) and released the report on September 12, 2018.

On April 11, 2016, under the authority of Section 16 of the "Auditor General Act" (the Act), the Lieutenant-Governor in Council (LGIC) requested the AG to review the reported allegations of fraud within NLES, including a review of the financial activities of NLES, transactions for specific vendors and internal controls.

The audit covered the five-year period from July 1, 2011 to June 30, 2016, and focused on the procurement transactions of the Facilities Branch in the Eastern region of NLES and included an assessment of policies, procedures and internal controls.

We have been informed that CBC has contacted both the AG and NLES for comprehensive follow-up interviews.

Key Messages:

- The issues that have been identified in the Auditor General’s report are not acceptable and our government has no tolerance for such actions.

- It is essential that public funds and assets are treated responsibly, and we demand accountability from the Newfoundland and Labrador English School District and all agencies, boards and commissions.

- Our government brought in the Auditor General to investigate this important matter. This highlights the seriousness of the issues that we identified at the time, as well as our commitment to greater accountability and ensuring that every taxpayer dollar is accounted for.

- We understand in discussions with NLES that they have begun to implement various measures to mitigate risks identified in the AG Report, and we will continue to work with them to support implementation.

- While legislation gives NLES a certain level of autonomy, we are engaged with them on a daily basis, which helps ensure openness and oversight.
Secondary Messages

- The Department of Finance began an investigation into this issue 2016, but handed the investigation over to the Auditor General's office that same year.

- On June 14, 2018, the Provincial Government released details on its new fraud management policy for core government employees.

- The policy includes zero tolerance for fraud and a reporting structure for those wishing to report fraud.

- The Provincial Government works to find the best ways to reduce the risk of fraud and safeguard our assets.

- Our policy provides a framework to assist departments in developing fraud management practices, including fraud prevention and detection as well as awareness of fraud risks. The goal is to put in place an anti-fraud culture in government, and our educational entities are encouraged to adopt similar policies.

RECOMMENDATION 1: The Board of Trustees and senior management should set clear expectations for ethical behaviour, that should include establishing and communicating a written code of ethics and conduct that integrates conflict of interest prevention and management to all staff, including consequences of noncompliance with these standards.

Key Messages:

- When we formed government we realized early on that a gap exists on a Code of Ethics, and core government did not have a Code of Ethics at that time.

- Staff in the Human Resource Secretariat have been working on a Code of Ethics for numerous months. They have undertaken extensive research, including a jurisdictional scan to see how other provinces and territories have approached this issue.

  s.29(1)(a)

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• We encourage NLESD to provide training to employees to promote a better understanding of the role and responsibility for ethical behaviour, including compliance with legislation and NLESD policies and procedures.

• NLESD is monitoring adherence to the standards of conduct, and working with government to establish a better reporting mechanism to help monitor standards and report suspected violations.

• We encourage NLESD to investigate allegations of violations of the standards on a timely basis and take appropriate actions when allegations are substantiated.

**RECOMMENDATION 2:** The Board and senior management should provide effective oversight on the development of performance of NLESD's internal controls that should encompass a fraud risk management program, establishing a periodic evaluation policy and engagement with the Board and internal and external auditors.

**Key Messages:**

• On June 14, 2018, the Provincial Government released details on its new fraud management policy for core government employees.

• The policy includes zero tolerance for fraud and a reporting structure for those wishing to report fraud.

• The Department of Finance began an investigation into this issue in 2016, but handed the investigation over to the Auditor General's office that same year.

• Fraud is a reality for many large organizations, and Government holds the school districts and all organizations that we engage with to the highest standard.

• We encourage NLESD to develop a fraud risk management program that includes risk assessment to identify specific fraud risks and to mitigate risks to an acceptable level.

• We support conducting board meetings with both internal and external auditors at least annually to discuss any concerns identified with respect to all legal and financial matters.

**Conclusion:** The AG released her report entitled "Management of the Procurement of Goods and Services" to LGIC through the Minister of Finance in accordance with sections 16 and 31 of the 'Act' on September 12, 2018.
Key Messages:

- The Department of Finance has made the AG Report available online.

- We support openness and transparency in providing detailed information to the public.

- The report has been provided to the RNC and RCMP for further investigation into this matter and we will continue to cooperate fully with any ongoing investigations.

Prepared by: C. Pickard / B. Evans
Approved by: E. Barnes

BN/18/95
Key Messages

Department of Education and Early Childhood Development
Newfoundland and Labrador English School District Proposed Action Plan and Budget Request – Auditor General Report
December 18, 2018

Summary:
December 18, 2018, the Public Accounts Committee questioned the Newfoundland and Labrador English School District’s Chief Executive Officer and the Chair of the Board of Trustees on action taken in response to the findings of the Report of the Auditor General entitled Management of the Procurement of Goods and Services, Newfoundland and Labrador English School District.

The Committee questioned the board’s long-term plans to restore credibility in financial activities; and questioned the internal controls and processes in place to prevent a recurrence of the deficiencies noted.

Anticipated questions?
What is Government’s reaction to today’s hearing? Does government support the Newfoundland and Labrador English School District’s Action Plan and budget request? What is government doing to support this plan? Where will the money come from to implement such a plan?

Key Messages:
• The Department is reviewing the Newfoundland and Labrador English School Board’s proposed action plan and budget request.

• As a part of this review, government intends to explore the feasibility of integration into government’s core financial management system (Oracle) under a shared services model as committed to in The Way Forward.

• The Way Forward Action Plan highlights Government’s commitment to continue to take steps to consolidate corporate services for various accounting and finance processes, (such as accounts payables and receivables; banking, payroll and purchasing; as well as human resources and information technology.)

Secondary messages:
• The Provincial Government is committed to working with partners in Agencies, Boards and Commissions (ABCs) to identify specific shared-services opportunities such for implementation.

• Government’s current system has the capacity to address a number of issues identified with the district (e.g., centralized purchasing: accounts payable
including quality controls, inventory control and asset management).

- Government will be engaging a consultant early in the new year to work with the Newfoundland and Labrador English School District and government officials to conduct a detailed scoping and business requirements gathering exercise.

**Background Information:**

On November 3, 2018, the Department of Education and Early Childhood Development received a copy of a proposed action plan and associated budget request from the Newfoundland and Labrador English School Board. The action plan and budget request resulted from the recent findings in the Auditor General's report related to management of the procurement of goods and services.

On November 13, 2018, The Department of Education and Early Childhood Development responded to the Newfoundland and Labrador English School Board with a commitment to review the proposed action plan and associated budget request. The request is currently being taken under consideration by government, as it continues its budget process.

On November 29, 2018, the Department of Education and Early Childhood Development responded to the Board to advise that as part of the review, government intends to explore the feasibility of integration into government's core financial management system (Oracle) under a shared services model.

On December 17, 2018, OCIO released a Project Requisition seeking to engage a consultant to conduct a detailed analysis and high-level project plan to migrate NLESD’s financial management system into core Government. The closing date is December 28, 2018 and it is anticipated that the selection process will occur in early January 2019.

On December 18, 2018 the Public Accounts Committee conducted a public hearing in the House of Assembly Chamber to review the findings of the Report of the Auditor General entitled Management of the Procurement of Goods and Services, Newfoundland and Labrador English School District.

Drafted by: Communications
Approved by: Bob Gardiner, Deputy Minister