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Chair

The Honourable Shawn Murphy

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• (1530)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I call the meeting to order.

Welcome, everyone.

This meeting has been called pursuant to the Standing Orders for today to deal with chapter 6, “Selected Contribution Agreements—Natural Resources Canada”, of the spring 2009 Report of the Auditor General of Canada.

The committee is very pleased to have before us this afternoon Ms. Sheila Fraser, the Auditor General, representing the Office of the Auditor General. She's accompanied by the deputy auditor, Mr. John Wiersema, and principal Linda Drainville. From the Department of Natural Resources we have the deputy minister and present accounting officer, Ms. Cassie J. Doyle; she's accompanied by Mr. Bill Merklinger, assistant deputy minister. We also have with us Mr. Richard Fadden, who was the previous deputy minister of the Department of Natural Resources.

On behalf of every member of the committee, I want to welcome each and every one of you. We'll get right down to business. We're going to ask the Auditor General for her opening comments. Then we're going to turn to you, Ms. Doyle. I understand, Mr. Fadden, that you do not have an opening statement.

Please go ahead, Ms. Fraser.

Ms. Sheila Fraser (Auditor General of Canada, Office of the Auditor General of Canada): Thank you, Mr. Chair.

We thank you for this opportunity to discuss our chapter on selected contribution agreements at Natural Resources Canada. As you mentioned, I am joined today by John Wiersema, deputy auditor general, and Linda Drainville, principal, who were responsible for this audit.

Our chapter raises issues related to the department's administration of contribution agreements in the area of energy efficiency programs. Between April 2003 and March 2005, Natural Resources Canada's office of energy efficiency entered into five contribution agreements with three private sector organizations to deliver programs designed to address greenhouse gas emissions in the transportation sector. These organizations were the Canadian Natural Gas Vehicle Alliance, the Canadian Energy Efficiency Alliance, and CEEA Transport. The total value of the five agreements was about \$9.4 million.

When concerns with the contribution agreements were identified in August 2005, NRCan initiated internal audits of them. These audits highlighted several problems, including serious compliance issues with the claims submitted for payment and with the control framework in place at the time. We subsequently became aware that the department may not have addressed all the issues and we therefore undertook this audit.

[Translation]

We examined NRCan's actions in entering into and managing these five contribution agreements. We also considered whether controls the Department subsequently put in place in the affected program area would be adequate to prevent recurrences of the problems that were identified.

In this audit, we found that NRCan failed to identify a situation of conflict of interest when a consultant who had helped NRCan develop two contribution programs also worked for the organizations that received funding under the same programs. The department paid at least \$110,000 to the consultant. The same consultant also signed a contribution agreement with NRCan as president of the recipient, CEEA Transport. CEEA Transport then entered into a contract for professional services with the same consultant. The contract included provisions to pay up to \$712,000 for professional services. We are very concerned that knowing all of the circumstances, the Department went ahead with these contribution agreements without identifying this obvious conflict of interest.

In addition, in August 2005, NRCan's senior management became aware that CEEA Transport was not complying with some of the terms and conditions of the contribution agreement. CEEA Transport had not made payments to some of its subcontractors before submitting claims to NRCan for payment, and there was sufficient evidence available to NRCan to establish that CEEA Transport was insolvent. These matters represented violations of the contribution agreement.

We found that NRCan made about \$3.2 million in payments to CEEA Transport despite evidence that it was insolvent and not paying the subcontractors. As a result, the Department did not satisfy its obligations under section 34 of the *Financial Administration Act*, which, in the case of a contribution agreement, requires certification that amounts are paid in accordance with the terms and conditions of the agreement. This is an essential control over the expenditure of public money.

As described in our chapter, we also found that the Department considered but did not implement other available options to resolve payment issues concerning the CEEA Transport contribution agreement. In short, while the Department attempted to do the right thing, it did not do it in the right way.

[English]

In response to findings from its internal audits, NRCan implemented a number of changes and improvements in its management practices for contribution agreements; however, at the time of our audit the practices did not include adequate independent monitoring to ensure that the management of contribution agreements respects the requirements of the Financial Administration Act, the Treasury Board of Canada policy on transfer payments, and the department's own policy and practices governing contribution agreements, nor had the department developed policies and guidance with respect to conflicts of interest in contribution agreements.

The committee may wish to ask NRCan what it intends to do to prevent recurrences of the issues identified by the internal audits and our audit and, in particular, what it intends to do to ensure that its staff are more sensitive to situations of potential conflict of interest in the management of contribution agreements.

Mr. Chair, this concludes my opening remarks. We would be pleased to answer any questions that committee members may have.

Thank you.

● (1535)

The Chair: Thank you very much, Ms. Fraser.

Now we're going to hear from Ms. Doyle, NRCan's deputy minister.

Ms. Cassie Doyle (Deputy Minister, Department of Natural Resources): Thank you very much, Mr. Chairman.

I would first like to introduce my colleagues at the table. Mr. Bill Merklinger is the assistant deputy minister of corporate management and services sector and the chief financial officer at Natural Resources Canada. My colleague Mr. Richard Fadden has already been introduced. He was the former deputy minister prior to my time at NRCan. He is currently the director of the Canadian Security Intelligence Service.

I appreciate this opportunity to be here this afternoon on behalf of Natural Resources Canada to address and review the actions we have taken to address the Auditor General's spring 2009 report with respect to the management of NRCan's contribution agreements. The findings highlighted a situation that occurred between 2003 and 2005 and the potential for conflict of interest in the management of contribution agreements as well as the need for an increased level of active monitoring and oversight, as was just presented by the Auditor General.

As Deputy Minister of Natural Resources, I accept responsibility for the issues identified by the Auditor General, and I am pleased to report here today that we have taken action to address all the findings.

First and foremost, let me assure the committee that no money was lost, and there was no overpayment under these contribution

agreements. I would like to also acknowledge the contributions of Mr. Richard Fadden, who while serving as Deputy Minister of NRCan, oversaw an internal audit on contribution agreements to transportation-based greenhouse gas reduction projects. All recommendations and management response commitments from this internal audit, completed in September 2006, have been implemented. As such, I am confident that NRCan has a robust system of financial controls in place to ensure that tax dollars are well used and are spent for their intended purpose.

My department is fully committed to and has demonstrated excellence in the management of grants and contributions. And we continue to learn and to make improvements in our systems of management and control. Of note, the Treasury Board Secretariat has accorded NRCan an improved rating on our 2008-09 management accountability framework for the effectiveness of our financial management and control. The department has developed a strong stewardship regime for managing contribution programs and for ensuring full compliance with government legislation, policies, and procedures.

Today I have submitted to the committee a summary of actions taken that provides details of the measures we have adopted. I would like to highlight a few to illustrate the actions taken since 2006 to improve all aspects of contribution agreement management and related conflict of interest provisions. These include the four action areas identified by the Auditor General in paragraph 6.25 of the report.

In September 2006, we created a centre of expertise on grants and contributions that provides advice on transfer payment administration and policies. This centre, which is headed by our financial management branch, reviews all grants and contributions agreements over \$100,000. It assists in the design of program terms and conditions. It tracks, monitors, and ensures compliance, including preventing conflict of interest situations. Through the use of training and increased awareness, this has been conducted in collaboration with the department's values and ethics unit. We have also developed detailed checklists. The centre also promotes best practices among employees who are managing grants and contributions.

We also created a transfer payment review committee in October 2006 at the assistant deputy minister level. In fact, it is chaired by my colleague Bill Merklinger, who is the ADM of corporate services. This transfer review committee reviews all grants and contributions agreements over \$1 million as well as any high-risk agreements over \$100,000 that are identified and referred by the centre of expertise.

● (1540)

As a standard practice, Natural Resources Canada has added three conflict of interest clauses to all its contribution agreements. This further strengthens the department's management of transfer payments by ensuring that each agreement contains standardized language that limits the potential for any real or perceived conflict of interest from the perspective of both parties to the agreement.

Over and above the mandatory delegated authorities training, which is managed by the Canada School of Public Service, our department provides additional training for employees involved in grant and contribution programming. For example, we hold employee engagement sessions, with case studies, to promote a deeper understanding of the Values and Ethics Code for the Public Service as a means of preventing any real or apparent conflict of interest situation.

As our summary of actions taken demonstrates, NRCan has fully addressed all of the Auditor General's recommendations and, as a result, has benefited from this report by significantly strengthening our management practices for grants and contribution agreements.

Again, as deputy minister, the sound stewardship of public funds is my highest priority, while at the same time ensuring that the policy and programming priorities of the Government of Canada are implemented to meet the needs of Canadians.

Thank you, Mr. Chairman. I'd be very pleased to answer any questions the committee may have.

The Chair: Thank you, Ms. Doyle.

We'll proceed right to the first round of seven minutes each.

Mr. Lee, you have seven minutes.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Thank you, and thank you to the witnesses for being here today.

Before I launch into this light questioning, I just want to say that I can appreciate the burdens over at NRCan and maybe other government departments when the whole country and the whole world decides it wants to go green, and says, "Over to you, Jack; make us go green." That's a huge shift societally, and I appreciate those things.

I also appreciate your evidence today that in the context of these particular agreements, no taxpayer money went east, that the contracts were executed and there was reasonable value for money in terms of the objectives.

Could you confirm that in the context of this particular sequence of contracts that the Auditor General has pointed out, in fact the goals of those contracts were accomplished?

Ms. Cassie Doyle: Thank you very much for the question, and I appreciate your understanding of the context in which we operate.

Just to go a little further on the statement that no money was misspent, I can tell you that NRCan's staff completed a detailed review back in 2006 of all of the dollars claimed by the CEEA Transport organization. That included reviewing evidence of all work completed against 760 promised deliverables that were included under the contribution agreement. So we substantiated the true value against those deliverables and ensured that only work that was completed was paid for. In fact, it's important to note that as part of that due diligence, \$800,000 of invoice claims was disallowed.

So I do feel confident that all the funds that were provided to the agency under our contribution agreement in fact reflected work performed.

Mr. Derek Lee: Most of my colleagues around the table are very pleased to see that things generally went okay in the spending, but we also want to look at the stuff that didn't go right, and as the Auditor General has correctly pointed out, there was a serious conflict of interest problem here.

I think everybody around the table will also recognize that lobbyists make their living based on connections—what they know, who they know—yet it is almost the very essence of conflict of interest rules that if you have a connection, it's a bad thing; it could be a potential conflict. So the people who truck and trade in connections and knowing government, if they're on the other side of the street, almost carry around liabilities with them. They might know too many people or they might have too close a connection to government.

In this case, there was a really tangible conflict of interest, a real patent, obvious, known conflict, yet the department went ahead. I don't even think it tried to paper it over. I don't think anybody tried to cover anything up. It just went ahead.

You've indicated what the department has done to try to avoid this, but how do we know in a real practical sense that all these knowledgeable lobbyists won't be able to find a way around all your skilled expertise and committees and make their connections work for them and their clients? How do we know that you've really solved the problem, or could you? Would you please point to what exists now that would have prevented this patent breach of the conflict of interest rule that we've identified here? Tell me how what's there now would actually prevent a recurrence.

● (1545)

Ms. Cassie Doyle: In my opening statement, what I was attempting to outline is some of the improved oversight we've put in place in terms of a conflict of interest situation that could arise from a relationship existing between one program official who in this case may have used a consultant who then later came back and used that expertise to secure a contribution agreement.

What we've done at NRCan, and I believe in many other departments, is to put in oversight mechanisms so that we are ensuring there is adequate review outside the program area, as was recommended by the Auditor General. There would be a review on those grants of over \$100,000 by a committee, which includes legal services, under the directorship of our financial management branch. Then, for any of the higher-risk contribution agreements of over \$1 million, there would be a committee chaired by an ADM of corporate services and our chief financial officer, which would involve three other ADMs not in the program area, and our chief counsel, who is our Justice representative, who would review not only the contribution agreement but a very detailed checklist to ensure that there has been an adequate review to prevent any conflict of interest, as well as compliance with the other policies in terms of section 34.

Mr. Derek Lee: So those were outside eyes, or at least external-to-the-department eyes, viewing this with, I presume, some relative independence.

I know it might not be appropriate to go into detail, but can you point to a recent case where these wonderful new mechanisms pre-empted an apparent conflict of interest situation? Are you aware of one? I know these new mechanisms are in place. Somebody must be spending some time on it. There are some FTEs being invested in this scrutiny. So is there any instance in the last year or two that you're aware of where a contract with a problem was identified and the problem pre-empted?

Ms. Cassie Doyle: There is one situation I am aware of that involves a perceived conflict of interest. It has certainly been brought to my attention and we are actively managing that at the present time.

In terms of the overall work of our oversight committees, I believe since 2005-06 there has been such an elevated level of attention to contribution agreements that there is, in a way, a culture that would not allow this kind of conflict situation to repeat itself.

Mr. Derek Lee: Thank you, Mr. Chairman.

The Chair: Thank you, Mr. Lee.

Madame Faillie, vous avez sept minutes.

[Translation]

Ms. Meili Faillie (Vaudreuil-Soulanges, BQ): Thank you, Mr. Chair.

I like the questions asked by my colleague on the new systems you have put in place and I will continue on the same issue.

At this time, there is a potential situation of conflict of interest that you are managing through this new mechanism, is there not?

• (1550)

[English]

Ms. Cassie Doyle: Yes, that's correct.

[Translation]

Ms. Meili Faillie: All right. About the mechanism that you are referring to, you said that you have added in the agreements three specific clauses relating to conflicts of interest. Were these clauses already included when you discovered the present potential conflict of interest?

[English]

Ms. Cassie Doyle: No, it was not.

The clauses that have been added to our contribution agreement have come as a result of the attention from and the recommendations of the Auditor General. It has just been in recent months that we've included the clauses that now stand as standardized language in each of our contribution agreements.

[Translation]

Ms. Meili Faillie: Very well.

I appreciate the efforts made by the Department but, as far as I know, this Department has been in existence for many years. Other Departments also have agreements to manage contributions.

Is it not usual practice in the various Departments to pay special attention to matters of conflict of interest?

[English]

Ms. Cassie Doyle: Thank you for that question.

In fact, the prevention or avoidance of conflict of interest is contained in the code of values and ethics that all public servants adhere to. So it is very much part of the way we operate, and thus we have mechanisms now, and checklists, and oversight to ensure that situations of conflict of interest are prevented. I also believe it is part of the overall development and training of public servants just to be aware of that in all aspects of their work.

[Translation]

Ms. Meili Faillie: Did you have anything beforehand?

[English]

Ms. Cassie Doyle: We have had the Values and Ethics Code for the Public Service and now we have specific language that has been introduced right into the contribution agreement that is signed.

[Translation]

Ms. Meili Faillie: When the Department starts an audit, does it ensure that all the meetings between program officers and registered lobbyists are officially recorded in the Register?

[English]

Ms. Cassie Doyle: We do have a system in place to record the meetings between officials, starting really at the assistant deputy minister level, and the lobbyists.

[Translation]

Ms. Meili Faillie: Before such a meeting, are Deputy Ministers and program officers required to check that those persons are active lobbyists and are indeed registered as lobbyists?

[English]

Ms. Cassie Doyle: Mr. Chair, I believe the question relates to the obligations of lobbyists. The obligations rest with the lobbyists as opposed to the individual public servants.

[Translation]

Ms. Meili Faillie: But public servants are still required to make sure that the person is effectively registered as a lobbyist, are they not?

[English]

Ms. Cassie Doyle: The obligation starts at a particular level in the public service. In our Lobbying Act, the primary responsibility is for the lobbyist to record any interactions. We do have a system at NRCan where we take note and ensure that anyone at the assistant deputy minister level or above is aware of the status of any stakeholder and whether or not they are on the list of official lobbyists.

[Translation]

Ms. Meili Faillie: I have asked the question differently. If I understand correctly, you are not obliged to check that the person you are meeting with is effectively authorized to meet with you and is registered as a lobbyist. This is what you have explained to us in your answer.

Mrs. Fraser, on the basis of the many situations that you have identified as potential situations of conflict of interest—Natural Resources Canada is not the only Department in this situation, there are others—do you believe that steps should be taken at other levels?

•(1555)

Ms. Sheila Fraser: As of the member stated, we have identified other cases of conflict of interest through recent audits. It seems obvious to us that this is not well understood. There seems to be a gap, generally, in the training of public servants and in their understanding of conflicts of interest. We have started a government-wide audit in order to review existing policies. Are they clear enough? Later on, we will decide if we have to select some Departments to review the type of training provided to their staff.

Ms. Meili Faille: In the present case, there was not only a potential conflict of interest, there was also a violation of several provisions of the *Financial Administration Act*.

My question is for the Deputy Minister. In the new situation of potential conflict of interest that you are looking at, have any payments been made already?

[English]

Ms. Cassie Doyle: Thank you for the question.

All payments under these contribution agreements have now been concluded; all payments have been made. Under the Canadian Energy Efficiency Association Transport, there were payments withheld and not paid after the review of the specific deliverables against actual work performed.

The Chair: *Merci, madame Faille.*

Mr. Christopherson, you have seven minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Thanks, Chair.

Thank you all very much for your attendance today. We appreciate it.

I believe my friend Mr. Kramp is going to ask some questions about Mr. Middleton and suss out a bit how much more we need to look at that, so I won't go there; I'll leave it to him.

Also, right off the bat, Deputy, thank you for accepting responsibility. That's always a good start, and it's appreciated.

I want to turn to page 10 of the Auditor General's report, to paragraph 6.25: "We found that when concerns about the contribution agreements were identified in August 2005...". Deputy, what were the concerns that led you to cause an internal audit?

Ms. Cassie Doyle: The concerns at that time were due to the information that was discovered by the department: that the subcontractors were not being paid.

Mr. David Christopherson: You say "discovered"; I'm trying to get at how it was discovered. Did they find a file in a drawer that they hadn't seen before? What does that mean, "discovered"?

Ms. Cassie Doyle: I wish I had more detail to provide to you on this. I think there was some communication back to the department, perhaps through phone calls, from subcontractors saying they had not been paid by the contractor with whom we had the contribution agreement.

Mr. David Christopherson: Right, and that triggered you to look into it. And right then and there, at that look, was it determined that there needed to be some follow-up from there?

Ms. Cassie Doyle: Yes. The first action taken by the department was to ask Consulting and Audit Canada to undertake a recipient audit, which was initiated in 2005. From the findings of that recipient audit, there appeared to be enough risks that an internal audit was undertaken by the department.

Mr. David Christopherson: Okay, I've got that.

Auditor General, subsequently, after the internal audit was done, your office received complaints. As much as you can, can you advise what "complaints" means, from whom, and what they were about?

Ms. Sheila Fraser: There were at least two complaints, I believe. They were essentially about the conflict of interest, the fact that a consultant—

Mr. David Christopherson: Were they be from similar sources? Are we talking about subcontractors?

Ms. Sheila Fraser: No, I believe it would have been....

Mr. John Wiersema (Deputy Auditor General, Office of the Auditor General of Canada): The complaint, Mr. Chair, came in the form of an anonymous letter.

Mr. David Christopherson: Was there just one?

Mr. John Wiersema: There was one that I recall; there may have been others as well.

Mr. David Christopherson: So there was a whistle-blower who triggered your involvement in this.

•(1600)

Ms. Sheila Fraser: Yes.

Mr. David Christopherson: I appreciate all those answers. I have to tell you, I have a bit of trouble following the chronology, because it bounces around a bit, and then there are different audits. I don't claim to be the smartest guy on the Hill. Here's where my question is going.

Deputy, you mentioned in your comments, on page three, that "All recommendations and management response commitments from this September 2006 audit report have been implemented". Then in the next paragraph you say, "My department is fully committed and has demonstrated excellence in the management of grants and contributions..."; and you even mention that because of your elevated attention after September 2006.... Yet if I understand correctly, it was after September 2006 that the audit was done by the Auditor General—I believe from June to November 2008—and the audit and the work you did after that was still found, in paragraphs 6.27 and 6.32, indicate that the AG found further work that needed to be done; that your audits weren't all that...and yet you're bragging about the 2006 and what you've done since then. I would have been happier to hear you say you were bragging after you got the AG's audit and cleaned up everything.

Help me understand why you're bragging about what you did after the 2006 internal audit, given that the AG, when she went in and looked at the results of it, was—my words—not impressed. She found other areas that you still had not dealt with, and yet you're in here praising what you did after the 2006 audit.

Help me understand, please.

Ms. Cassie Doyle: I was trying to provide the committee with a fairly comprehensive overview of the measures we've put in place to improve the overall management of our grants and contributions. It certainly wasn't my intent to be overstating those, but I want to say that at the time we initiated the internal audit, the focus was very much on our management control framework and ensuring that we had adequate controls in place to govern adherence to terms and conditions and to ensure value for money. We were also motivated at that time to ensure that there was no wrongdoing in the overall management of this contribution agreement. That was our—

Mr. David Christopherson: Thank you. I'm sorry to interrupt.

These are important omissions. To me, there's a whole set of criticisms that your department is open to because you didn't do the job properly after 2006. Had the Auditor General not gotten an anonymous complaint and gone in there, you would still have procedures lacking: paragraph 6.27 says your evaluation documents are still "silent on conflict of information issues", that they are "not supplemented by guidance for staff", and that "we found that the new practices and processes still do not require an assessment". This was after your great internal audit of 2006.

What happened? Some things happen in this world. Fine; you go in and look at it and fix it. But your fix didn't fix it. So what happened there? After you were already in there trying to fix it, you didn't fix it right.

Ms. Cassie Doyle: As I mentioned in my opening statement, we did put in place a much higher level of oversight, both through our financial management branch and, independently from the program area, through the establishment of a transfer review committee. Through that, I believe we've had a much higher level of external review and scrutiny and have improved the overall management of our contribution agreements.

Mr. David Christopherson: Help me, Deputy. I think I was pretty clear. I was trying to understand why you were so impressed with your 2006 audit and what you did after that, and when our AG went in afterwards, she found that the improvements you had made were still not sufficient, even in an area of conflict of interest.

I'm just trying to understand how you could miss the things that were still broken after you went in and fixed it once already.

Ms. Cassie Doyle: Mr. Chair, what this chapter that the Auditor General brought forward focuses on is one isolated case within a department that develops and administers thousands of contracts. The person who is responsible for this no longer works for our department. We have addressed this from a labour relations perspective and we have put in place two very strong oversight mechanisms as well as developing very detailed checklists. I believe that since 2006, and as a learning from that internal audit, we have made a step change in the overall management of our contribution agreements.

Can I go back and reverse an isolated situation? That's actually not possible historically. We've learned from the report, we've made further enhancements, but I stand by my opening statement that we have a very strong stewardship of contribution agreements.

Thank you.

●(1605)

The Chair: Thank you, Mr. Christopherson.

Mr. Saxton, you have seven minutes.

Mr. Andrew Saxton (North Vancouver, CPC): Thank you, Mr. Chair.

My first question is to the Auditor General.

Mrs. Fraser, can you remind us what dates your audit covered specifically?

Ms. Sheila Fraser: Our audit took place between June and November 2008, but the period under audit was probably up to about 2005, I guess—roughly from 2003 to 2005.

Mr. John Wiersema: The work was done between June and November. We focused most of our activity on looking at the contribution agreements at the time they were being managed. The contribution agreements, I believe, were first issued in 2005. Then we looked at the internal audit and the subsequent management actions that had been put in place. But the period covered by the audit focused on the contribution agreements and the actions that management took subsequent to that, up until November 2008, to prevent recurrence of those situations.

Mr. Andrew Saxton: And the contribution agreements were signed in what year?

Ms. Sheila Fraser: They were signed in 2003.

Mr. Andrew Saxton: Starting in 2003?

Ms. Sheila Fraser: I believe it was in 2003.

It was between April 2003 and March 2005.

Mr. Andrew Saxton: So it was roughly that two-year period between 2003 and 2005.

Do you happen to know who the minister was at the time at Natural Resources?

Ms. Sheila Fraser: I do not.

Mr. Andrew Saxton: Thank you.

My next question is for Ms. Doyle.

You mentioned in earlier testimony today that there is a difference in culture now at NRCan. Can you explain what that difference is?

Ms. Cassie Doyle: As a consequence of the events that happened between 2003 and 2005, there was a much elevated level of focus on contribution agreements. As I mentioned, we not only have put in place the oversight mechanisms and specific tools, such as checklists; we have also strengthened the language in the agreements themselves, and we ensure that we have engagement of our legal services in the review of all contribution agreements.

Even more importantly, we've had much more engagement with the individual officials who are responsible for administering programs that can include contribution agreements. There are many more training sessions. There's certainly more required training, but there's also been engagement particularly around case studies, such as the one that happened that was reported through the Auditor General's report.

Mr. Andrew Saxton: So as a result of the audit, and perhaps as a result of new Accountability Act standards, that's what has precipitated the change in culture. Is that correct?

Ms. Cassie Doyle: Yes. That, as well as our management accountability framework that is administered through the Treasury Board, has a number of management indicators that we report on, on an annual basis. I think it's clear that there has been a very strong improvement in the overall financial management across government. I certainly have seen that in my department.

Mr. Andrew Saxton: Can you describe the increased training for program officials that has taken place?

Ms. Cassie Doyle: It has been developed, actually, through our centre of excellence in the transfer review.

I wonder if I could ask my ADM to comment on the training that has been developed.

Mr. Andrew Saxton: Sure.

Mr. Bill Merklinger (Assistant Deputy Minister and Chief Financial Officer, Department of Natural Resources): Thank you.

I'll mention a couple of highlights of the training.

First of all, the centre of expertise fosters best practices in the effective management of grant or contribution programs. So we have the centre that guides managers who are administering grants and contribution. Also, as was mentioned in the opening comments, we run case studies and engagement sessions with managers of grant and contribution programs, where we actually walk them through concrete values and ethics, conflict of interest situations, and the appropriate way to deal with them.

Those would be two examples.

• (1610)

Mr. Andrew Saxton: Thank you.

My next question is for the Auditor General.

Ms. Fraser, are you pleased with the actions that have been taken since the audit was concluded?

Ms. Sheila Fraser: We have not audited any of the actions that have been taken by the department since then, so I really can't comment on that.

Mr. Andrew Saxton: Okay.

Deputy, can you comment on the internal audit that was completed in 2006?

Ms. Cassie Doyle: The internal audit, which is actually posted on our website, as I mentioned, focused on the overall management, the control framework on contribution agreements. That was the primary focus of the internal audit.

There were a number of recommendations made by our internal auditors, and management responses. As I mentioned in my opening statement, all of the recommended actions have been implemented from the September 2006 internal audit. That includes the establishment of the centre of expertise; a policy on grants and contributions was formalized and distributed; a framework for the monitoring of grants and contributions was issued; an electronic management system was put in place to capture information and

monitor programs; increased training, as I mentioned, was conducted, including courses within all of our regions; file checklists were promulgated to help managers select recipients for audits and manage agreements; and as of May 2006, all departments disclosed contributions of over \$25,000 on their website to ensure transparency.

Thank you.

Mr. Andrew Saxton: Thank you.

Finally, Ms. Doyle, can you tell us how long you've been at the department yourself?

Ms. Cassie Doyle: It has been since July 2006.

Mr. Andrew Saxton: So you've been there for most of the time during which the changes have taken place.

Ms. Cassie Doyle: Yes, I have.

Mr. Andrew Saxton: Thank you very much.

The Chair: Thank you, Mr. Saxton.

Ms. Doyle, I have one area that I want to pursue.

It's my view that this is a pretty bad situation. We're dealing with conflict of interest, mismanagement, negligence, \$3.2 million paid to an insolvent company, other subcontractors and suppliers not being paid, and section 34 of the Financial Administration Act not being followed.

I accept your evidence that you've made corrective actions, but one issue on which I'd like to get a detailed report from you concerns the matrix of sanctions that have been posed, because these individuals knew about the conflict, they acquiesced to the conflict, they approved the payment under section 34 of the Financial Administration Act illegally and unlawfully, and they certainly didn't follow what I would consider ethics and values that one would like to see in a federal public service.

We don't have to get the names of the individuals, but can you relay to the committee a review of the sanctions you imposed on these individuals who are responsible?

Ms. Cassie Doyle: Thank you very much.

I'm going to assure you that we—the department, my predecessor, and I—certainly took this situation very seriously and implemented immediate actions.

As I mentioned earlier, we did take disciplinary action. The employee who was responsible for this program, whose name I will not release because of the Privacy Act, the director responsible, was relieved of his duties and he is no longer under the employment of the department or the public service.

The Chair: He was dismissed because of his actions?

Ms. Cassie Doyle: Yes, he was relieved of his duties. He was dismissed—

The Chair: Because of this action.

Ms. Cassie Doyle: Yes.

The Chair: Were any other sanctions imposed?

Ms. Cassie Doyle: No. I think the primary mismanagement was the responsibility of the program director, and the program director was relieved of his responsibilities as a result of both the recipient audit undertaken by Consulting and Audit Canada and our own internal audit.

The Chair: Was there any evidence of collusion between the program director and either Mr. Middleton or one of the recipient organizations?

Ms. Cassie Doyle: Mr. Chair, there was no way to establish whether there was any collusion. We certainly had that reviewed and ensured that there was the opportunity to provide the RCMP with the question of whether or not there was any criminal activity involved. The RCMP declined to investigate, after its review. So there was no way to identify any apparent collusion.

• (1615)

The Chair: Mr. Fadden, not during the entire time but during the latter part of this situation, you were the accounting officer. Do you accept any responsibility for the problem that occurred?

Mr. Richard Fadden (Former Deputy Minister, Department of Natural Resources, As an Individual): Yes, Mr. Chairman. I think in practical terms, the greater contribution I could make was to ensure that it was investigated. That occurred during my term there. But yes.

The Chair: We're going to go to the second round now, of five minutes.

Ms. Crombie, you have five minutes.

Mrs. Bonnie Crombie (Mississauga—Streetsville, Lib.): Thank you, Mr. Chair, and welcome to our guests.

Ms. Doyle, I printed up the internal audit from September 2006 and took a look at it. I came to the conclusion that it was a very unfortunate but hopefully isolated incident that occurred back then. It was interesting that it came from, and in fact it states that the internal audit was raised as a result of, concerns by employees—plural, not just an independent whistle-blower.

My question has to do with one of the agreements undertaken with one of the companies that were subject to this compliance audit.

It was a \$6.9 million contribution agreement, and we know that the largest agreement permitted is \$7 million. It was undertaken with a newly formed not-for-profit organization that had no established source of funding other than the contribution fund, had no established internal management or financial system, and the agreement was not reviewed or approved by legal services, contravened departmental regulations, and was not assessed for risk—all of that.

Was that CEEA-T, CEEA Transport? Or was it some other...?

Ms. Cassie Doyle: I believe it was CEEA-T.

Mrs. Bonnie Crombie: Do we think that the agreement that was entered with CEEA-T was isolated? Some suggestions were brought up: that it could have been due to the overly aggressive lobbyists; that perhaps the program director had been errant in his decision; that there were some mitigating factors; as well as that we didn't have a solid framework in place to assess risk and have a strong conflict of interest guideline in place.

What would you say? Were there other factors?

Ms. Cassie Doyle: Thank you for the question.

It's a little difficult for me to understand what the motivation was in 2005. I know this is an area where the expertise is fairly limited. I believe that contributed to this situation, which is that you're using a consultant who has this sort of rare expertise at that particular time.

Mrs. Bonnie Crombie: If we look at CEEA-T, we see that they had not made payments to some of the contractors; yet they were still advanced \$1.3 million in payments. How did NRCan learn that they weren't complying with some of the terms of the contribution agreement, when did you learn that, and why did you continue to make payments to CEEA-T?

Then the Auditor General asked why other options were not explored to resolve the payment issue or the agreement amended.

Ms. Cassie Doyle: Thank you for the question.

Throughout this exercise, we were receiving legal advice on our obligations under the contribution agreements. I would acknowledge that there probably were other possible approaches that could have been undertaken, but the advice we received was that because we were in a contribution agreement, the crown had an obligation to pay for work completed. As I mentioned, there was a very rigorous review of each of the promised deliverables in the contribution agreement signed with the Canadian Energy Efficiency Alliance Transport, which is the CEEA-T, and after that review, we paid and were assured that we were obligated to pay, on the advice of our legal advisers, for the work that had been actually completed.

Mrs. Bonnie Crombie: Could the contract not have been amended?

This question may be to the Auditor General, who suggested that there could have been other options to resolve the payment. What other options would you propose?

Ms. Sheila Fraser: Thank you, Chair.

As we mention in the report, the department did consider other options but did not implement them.

I think it's important, and we try to make the point here, that CEEA-T did not meet the conditions under the contribution agreement, which said that they were to request payment only after they had paid their subcontractors. We also indicate that obviously government was trying to do the right thing and ensure that the subcontractors were paid for the work that was done, but we believe that \$3.2 million was put at risk because payments were made to an insolvent company and there was, as far as we could determine, no guarantee that the payment would actually go to the subcontractors.

• (1620)

Mrs. Bonnie Crombie: Precisely. Could the agreement at that point not have been amended with legal assistance?

Ms. Sheila Fraser: Yes. That was one of the options that were considered.

Mrs. Bonnie Crombie: Then Mr. Fadden, was that an option that was considered at the time?

Mr. Richard Fadden: It was, Mr. Chairman. I would only note that it takes two to amend a contract; it cannot be amended unilaterally. At this point, our relationship with these entities was such that they weren't going to do anything we asked them to do.

Mrs. Bonnie Crombie: When did we learn that CEEA-T was insolvent?

Ms. Cassie Doyle: I wonder if I could, Mr. Chair, ask our director general from the office of energy efficiency to join us at the table.

The Chair: Coming to the table, colleagues, is Carol Buckley, the director general of the office of energy efficiency.

Welcome, Ms. Buckley.

Ms. Carol Buckley (Director General, Office of Energy Efficiency, Department of Natural Resources): Picking up on the question of the decision whether to pay the subcontractors directly, as Deputy Minister Fadden said, the entity with whom we had a legal agreement would not have been likely to want to stand back from that agreement; they wanted to continue to be the entity delivering the work under the contribution agreement.

In addition, there were some 40 or more subcontractors, so the administrative difficulty of moving a contract of many millions of dollars to tens and tens of subcontractors would have been very difficult, particularly since the entity that had signed the agreement would not have been happy to do it.

So we had advice that there were options we could undertake, and we felt confident in the option we chose. As long as we did a very rigorous value for money assessment of all the business plan items, we would ensure that money was only provided for work that was completed. Then the legal relationship was between CEEA-T and the subcontractors, and the money needed to flow from CEEA-T to the subcontractors, not from the crown to the subcontractors.

The Chair: Thank you, Ms. Crombie.

Mr. Shipley, you have five minutes.

Mr. Bev Shipley (Lambton—Kent—Middlesex, CPC): Thank you, Mr. Chair.

I have to tell you, this is likely one of the most disturbing events I've witnessed in my short tenure on this committee.

First of all, I'm a little disappointed, Ms. Doyle, that actually in your opening presentation you tried to protect so much the events that happened between 2003 and 2005. Rather, I think, as you did at the end, you should have focused as much on what has changed, what has happened, and those good things.

What happened in the first part of this event—some of my colleagues are trying to underestimate it, I'm afraid—is that we have \$110,000 that was paid by the department to a consultant. That same consultant signed a contributory agreement with NRCAN as president of the recipient. CEEA Transport entered into a contract for professional services—this is from the Auditor General's report—and the contract included provisions to pay up to another \$712,000 in professional services.

Rightly so, the Auditor General says they are very concerned about knowing all the circumstances. One is that NRCAN, in an internal audit, for some reason at that time did nothing about the

conflict of interest, which raises a large concern, knowing that we're talking about close to a million dollars in services and consulting fees that went out.

On top of that, to follow up what my colleague was raising, which is a valid point, the Auditor General says: "We found that NRCAN made about \$3.2 million in payments to CEEA Transport" knowing the fact "that it was likely insolvent". So they did not pay their subcontractors. In my riding, I know subcontractors who get raked over because somebody has skimmed off the money at the top and has decided that it is their prerogative not to pay the subcontractors.

Now, we're talking about \$3.2 million, so I have a question that follows from a comment here. You said that "no money was lost and there were no overpayments"; you have to be assured that no money was lost and no overpayments made.

Where did the money go?

• (1625)

Ms. Cassie Doyle: Thank you for your question.

It's fairly complex, because there are a number of reports, all focused on the same situation.

The reference I made to money not being lost or overpayments not made reflects the fact that in April 2006 the payments under CEEA-T were suspended to allow for a much more rigorous review of all of the deliverables under the specific contribution agreement. As I mentioned, there was a very detailed review; it took a dedicated team to go through these 760 program deliverables to ensure that section 34 of the Financial Administration Act had been fully complied with. It was after that rigorous review that there was a sort of truing up in terms of what the crown was responsible or obligated to pay for work that at that time had been completed.

Mr. Bev Shipley: I understand the point: the crown does not pay the contractors; the crown pays the company. An internal review was not done concerning the conflict of interest, which appears to be maybe even more than that now.

What you said—or I think it was Mr. Fadden who said it—was interesting: that the RCMP declined to investigate.

Can you expand on any reason the RCMP would have to decline to investigate something, when close to a million dollars had been spent—any reason, knowing that there was an internal conflict, knowing that there was a conflict of interest, knowing that there had not been an internal audit that would review it, that the RCMP would come along in whatever year and say, we don't think we want to investigate?

Ms. Cassie Doyle: I'd certainly be pleased to elaborate on the role of the RCMP.

Natural Resources Canada invited the RCMP to review the facts on two occasions, in May 2006 and then upon conclusion of the internal audit in July 2006. All of the findings of the internal audit were provided to the RCMP. After its review, the RCMP noted that there was no evidence of wrongdoing warranting either further review or initiation of a criminal investigation.

So there were two formal referrals to the RCMP, and the formal response was provided in July 2006, after the full audit material was provided.

The Chair: Thank you, Mr. Shipley.

Mr. Paillé, you have *cinq minutes*.

[Translation]

Mr. Pascal-Pierre Paillé (Louis-Hébert, BQ): Thank you.

in your statement, at page 3, you state that "... Natural Resources Canada has a robust system of financial controls in place to ensure that tax dollars are well used and are spent for their intended purpose". In addition to knowing what amounts would be paid, you have to know whom they will be paid to. The problem is not only that money was paid in excess, it is also how that money was paid under the contract.

I would like to ask a simple question. Today, are you still doing business with CEEA Transport? Do they have other contracts with you?

[English]

Ms. Cassie Doyle: No, we have not had any further contracts, Mr. Chair.

[Translation]

Mr. Pascal-Pierre Paillé: From the information I have here, Mr. Middleton is still working for Bronson Consulting Group. Are you still dealing with that company?

[English]

Ms. Cassie Doyle: No, we do not.

[Translation]

Mr. Pascal-Pierre Paillé: All right. Thank you.

[English]

Ms. Cassie Doyle: Oh, I'm sorry; pardon me. Perhaps I could ask my director general.

It's the individual, not the company, that we are no longer dealing with.

Ms. Carol Buckley: Peter Middleton, to my knowledge, worked for Bronson Consulting quite a few years ago. Then he formed his own consulting company, and that is the consulting company that was hired through the CEEA-T contribution agreement.

We continue to work with Bronson Consulting. We have no knowledge of any association of Peter Middleton with Bronson Consulting today, and we certainly have no contribution agreements or any business with Peter Middleton today.

• (1630)

[Translation]

Mr. Pascal-Pierre Paillé: You said to my colleague that you have identified another potential situation of conflict of interest. You also said that in the case referred to by the Auditor General, the officer who dealt with the file has been dismissed. Does the fact that you believe there might be a new conflict of interest even though new rules have been put in place mean that another officer might be involved?

[English]

Ms. Cassie Doyle: Thank you for your question.

To be specific, the department is currently aware of one potential conflict of interest situation. As the review or investigation of that situation is under way right now, it's not possible for me to disclose the individual's name, and it would also not be appropriate under the Privacy Act, but we are aware of one other potential conflict of interest situation within our department.

[Translation]

Mr. Pascal-Pierre Paillé: From the information we have received, it was quite obvious that it would be a conflict of interest. Why did management of Natural Resources Canada ask for an internal audit? Why was there an internal audit?

[English]

Ms. Cassie Doyle: Thank you for that question.

The management mechanism we have available to us is primarily our internal audit. The very first request was to a consulting company within the Government of Canada, Consulting and Audit Canada, to do a review of the compliance audit on this contribution agreement, but internal audit is the management mechanism by which a deputy minister would ask for a review when any kind of risk situation is being presented.

This audit was an extraordinary audit. It was not part of the overall audit plan, but it was actually requested by the ADM at the time to immediately review the management controls around these particular contribution agreements and, in fact, the program itself.

[Translation]

Mr. Pascal-Pierre Paillé: I will defer to my colleague for a final question.

Ms. Meili Faille: Deputy Minister, are these contracts managed by Mrs. Buckley's Branch? Is it the present investigation carried out by her Branch?

[English]

Ms. Cassie Doyle: The contribution agreement... Perhaps I could ask for clarification. Are you speaking of the contribution agreements that are the subject to the Auditor General's report?

[Translation]

Ms. Meili Faille: I am referring to the situation of a potential conflict of interest. You have identified a new situation relating to contributions paid by the Department. Is that why the director is here today? Is that related to her Branch?

[English]

Ms. Cassie Doyle: Thank you for the question.

No, it does not. The director general is here because she has responsibility at the current time for the office of energy efficiency, which, back in 2003 to 2005, was responsible for the contributions—

[Translation]

Ms. Meili Faille: So, is not in her Branch but in another Branch.

[English]

The Chair: *Merci.*

Just to follow up on that issue, I want to direct a question to the Auditor General.

When I look at this situation, it seems to me that the problem was discovered and an internal audit was asked for. It was a pretty blatant situation of conflict of interest and it has been described in this committee. The same individual, Mr. Middleton, was doing the terms of reference and then getting the contract.

The internal audit didn't make any mention of that, and it would appear to me that the internal auditor was negligent in the preparation of this audit. Do you agree with my assessment?

• (1635)

Ms. Sheila Fraser: Well, Mr. Chair, a lot would depend on the scope of the internal audit at the time. It is my impression that the internal audit was very much focused on the management of those contribution agreements and perhaps didn't step back to say who had been.... It didn't identify the conflict of interest but, as the deputy mentioned, was much more focused on the management framework and how these programs were being managed. I think the scope was quite narrow and quite specific, and that's what their recommendations dealt with.

The Chair: But Madam Auditor, it seems to me that this is a pretty blatant situation; that actually the department knew about the conflict of interest, and the auditor didn't even pick it up. It just seems to me such a blatant situation, which the internal auditor ought to have picked up and ought to have reported on.

Ms. Sheila Fraser: I would just add that while the department was aware of the facts, it did not itself identify this as a conflict of interest.

The Chair: I have Mr. Kramp and Mr. Weston. I only see Mr. Weston.

Mr. Weston, you have five minutes.

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): Thank you, and thank you, guests, for being here today.

To summarize, we have two fairly egregious breaches of protocol. One is payment to someone in conflict, and the second is payment when subcontractors could ultimately not be paid, both of which bring the government into disrepute and are far apart from any acceptable standards that most of us in this committee would deem applicable.

My question is initially for you, Madam Fraser. What was the line of inquiry that caused you to discover these things? I've read your report, and what you did is fairly boilerplate. Can you be a little more specific about how you found these?

Then my question will come back to you, Ms. Doyle, concerning whether this type of inquiry is being incorporated into the kind of training that is being done.

Ms. Sheila Fraser: I would start by saying, Chair, that we were aware of the internal audit that was being conducted in the department. The department informed us of its concerns around the management of these contribution agreements, and as is our usual practice, we were kept abreast and discussed with the department what actions it was taking to address the recommenda-

tions in the internal audit. And we were generally satisfied with the actions the department was taking, as we note in our report.

So we really, at that point, thought it was being handled. Then we received an anonymous complaint that there was an issue around a conflict of interest and laying out some of the issues around this contractor and the role he played. That's when we went back in to see whether it had been identified and addressed; first of all, whether the department recognized that there was a conflict of interest, which it hadn't, and whether any additional steps had been taken subsequent to it. That's why it resulted in this report.

Mr. John Weston: My colleague Mr. Saxton made a point of establishing that these breaches occurred before 2006; it's important on our side to know that it didn't occur on our watch. But we would also like to know that the type of inquiry that you were performing is now basic in the ministry.

Would you like to elaborate on that, Ms. Doyle?

Ms. Cassie Doyle: Yes, thank you very much. I'd be happy to.

I want to clarify one thing. At the time this situation was under review with the internal audit, there was a recognition that there was a potential for conflict of interest, so one thing that was driving us in the department was to assess whether there had been wrongdoing, first of all from a criminal perspective. That's why the matter was referred to the RCMP on two separate occasions: to formally ask the RCMP to investigate. I've mentioned their response. We also followed up the aspect of mismanagement from a labour relations perspective, and so there was a specific focus on the individual who had responsibility for generating the conflict of interest situation.

I want to assure the committee that it wasn't as though we were not aware. It was just not specified as a specific reference. There was certainly cause for seeing a failure of management, and there was a complete review in terms of any kind of criminal negligence on the part of either of the parties to the contribution agreement.

Speaking specifically from a conflict of interest perspective, as I mentioned earlier, we now have a specific policy on conflict of interest. We have included language in our contribution agreements, and as well, we have added specific reference—which we had, from a risk management profile, since 2006—and have been looking at every potential proponent as a recipient of a contribution agreement to assess for risk. Part of that would be to ensure that there was no conflict of interest. It's the specific focus of conflict of interest for which we have now added as language to our contribution agreements three very specific clauses.

• (1640)

Mr. John Weston: Ms. Doyle, you've mentioned the hundreds of contracts that are let under your department. How many officials, do you think, are involved in letting those contracts or implementing them?

Ms. Cassie Doyle: Can I get back to you with a specific number?

Mr. John Weston: You don't need to. Your indecision suggests to me that if you can't identify the people who are actually letting the contracts and implementing them, then it's hard to know that they are actually being trained and all being given the same standard level of, let's say, inoculations—it's a currently popular word—that they should be getting.

Ms. Cassie Doyle: Mr. Chair, I didn't in any way intend to give you the impression that we are not aware. As a deputy minister with a department of over 5,000 people, I just was not able to specify the number. I would say that there are dozens of individual officials who are responsible for administering contribution agreements.

What we have done is ensure that there would never be again a situation in which there would be as much control, as was the case in 2003 to 2005, residing in one individual program director we have created to do oversight. Every contribution agreement over \$100,000 is subject to a review by financial management branch, from our legal services, and from outside independent representatives of the department.

Mr. John Weston: That sounds like good progress.

The Chair: Thank you, Mr. Weston. Thank you, Ms. Doyle.

Mr. Christopherson, you have five minutes.

Mr. David Christopherson: Thanks, Chair.

Just before Mr. Weston gets too relieved, keep in mind that the repair job that didn't work was under your watch.

I'm a little confused here.

The Chair: That's politics, Mr. Christopherson. You know that.

Mr. David Christopherson: Thank you, Chair. I was actually going to defend you, Chair, because I thought the chair made a good point. Or up until about thirty seconds ago I thought he did.

He asked the question: did the internal auditor miss this? And you, Madam Fraser, said that the internal audit didn't catch the conflict of interest. The deputy then said, "Well, we did, but we didn't"—I don't want to put words into your mouth—"see it as the focus of...". I won't even attempt to say what she said, but she responded.

I'm left confused.

In fact, when I was reading your comments and you said "In this audit, we found that NRCan failed to identify" the conflict of interest, that really confused me, because I thought maybe you didn't find the incident, though it was the incident that caused it all. But what they didn't find was the conflict of interest. At this stage, I am far more concerned about what didn't happen after 2006 and why; I think the stuff before then has been dealt with.

So help me understand this conflict of interest. What aspect of the internal audit in 2006, Madam Fraser, was not complete, wasn't total?

Ms. Sheila Fraser: The internal audit of 2006 did not deal with the issue of conflict of interest.

Mr. David Christopherson: It didn't deal with it or didn't find it?

Ms. Sheila Fraser: It didn't find it and didn't mention it.

• (1645)

Mr. David Christopherson: Should the internal audit have found it?

Ms. Sheila Fraser: We can go back to the specifics of it; I don't have it here. But in my understanding, it was an audit very narrowly focused on the management of the program and did not deal with conflict of interest.

Mr. David Christopherson: So not only did everybody else miss it; even though it wasn't their specific point, an auditor was in there and missed something as blatant as this.

Ms. Sheila Fraser: It did not bring it up; that is correct.

Mr. David Christopherson: Okay.

Then afterwards, if I'm reading paragraph 6.27 correctly, the department still didn't adequately deal with the issue of potential conflicts of interest. Is that correct, or am I being too harsh?

Ms. Sheila Fraser: What we point out in the report is that the department responded to the recommendations that had been made in that internal audit, and because there were no recommendations around conflict of interest, the policies at that time did not mention it.

Mr. David Christopherson: They weren't adequate.

Does that apply to the other things too that were missed, in your opinion, that should have been strengthened?

Ms. Sheila Fraser: For me there are two major issues. One is the conflict of interest—the question of a contractor helping to design a program for which he becomes the beneficiary—and the second one is making payments to a company that is insolvent.

Mr. David Christopherson: You were asked the question whether there was any collusion. The RCMP weren't brought in. But either there was something crooked going on...and if the answer to that is "No, there isn't", then you have an incompetent staff person. Is this the only file that they were incompetent on?

Deputy?

That's the question I would ask. If somebody screwed up that badly—didn't do anything illegal but was that incompetent that they were doing all this stuff—what about other files they were dealing with? Surely you would think that if they are that incompetent on A, they would be on B, C, D, E, and F, or on one of them.

Ms. Cassie Doyle: I will just say that all of the work in that particular area under the responsibility of that program director was certainly subject to increased scrutiny as a result of the situations that arose, starting back in 2005 with the recipient audit, but I want to clarify one thing. The internal audit was one action taken at the time this situation was brought to the attention of the deputy and the executive of the department. What was covered in the internal audit was very much concerned with the financial controls, our management control structure, and its application in the case of these contribution agreements. However, as I was mentioning, there were some other actions taken. There was a referral to the RCMP and there was also a follow-up. It was considered to be a significant failure of management, which included the conflict of interest situation.

I know that on my arrival in the department I was briefed on this situation, and the background on conflict of interest was brought to our attention. We dealt with it, first of all, through a review of any criminal activity—the very question the chair had mentioned—and then when that was completed, we followed through on the labour relations front to relieve the director.

Mr. David Christopherson: Help me understand how an auditor, even though they weren't sent there to do that, could miss such blatant conflict of interest. It doesn't get much more obvious. That's a concern. We're in the business of accountability. There are mistakes and there are deliberate actions that we catch; then we get into the repair of those things, and when those things don't work, that's really problematic, because it means our system is good at identifying, but our system isn't correcting. Where do we put that?

Ms. Cassie Doyle: If I may, Mr. Chair, if you look at the internal audit, it's only one piece. It was a very important piece, but there was also a labour relations side resulting in significant consequence to the conflict of interest in the termination of employment.

I don't want to leave you the impression that because it wasn't stated in the internal audit.... The internal audit is scoped very specifically to examining the management control framework and the specifics of whether the terms and conditions were adhered to, but I wouldn't want to leave the impression with the committee that there were not consequences for what was known as a conflict of interest situation.

Mr. David Christopherson: Should the scope have been bigger?

Ms. Cassie Doyle: Well, I'm not sure whether it's appropriate, but there are other actions available to a deputy minister. One is internal audit; another is through the labour relations front to resolve issues that we think involve a significant failure of management.

Mr. David Christopherson: Thanks, Chair.

The Chair: Thank you very much, Mr. Christopherson.

Go ahead, Mr. Young, for five minutes.

•(1650)

Mr. Terence Young (Oakville, CPC): Thank you, Chair.

My first question is for Madam Fraser.

I want to be clear here. This audit was completed in 2006, and it covers a time period from 2003 to 2005. Is that correct?

Ms. Sheila Fraser: The internal audit was completed in 2006; our audit was completed at the end of 2008.

Mr. Terence Young: What period did it cover?

Ms. Sheila Fraser: Well, we would have gone back and actually looked at contribution agreements, so theoretically it could have been from 2003 up until the actions taken in 2008.

Mr. Terence Young: Thank you.

Madam Doyle, when I hear words like “culture”, “training”, and “increased awareness”, it's all good stuff, but I think it takes a village to make mistakes such as these that happened in the past. So I worry about who is accountable and who is competent. I do see hope in this. You've taken quite a beating so far, so I just want to focus on the positive side.

What I'm impressed with is the centre of expertise on grants and contributions, which is composed of ADMs. You've created almost a fail-safe line of ADMs there. Is it safe to assume that from 2008 forward, they are responsible for ensuring that this doesn't happen again?

Ms. Cassie Doyle: Yes, that is in fact the case.

Mr. Terence Young: Briefly, how will they do that?

Ms. Cassie Doyle: I want to be clear. The centre of expertise, which we set up in September 2006, is run at the director level. It's chaired by the director of financial management, with one of our legal advisers and others in the program in financial management. What it does is provide the first level of oversight.

The centre is for all grants and contributions over \$100,000. That ensures that there are many eyes. The village, if you will, is now taking more shared accountability for the design of the contribution agreement and then for the follow-through on the tracking and monitoring.

Mr. Terence Young: So anything over \$100,000 goes to an ADM committee, and they review them and are looking for these kinds of problems.

Ms. Cassie Doyle: Yes, the ADM-level committee is the transfer payment review committee—

Mr. Terence Young: So it's the same committee. Okay.

Ms. Cassie Doyle: No, it's a different committee. I apologize; it's a different committee. That committee deals with any contract over \$1 million or any contract that's referred to it by the centre of excellence as constituting a higher level of risk.

Mr. Terence Young: So the ADMs are then responsible.

If this were ever to happen again, you would know where to go and who was accountable for this; is that safe to say?

Ms. Cassie Doyle: Yes.

Mr. Terence Young: Because you have brought in these new procedures, I don't think it would be a surprise to anybody that you have spotted a potential conflict of interest that is ongoing right now. I would view it as a good thing, because you're being cautious. There is an abundance of caution; is that fair to say?

Ms. Cassie Doyle: Yes, I believe it is due diligence.

Mr. Terence Young: What is a “high-risk agreement over \$100,000”, something that you would give special scrutiny to?

Ms. Cassie Doyle: I would say that in one case it could pertain to the potential recipient of a contribution agreement.

One thing we identified through the internal audit back in 2006 is that wherever there is evidence that a company has been set up for the express and singular purpose of receiving a contribution agreement from NRCan, that would certainly be a risk that would be referred to the transfer review committee.

Mr. Terence Young: Thank you, Chair.

The Chair: Thank you, Mr. Young.

I want to put a question to Ms. Doyle and Mr. Fadden and Ms. Buckley concerning the individual, Peter Middleton, the consultant who was on both sides of this. My experience is that you get rid of these characters on one end, but they have a habit of resurfacing in other areas of Ottawa. Does any of you know of any circumstances in which this individual has resurfaced as a consultant working for any other department or agency in Ottawa? My experience is that they always crop up like dandelions.

Mr. Richard Fadden: No, Chairman.

The Chair: What about the person dismissed from the department? Has he or she resurfaced in Ottawa as a consultant, so far as you are aware?

Ms. Cassie Doyle: I am not aware of its happening.

The Chair: Mr. Fadden?

Mr. Richard Fadden: No, sir.

The Chair: Do you know of any information on these two characters?

Ms. Carol Buckley: I have no information.

The Chair: Mr. Saxton.

Mr. Andrew Saxton: Thank you, Mr. Chair.

I will finish by asking the deputy first of all to comment.

You came in 2006. You inherited this mess. You have taken actions and significant measures to clean it up. I'd like to know, if you could just highlight them again for the committee, the measures you have taken since you came in 2006, please.

•(1655)

Ms. Cassie Doyle: Thank you very much for the question.

At the risk of repeating myself, the two key mechanisms are two oversight committees. One is the centre of excellence, run through our financial management branch, and the other is the transfer payment review committee, which operates at the ADM level under the ADM of corporate management and shared services at NRCan.

In addition to those two oversight committees, we also have put in place a new policy on contributions and grants and some very detailed checklists, which are used to ensure that all of the areas, particularly of the policy, are being complied with in the development of a contribution agreement.

I would add that there is additional language in our contribution agreements themselves. They have been enhanced with three specific sections now on conflict of interest.

Mr. Andrew Saxton: You have a very high degree of confidence, then, that this cannot happen again.

Ms. Cassie Doyle: Yes, I have.

Mr. Andrew Saxton: Thank you very much.

The Chair: Do you have a point of order?

Mr. Derek Lee: Yes. It just has to do with the record.

Earlier in the questioning, I'm sure quite inadvertently, in one of his questions Mr. Weston had a preamble saying that if you don't know how many of your managers can approve contracts...when he

had previously asked how many managers were in a position to approve contracts.

We never gave the witness an opportunity to give the answer, because Mr. Weston said it doesn't matter how many. I didn't want the record to close without recognizing that the witness probably knows exactly how many of her managers have authority to approve contracts; we just never gave her the chance to do the head count.

In fact, we probably don't need to know. I just didn't want to leave the throw-away remark there that she didn't know.

The Chair: Well, Mr. Lee, since you brought it up, although it may not be relevant, I'll ask the witnesses, either Ms. Buckley or Ms. Doyle, if they want to answer the question, whether they have the information. If they don't, I don't think it's that relevant.

Ms. Cassie Doyle: The office of energy efficiency is one of our primary areas to have responsibility for contributions and grants, and certainly the director general will know how many in the office of energy efficiency. For the balance of the department, Mr. Chair, I'd have to get back to you with the exact number.

Mr. Derek Lee: Mr. Chairman, I don't want to know.

The Chair: I don't think we need that information.

Do you have anything to add, Ms. Buckley?

Ms. Carol Buckley: Mr. Chair, I feel embarrassed; I don't know the exact number. What I do know is that it's mandatory in the office of energy efficiency for all officers at any level who manage or are involved in contribution agreements to have training on contribution agreements, and that this is updated frequently. In fact, we have piloted some of the new training that has become available.

I have that information in my office. I just don't have it off the top of my head. I'd be happy to supply it if required.

The Chair: Mr. Weston, do you have a point of order?

Mr. John Weston: The point of the exchange was just to ensure that there is training available to those identified as being in the position of letting or implementing contracts. I think we've received a satisfactory answer, so thank you to both guests.

The Chair: Okay. That concludes the rounds, colleagues.

I'm going to invite the witnesses to make their closing remarks, but just before I do, I want to point out to you, Ms. Doyle, a little trivia. I've been sitting around the table for nine years now. I've probably seen and heard and read more than one human being should in a lifetime, and any time we get into a problem like this, I always ask the question about sanctions.

The answers until today have always been that there are no sanctions and sanctions were not considered. So I'm not batting a thousand anymore; you struck me out. My record until today was a thousand.

Having said that, we're going to invite the witnesses to make their closing comments.

Ms. Fraser, we'll go first to you.

Ms. Sheila Fraser: Thank you, Mr. Chair.

I'd like to thank the committee for their interest in this report. We think the whole question of conflicts of interest is an important one, and as I mentioned, we will be doing an audit specifically on that issue for tabling next year.

The Chair: Thank you, Ms. Fraser.

Ms. Doyle, do you have any closing comments?

Ms. Cassie Doyle: I want to thank the committee members for all of their questions and assure you that we in the department have put a huge effort into addressing the situation that arose between 2003 and 2005, and we've addressed it on a number of fronts.

You can look at these matters through a number of different lenses: through conflict of interest or through risk management. I feel that we have, until the Auditor General's report, covered these bases from the perspective of risk management. We will now have expanded and have learned from the Auditor General's report and we have now made specific reference to conflict of interest.

We appreciate the interest of the committee, and I feel that for everyone in the department it has been a tremendous learning experience. We have now positioned ourselves in a place such that we can feel a very high level of confidence in the way we administer a very large amount of taxpayers' money.

So thank you very much for your interest.

● (1700)

The Chair: On behalf of the committee, I want to thank all the witnesses for their appearance here today. The committee will obviously be writing a report and filing it with Parliament.

This should only take 30 seconds, so instead of having the witnesses leave, before we adjourn I'd like to have colleagues adopt the minutes of the steering committee.

Mr. Derek Lee: I so move.

The Chair: There is just a typo in the motion. To address the situation that we're dealing with, we would eliminate from findings recommendations that have been accepted by the department or agency. It's a clarification. It's not a typo; it's a clarification.

Everyone has seen it and it has been moved.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: It is after five o'clock. The bells will be at 5:15, so I am going to adjourn the meeting and thank the witnesses again.

The meeting is adjourned.

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