

LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES
10TH ASSEMBLY, 6TH SESSION

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Northwest
Territories Legislative Assembly

10th Assembly

Standing Committee
on Public Accounts

Second Report

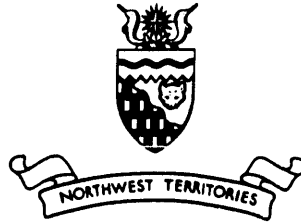
Arnold McCallum
Chairman

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October 1985

The Legislative Assembly of the Northwest Territories

In accordance with its terms of reference conferred by the Legislative Assembly, the Standing Committee on Public Accounts respectfully submits its Second Report.

A handwritten signature in cursive script, appearing to read "Arnold J. McCallum".

Arnold J. McCallum, MLA,
Chairman.

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Chairman

Arnold McCallum, MLA

Members

Michael Ballantyne, MLA
Samuel Gargan, MLA
Red Pedersen, MLA
Eliza Lawrence, MLA
Pauloosie Paniloo, MLA

Ludy Pudluk, MLA
John T'Seleie, MLA
James Wah-Shee, MLA
Ted Richard, MLA

Staff

David Hamilton, Clerk
Eileen Olivier, Secretary

Antoinette L.Wells,
Researcher

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WITNESSES

Office of the Auditor General of Canada

Mr. Raymond Dubois, Deputy Auditor General
Mr. Harold Hayes, Audit Principal
Mr. Don Young, Audit Principal
Mr. Gerry Kimmel, Audit Manager

Department of Finance

The Honourable Tom Butters, Minister
Mr. Jim Nelson, Comptroller General

Department of Economic Development and Tourism

Mr. Bill Graham, Acting Deputy Minister

Department of Local Government

Mr. Mike Moore, Deputy Minister

Department of Education

Mr. Ken Lovely, Acting Deputy Minister
Mr. Cornnie Hunchak, Acting Chief of Finance and Management
Services

Department of Public Works and Highways

Mr. Larry Elkin, Deputy Minister
Mr. Dave Murray, Chief of Finance

Northwest Territories Housing Corporation

Mr. Victor Irving, President and Chief Executive Officer
Mr. Lloyd Clark, Senior Vice-President, Finance and
Administration

ACKNOWLEDGEMENTS

The co-operation of the witnesses who appeared before the Committee is acknowledged and appreciated.

The Committee extends special thanks to Mr. Raymond Dubois, Mr. Harold Hayes, Mr. Don Young and Mr. Gerry Kimmel of the Office of the Auditor General of Canada who provided us with audit support throughout the hearings. We also wish to thank the Honourable Tom Butters, Minister of Finance, Mr. Jim Nelson, Mr. Gord Aumond and Mrs. Elaine Vandale who arranged the departmental submissions and co-ordinated the appearance of witnesses before the Committee.

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**STANDING COMMITTEE ON
FINANCE AND PUBLIC ACCOUNTS**

Terms of Reference

The Standing Committee on Finance may on its own authority:

- a) inquire into such matters as may be referred to it by the Legislative Assembly;
- b) review and recommend on the preparation of estimates, expenditures and appropriations required to defray the charges and expenses of the public services of the Territories in each fiscal year;
- c) review and recommend on capital projects and capital planning;
- d) in consultation with the Chairman of the Financial Management Board, examine and recommend the terms and conditions of any agreement relating to financial arrangements with the Government of Canada;
- e) in consultation with the Chairman of the Financial Management Board, examine and recommend the terms and conditions for borrowing, lending and investing funds;
- f) review, evaluate and recommend on any revenue sources that may be available to the Territories;
- g) review financial implications of existing and proposed Territorial programs and the financing thereof, as well, any other programs which may in future become a charge against the Territorial budget;
- h) investigate and inquire into those financial matters that, in the opinion of the Committee require investigations;
- i) in accordance with Rule 92(1), the Standing Committee shall make a written report to the Legislative Assembly;

- j) from time to time, the Standing Committee shall tender general advice and information to the Legislative Assembly on any financial matter that may come before the Assembly in session.

The Standing Committee on Public Accounts may on its own authority:

- a) inquire into such matters as may be referred to it by the Legislative Assembly;
- b) review and recommend on the Territorial Accounts submitted to the Legislative Assembly annually by the Commissioner and Minister of Finance;
- c) review and recommend on the Auditor General of Canada's annual report to the Legislative Assembly;
- d) investigate and inquire into those matters of a Public Accounts nature that, in the opinion of the Committee require investigation.

Conduct of Business

1. The Standing Committee shall conduct its business in a manner approved by the Legislative Assembly.
2. The Standing Committee shall appoint co-chairmen, one to chair the affairs of the Finance Committee and one to chair the affairs of the Public Accounts Committee.
3. In accordance with Rule 93(1), the Standing Committee shall have the power to call for such persons, papers, and records and to examine witnesses as, in its opinion, are necessary to the conduct of its business.
4. Five members, including the Chairman of the Standing Committee shall form a quorum.

5. The Legislative Assembly shall provide the necessary funds to the Standing Committee required for it to carry out its responsibilities from the appropriation of the Legislative Assembly.
6. The Standing Committee, as a whole, or individual members, may undertake such travel as is required to carry out the assigned responsibilities of the Committee.
7. Territorial Accounts and the Auditor General's annual report and management letter will be referred to the Standing Committee on Public Accounts for tabling in the Legislative Assembly. Notwithstanding this formal process, the Commissioner is authorized to provide these documents to the Standing Committee in advance of tabling to expedite the review by the Committee.
8. Meetings of the Standing Committee on Public Accounts shall be open to the press and public except when in the opinion of the Committee it is not in the best interest for the public to do so.
9. Meetings of the Standing Committee on Public Accounts for planning future work, briefings, reviewing progress, and drafting reports shall be closed to the public and press.
10. Verbatim transcripts of the Standing Committee on Public Accounts Committee hearings shall be prepared and published promptly.
11. From time to time, the Standing Committee on Public Accounts shall tender general advice and information to the Legislative Assembly on any public accounts matter.
12. The Standing Committee shall be empowered to retain the services of such professional staff as deemed advisable by the Committee.
13. The Standing Committee shall have the power to sit during sessions, adjournments and prorogations of the House.

14. The necessary administrative support shall be provided by the Legislative Assembly office.

SUMMARY OF RECOMMENDATIONS

ECONOMIC DEVELOPMENT AND TOURISM

Business Loans and Guarantees

It is recommended that the department establish a procedure to require disclosure of all individuals, or principal shareholders of business entities, who have been involved in past transactions which have resulted in a write-off of accounts prior to consideration of new loan applications from these persons. (Page 5)

NORTHWEST TERRITORIES HOUSING CORPORATION

It is recommended that the Auditor General of Canada conduct a comprehensive audit of the Northwest Territories Housing Corporation and that the report of the Auditor General in respect of the comprehensive audit be referred to the Standing Committee on Public Accounts for public review. (Page 6)

DEPARTMENT OF FINANCE

Regulations

It is recommended that the Commissioner enact appropriate regulations in respect of account verification and payment requisition, cheque issue, receipt and deposit monies and accountable advances. (Page 10)

DEPARTMENT OF JUSTICE AND PUBLIC SERVICES

Liquor Ordinance

It is recommended that the Auditor General's office be consulted on legislation, including regulations which result from recommendations of the Auditor General to the Legislative Assembly. (Page 13)

DEPARTMENT OF EDUCATION

Student Financial Assistance - Supplementary Grants

It is recommended that the department review its present record keeping practices in respect of living allowance payments to eliminate unnecessary duplication. (Page 17)

Student Loan Fund

It is recommended that the regulations pursuant to the Student Financial Assistance Act be revised and redrafted to clearly set out the government's intent with respect to the provision of student financial assistance including eligibility requirements. (Page 18)

Policies and Procedures Manual - Student Financial Assistance

It is recommended that a policy and procedures manual be prepared by April 1, 1986, to interpret the regulations and to establish procedures to ensure consistent application and adequacy of audit trails. (Page 20)

Catering Contract - Thebacha College

It is recommended that all decisions of the GNWT to award contracts to other than the lowest bidder be supported by sufficient and appropriate documentation detailing the reasons for the decision. (Page 22)

It is recommended that the practice of using 30-day termination clauses in GNWT contracts be eliminated, with the proviso that, where a termination clause is warranted, the notice period be of sufficient length to enable the government to retender the contract without disruption to the provision of the goods or services. (Page 23)

Grants and Contributions

It is recommended that the Department of Education develop and implement agreements with School Boards to identify the terms and conditions governing payments and accountability. (Page 24)

It is recommended that the Department of Education develop and implement a standard form letter of agreement with recipients for capital contributions. (Page 24)

SPECIAL WARRANTS

It is recommended that the Auditor General of Canada audit the Schedule of Special Warrants to the Territorial Accounts in the course of the regular audit of the accounts and financial transactions of the Government of the Northwest Territories to ensure that Special Warrants have been issued in accordance with established legal authority. (Page 27)

PART 1

THE REVIEW PROCESS

THE REVIEW PROCESS

BACKGROUND

In April, 1985, prior to the Committee's formal hearings, the Chairmen of the Standing Committees on Finance and Public Accounts and the Committee Researcher met with staff of the Auditor General's office in Ottawa to discuss the timing and format for the review. It was suggested to us that the Committee's review could be facilitated by sending letters to each of the departments named in the Report on "Any Other Matter" requesting updated information on the issues raised in the report. Prior to the review, a line of questioning was developed and a series of letters were sent out to the relevant departments. The responsibility for distribution of the letters and the co-ordination of the responses was assumed by the office of the Minister of Finance and the Comptroller General.

A consolidation of the departmental responses was received by the Committee early in May. A copy of this submission was also dispatched to the Auditor General's office for review and analysis.

The Committee found that this procedure worked extremely well for two reasons. Firstly, the quick response by government departments to the Committee's questions enabled our staff to review all the documentation and prepare briefing material well in advance of our meetings. Secondly, the Committee was apprised of all the issues and any recent developments and we had sufficient time to review these items with the Auditor General's staff during the course of our briefing sessions. As a result, we were able to develop appropriate lines of inquiry and a focus for our questioning of departments in the public hearings. In our opinion, this procedure resulted in a most effective use of the Committee's meeting time.

SCOPE OF THE REVIEW

From May 27 to May 30, 1985, the Standing Committee on Public Accounts met in Yellowknife for the purpose of conducting its annual review of the accounts and financial transactions of the Government of the Northwest Territories for the 1983/84 fiscal year.

The Committee's review was conducted along three lines involving;

- * A followup on outstanding issues addressed in the Committee's first report to the Assembly dated April, 1984;
- * A review of current issues raised in the Auditor General's Report on "Any Other Matter" for the year ended March 31, 1984;
- * An examination of the Auditor General's Report on the government's financial statements for the year ended March 31, 1984, and the Territorial Accounts for the 1983/84 fiscal year.

The main thrust of this year's review centred on issues raised by the Auditor General in his Report on "Any Other Matter".

A limited amount of time was spent in formal session on the followup issues raised in the previous year's report to the Assembly. Questioning of departmental witnesses on the matter of the Territorial Accounts was confined to a few specific issues of concern to the Committee which related to the notes to the financial statements and the Schedules to the Territorial Accounts.

It is the purpose of this Report to identify the major issues which arose during the course of our proceedings. In the following parts of our Report, the Committee will examine a number of areas that, in our opinion, merit further consideration. In some cases, we have emphasized our concern in the form of recommendations to the government.

PART 2

**FOLLOWUP OF OUTSTANDING ISSUES FROM
PREVIOUS YEAR'S REPORT**

FOLLOWUP ON OUTSTANDING ISSUES FROM PREVIOUS YEAR'S REPORT

The Committee commenced its review with an examination of the recommendations contained in the Report and Proceedings of the Public Accounts Committee, Volume 1, April, 1984. This report addressed three areas of concern - the operations of the Business Loans and Guarantees Fund, the Petroleum, Oil and Lubricants Fund and the Northwest Territories Housing Corporation.

Upon reviewing the recommendations contained in its previous report and in consultation with the staff of the Auditor General's office, the Committee requested that witnesses appear on behalf of the Department of Economic Development and Tourism and the Northwest Territories Housing Corporation.

DEPARTMENT OF ECONOMIC DEVELOPMENT AND TOURISM

Business Loans and Guarantees Fund

In its report to the Assembly on April, 1984, the Committee noted that in respect of the operations of the Business Loans and Guarantees Fund

"Since the observation was made by the Auditors, the department has initiated a complete review of the fund and a re-organization has taken place. Corrective work has begun, however, your Committee feels that sufficient priority has not been given to even solve the basic administrative problems".

The systemic problems evidenced by the fund led the Committee to make the following recommendations to the Assembly:

- (1) The Committee strongly recommends that in future, any programs/services accepted by the GNWT, through devolution or decentralization, from any other level or government be

immediately evaluated for basic administrative policy and procedures. If these are found lacking that steps be taken at once to rectify the situation.

- (2) Your Committee further recommends that the administrative policy and procedure for the Business Loans and Guarantees Fund be finalized and implemented immediately.
- (3) The Standing Committee on Public Accounts recommends to the Legislature and the Executive Council that wherever possible that legislation including amendments to new legislation come into effect only when the regulations are amended and/or written and approved by the proper body.

During the Committee's public hearings in May of this year, the department was asked to give a brief report on what actions had been undertaken to correct the deficiencies in the fund identified by the Auditor General in the 1982/83 audit. The department advised the Committee that a number of steps had been taken over the past year, most notably, the enactment of the new Business Loans and Guarantees Act and the introduction of regulations under the new legislation which became effective concurrently on April 1, 1985. The new regulations were now consistent with the requirements of the Financial Administration Act and therefore addressed the observation of the Auditor General on this point. Additionally, the department had taken corrective action to upgrade its record keeping system on loan files and its accounting procedures with respect to loan payments.

In the course of our review of this loan fund, the Committee inquired as to the procedures for evaluating doubtful accounts. The department responded that there was no procedure in place at that time but that a joint directive was being developed with the Department of Finance to deal with uncollectable accounts and accounts which were in arrears in excess of 90 days. The Committee then queried whether the department had any controls in place to ensure that the Loan Boards are informed on persons who had previously defaulted on a loan and who may be parties to a loan application. The department replied that it maintained a list of accounts which had been written-off but that loan applications were not cross

checked against the list. The responsibility for recognizing this type of situation was primarily left to the region or the loan board. We were also advised that in approving a loan the department takes into consideration the applicant for the loan, the liquidity of the business entity and the viability of the proposed venture and that a list of principal shareholders is requested as part of the loan application. The previous business performance of the principal shareholders is not necessarily assessed.

The Committee feels strongly that in order to protect the integrity of the Business Loans and Guarantees process and to safeguard public funds, there should be a system in place to check the business performance of the principal shareholders of business entities, or individuals who are applying for new loans against its records of previous defaulters and to bring such information to the attention of the applicable loan board. This would permit the board to exercise its discretion in determining whether or not to recommend the loan for approval and would ensure that the board was fully informed at the time of its decision. Therefore,

it is recommended that the department establish a procedure to require disclosure of all individuals, or principal shareholders of business entities, who have been involved in past transactions which have resulted in a write-off of accounts prior to consideration of new loan applications from these persons.

In respect of our previous recommendation concerning the finalization of administrative policy and procedure for the Business Loans and Guarantees Fund, we were informed that operating procedures for staff dealing with the documentation of loans and the maintenance of accounts have been established. The department has identified a need for guidelines to assist the loan boards. It is the department's intention to standardize these procedures where possible while recognizing regional differences in the operations of the various boards.

Subject to our recommendation with respect to the establishment of a procedure for disclosure of previous defaulters, the Committee is satisfied with the progress of the department to date in implementing legislative and administrative controls on the operations of the Business

Loans and Guarantees Fund to bring it up to an acceptable standard.

NORTHWEST TERRITORIES HOUSING CORPORATION

The Auditor General's Report on "Any Other Matter" for the year ended March 31, 1983, contained seven pages including nine recommendations to improve the financial operations of the Corporation. During the course of this year's followup on these issues, the Corporation assured the Committee that action had been taken to implement the recommendations contained in the Auditor's Report. The Committee recognizes the efforts of the Corporation to deal with management problems related to its financial operations.

In September, 1983, the Public Accounts Committee, with the support of the Assembly, requested that a comprehensive audit of the Housing Corporation be completed. The Auditor General of Canada responded, in part, that a comprehensive audit of the Corporation should await the result of management efforts to resolve problems inherited from the previous Executive.

The Public Accounts Committee continues to support the need for a comprehensive audit of the Housing Corporation. Two years have elapsed since our initial request for a comprehensive audit and in the interim, we have received the assurance of senior officials of the Housing Corporation that action has been taken to correct deficiencies identified previously by the Auditor General. Accordingly, we feel that timeliness is no longer a barrier to the conduct of this type of audit. More importantly, we feel that a comprehensive audit by the Office of the Auditor General would provide a fair, objective and professional evaluation of the Corporation's operations and procedures for public scrutiny. Therefore,

it is recommended that the Auditor General of Canada conduct a comprehensive audit of the Northwest Territories Housing Corporation and that the report of the Auditor General in respect of the comprehensive audit be referred to the Standing Committee on Public Accounts for public review.

PART 3

**REVIEW OF THE REPORT ON
"ANY OTHER MATTER" FOR THE YEAR ENDED MARCH 31, 1984**

**THE AUDITOR GENERAL'S REPORT ON "ANY OTHER MATTER"
FOR THE YEAR ENDED MARCH 31, 1984**

In accordance with the provisions of the Northwest Territories Act, R.S.C. 1970, C N-22, the Auditor General of Canada conducts an annual audit of the accounts and financial transactions of the Government of the Northwest Territories. The purpose of the audit is to permit the Auditor General to express an opinion on the government's financial statements and to submit a report in accordance with the legislation, to the Legislative Assembly of the Northwest Territories. Pursuant to the Northwest Territories Act, the Auditor General is also empowered to call attention to "any other matter" falling within the scope of his examination that, in his opinion should be brought to the attention of the Legislative Assembly.

The Auditor General's Report on "Any Other Matter" for the year ended March 31, 1984, was transmitted to the Speaker of the Legislative Assembly in January, 1985. This is a recent change in process. In previous years, the Auditor General's reports have been submitted to the Commissioner prior to tabling in the Assembly. Another change in this year's Report on "Any Other Matter" is an increased emphasis on departmental accountability which is reflected in the identification of audit and accounting concerns by department. Each department is responsible for responses contained in the report.

The Auditor General's Report on "Any Other Matter" for the 1983/84 fiscal year identifies the following broad areas of concern:

- | | | |
|-----------------------|---|--|
| Department of Finance | - | Year-end Accruals -
Health Care and RCMP
Costs
Regulations
Accrual of Employee Leave
and Termination Benefits |
| Legislative Assembly | - | Retiring Allowances Fund |

Liquor Ordinance	-	Liquor Licensing Board Liquor Stores
Department of Local Government	-	Expenditures
Department of Education	-	Student Financial Assistance - Supplementary Grants Student Loan Fund Policies and Procedures - Student Financial Assistance Catering Contract - Thebacha College Grants and Contributions Recoveries under the Occupational Training Agreement with Canada
Keewatin Regional Office	-	Revenues - Leases

The Committee reviewed the recommendations of the Auditor General and the responses by each department to these recommendations. We support the Auditor General's concerns and we recognize the efforts of all departments to comply with the recommendations given by the Report on "Any Other Matter". There are, however, a number of areas where further action is warranted in our opinion. The ensuing discussion is designed to highlight our concerns, observations and recommendations on these issues.

DEPARTMENT OF FINANCE

Year-end Accruals, Health Care and RCMP Costs

The Committee expressed its concerns regarding the estimating practices for determining costs for major expenditures under these type of shared cost agreements and noted that this had been identified previously as a concern by the Finance Committee. The department responded that the

difficulty lay in estimating current liabilities due to significant delays in receiving information from the federal department of Health and Welfare Canada and the RCMP. The Department of Finance has been working with the departments to establish a method to estimate costs on a more timely basis and as a result many of the problems experienced in the past have now been resolved.

Regulations

The Committee noted that the subject of regulations was an ongoing problem. We asked the department to explain the long development process for the regulations, in particular, the new government contract regulations which were issued on March 15, 1985, some two years after changes to the Financial Administration Act.

The department responded that the long gestation period for the government contract regulations resulted from several recent initiatives and policy changes involving northern preference, use of consultants, etc. These initiatives had the effect of extending the time frame for development of the final regulations.

In its written response to the Committee concerning regulations under the Financial Administration Act, the department stated "all regulations considered essential pursuant to the Financial Administration Act have been issued". The department identified a further list of seven regulations,

- Account Verification and Payment Requisition
- Cheque Issue
- Receipt and Deposit Monies
- Accountable Advances
- Destruction of Cheques
- Designated Banks
- Set-off of Debts

which had been "identified by Finance officials as items for consideration. Their issuance is optional based on approval by the Financial Management Board."

We were curious as to the distinction drawn by the department between "optional" and "essential" regulations. It was explained that two regulations of an essential nature - one on organization and a further regulation on interest on debts due to the Territories - were defined within the Financial Administration Act and were therefore considered essential. The remaining items were optional to the extent that these areas were covered by policies, procedures and directives which were adequate management controls. The decision to issue a regulation on the subject area was based primarily on the need for public awareness which could be achieved through gazetting the regulations.

When regulations are enacted pursuant to enabling legislation, they assume the force of law. While policies and directives may in fact constitute an effective means of internal control, they do not have the same force and effect as law nor do they create a legal obligation on the government in the manner of subordinate legislation. As legislators we are conscious that regulations, unlike directives, carry with them certain legal interpretations, requirements for notice and limitations on delegation of authority, etc. In other words, regulations in our opinion, more adequately protect the public and, in the instant case, public expenditures, revenues and receipts than do directives.

We have consulted with the staff of the Auditor General's office on which of the items identified on the listing provided by the Department of Finance should be considered mandatory. They have advised us and we concur that regulations are appropriate for account verification and payment requisition, cheque issue, receipt and deposit monies and accountable advances. Therefore,

it is recommended that the Commissioner enact appropriate regulations in respect of account verification and payment requisition, cheque issue, receipt and deposit monies and accountable advances.

Accrual of Employee Leave and Termination Benefits

On the recommendation of the Auditor General, the

Department of Finance has adopted an accrual basis to account for employee leave and termination benefits. In the 1983/84 fiscal year the GNWT adopted an accrual basis of accounting for all expenditures except these benefits which are accounted on a cash basis. We were advised by the department in a followup response to the recommendation that the feasibility of estimating these liabilities had been examined in conjunction with the Department of Personnel and that benefits would be accrued for the year ended March 31, 1985. The appropriation would be identified in a Supplementary Appropriation at the spring session of the Legislature in June, 1985.

The Committee commends the Departments of Finance and Personnel for their efforts to determine the extent of these liabilities. We are aware of the complexity of these estimates. While we support the departments' efforts, we are concerned at the process of creating what is essentially an accounting entry by means of a Supplementary Appropriation.

The Committee was advised by the Comptroller General that at the present time the government required legislative authority to establish this expenditure or allowance and that a Supplementary Appropriation was in fact the only avenue open to the government. We agree in part on this point, however, we wish to record our misgivings at this particular approach to establishing the liability.

Firstly, the creation of a liability for employee leave and termination benefits is a transaction which does not involve an outlay of funds (non-budgetary). The actual expenditure or budgetary transaction by the GNWT relative to these benefits is made at the time the employee leaves or terminates and the payout of funds occurs. The payout is provided from the current year's appropriation which is authorized by the Legislative Assembly through an Appropriations Act. In our opinion, an Appropriations Act is an appropriate vehicle for creating the authority for budgetary expenditures but not for creating an authority to establish a liability or an allowance for bookkeeping purposes. We suggest that this type of transaction would be more properly accommodated by means of an amendment to the Financial Administration Act which would authorize provision for liabilities for accounts which may exist but do not require an outlay of funds or for the establishment of an allowance for doubtful accounts, except the write-off of these accounts for which legislative approval is required.

Secondly, the authority conferred by the Legislative Assembly under the Appropriations Act is for one fiscal year. The establishment of an appropriation authority for accrued liabilities contemplates a subsisting authority extending indefinitely into the future. The purpose of Supplementary Appropriation Act #4, which authorized the establishment of an accrued liability for employee leave and termination benefits is identified as follows,

"to provide for additional expenditures of the public service for the 1984/85 financial year".

Given this clear statement of purpose, we are of the opinion that this legislative authority, however convenient, should not be used for a purpose other than for which it is strictly intended.

The Public Accounts Committee recognizes that the introduction of accrual accounting, in conjunction with other major developments in our financial management systems, has resulted in the need for more sophisticated mechanisms to deal with non-budgetary transactions such as the establishment of employee leave and termination benefits and the creation of various kinds of allowances for doubtful accounts, etc., which do not easily fit in with our present system of annual budgetary appropriations. Rather than attempt to tailor these transactions to a system which does not legitimately accommodate them, we strongly urge this government to examine alternative methods of obtaining legislative authority for these financial arrangements such as through amendments to the Financial Administration Act - the caveat being that any mechanism to create a continuing financial liability of this kind must have the approval of the Legislative Assembly.

DEPARTMENT OF JUSTICE AND PUBLIC SERVICES

Liquor Ordinance

In his report on "Any Other Matter", the Auditor General identified a number of deficiencies in the Liquor Ordinance which came into effect on April 1, 1984, related specifically to the financial and accountability requirements in the ordinance. The Auditor General's office was of the opinion that the requirements had not been adequately addressed.

In our followup questions to the report item, the Committee queried the status of the legislation and the effective date for submission of the legislation to the Assembly. The department of Justice and Public Services replied that at the time the legislation was in the final stages of being drafted and that amendments to the Act were expected to be introduced at the June session of the Legislative Assembly.

The Committee considered this matter and in the absence of legislation, we were unable to satisfy ourselves that the Auditor General's concerns had been addressed. Moreover, the process of public examination of the issue was restricted by the fact that the legislation in question had not been tabled and therefore was not in the public domain. Had we been able to consider the draft legislation we could not have discussed it in our public sessions without a breach of confidentiality.

We were advised by the staff of the Auditor General's office that while they had been informed of the government's intention to amend the Liquor Act, no further consultations had taken place in respect of the proposed legislation and the manner in which their recommendation had been addressed. The Public Accounts Committee deemed it appropriate to advise the Chairman of the Standing Committee on Legislation of this matter.

The Public Accounts Committee is strongly in favour of ongoing consultation between the Auditor General's office and the Executive in the preparation of draft legislation having a financial implication, particularly when such legislation flows directly from a recommendation contained in the Auditor General's report to the Legislative Assembly. This would ensure that any audit concerns would be dealt with prior to submission of the legislation and that the necessary financial and accountability requirements had been met without destroying the confidentiality of the legislation. Therefore,

it is recommended that the Auditor General's office be consulted on legislation, including regulations which result from recommendations of the Auditor General to the Legislative Assembly.

LEGISLATIVE ASSEMBLY

Legislative Assembly Retiring Allowances Fund

In his report on "Any Other Matter" for the 1983/84 fiscal year, the Auditor General noted that the Council Retiring Allowances Ordinance did not provide for an annual financial audit of the Fund. The Auditor General recommended that annual financial statements should be prepared for the Fund. The Office of the Legislative Assembly concurred and responded that the necessary financial statements would be prepared annually. The Committee in a followup question asked what arrangements had been made for the audit. We were advised that an audit would be conducted on the first "expanded" set of financial statements and a report would be incorporated in the next Territorial Accounts. In addition, the Office of the Legislative Assembly provided a draft of proposed amendments to the legislation to provide for the audit and the preparation of the financial statements. This legislation had been developed in consultation with staff of the Auditor General's office. We are pleased at the Office of the Legislative Assembly's positive response to this recommendation.

DEPARTMENT OF LOCAL GOVERNMENT

Expenditures

The Committee wishes to note the good response by this department to recommendations contained in the Auditor General's Report. We are satisfied at the steps which the department has taken to correct the deficiencies identified in the report. At the point of our review, certain departmental submissions were awaiting FMB approval and could not be confirmed in detail.

Two points arose in our discussion which related to the capital contribution agreements developed by the department which we wish to note.

Paragraph 1 of the draft agreement provides for the payment of a capital contribution from the Minister to the recipient in respect of capital projects. The timing and nature of the partial payments are set out in sub-paragraphs (a) and (b). The Committee inquired as to how the partial payments were determined and the department replied that funds were advanced as work progressed. In general, partial payments were made as certain percentages of the work had been completed and verified. We noted however, that sub-paragraphs (a) and (b) provide for payments by the GNWT which are tied to specific dates rather than a percentage of work completed despite the fact that Schedule "B" ties payments by the recipient to milestones. In our opinion, the contribution agreement between the GNWT and the recipient should provide for payments on completion of milestones with respect to work as opposed to specific dates. This would ensure that the agreement is internally consistent and that the GNWT is not in the position of being over advanced on its contributions at any given time.

The second matter discussed by the Committee concerned the wording of paragraph 7, which states;

"A Municipality may establish its own Northern or Local Business Policy governing the award of contracts utilizing Accountable Contribution Funds, however, the Preference Benefit applied to Northern or Local Businesses may not exceed that allowed by the NWT Government Business Incentive Policy and Directive".

There was considerable discussion on the policy basis for this paragraph and we were cautioned by the department that this matter had not been tested with the Executive Council. As this is a policy decision, the Public Accounts Committee will not make any recommendation on its appropriateness, however, if it is determined that this provision is to be included in the standard contribution agreement, we are of the opinion that the words "may not exceed that allowed by the NWT Government Business Incentive Policy and Directive" should be amended to read "must not exceed that allowed by the NWT Government Business Incentive Policy and Directive" to more properly reflect the intent of the provision.

DEPARTMENT OF EDUCATION

A major portion of the Auditor General's Report on "Any Other Matter" for the year ended March 31, 1984 is devoted to concerns arising from an audit of the Department of Education. In total, the Report contains 26 recommendations related to the operations of this department.

The Committee has considered in some detail each of the recommendations of the Auditor General. We have reviewed the departments written responses and the oral evidence given during proceedings. While we note the efforts which have been made by the department towards correcting deficiencies there are a number of key areas where further action is necessary.

Student Financial Assistance - Supplementary Grants

During our discussions on the fifth recommendation regarding the need for detailed calculations in support of living allowance payments to students, the Committee was advised that ledger sheets were now being maintained for each student. The Finance section of the department had always maintained ledgers for tax purposes.

We queried whether maintaining a separate ledger for tax purposes was a necessary activity given the fact that the Financial Information System has a flag for tax reportable payments. The department agreed that some duplication might be occurring and further indicated its intention to examine the process to eliminate duplication.

The Committee is cognizant that there are limited resources available to carry out government programs. We, as a government, have invested substantial money in the development and implementation of a computerized financial information system. Given these facts we urge departments as a general practice to review financial record keeping practices to eliminate duplication and where possible to take full advantage of the system features of the FIS. In respect of the Department of Education this review should be conducted in respect of living allowance payments. Therefore,

it is recommended that the department review its present record keeping practices in respect of living allowance payments to eliminate unnecessary duplication.

Student Loan Fund

The Student Loan Fund is administered by the Department pursuant to the provisions of the Student Financial Assistance Act and regulations. These regulations define, among other things, eligibility for student loans. In his Report on "Any Other Matter" for the 1982/83 fiscal year, the Auditor General raised the case of a student who had been granted a loan despite the fact that he did not meet the residency requirements as defined in the regulations. The department countered that the student was eligible because he had maintained residency through his parents since 1979. There was a conflict in respect of the interpretation of the provisions of the regulations when the Public Accounts Committee met in April, 1984 and the Auditor General's office agreed to review the information and to report back to the Committee. Having considered the matter, the Auditor General's office determined that the facts reported in the previous Report on "Any Other Matter" were correct. In this year's Report, the Auditor General has recommended that,

"The Regulations should be clarified and revised to more adequately define loan eligibility requirements, particularly with respect to dependence and residency requirements".

The department responded to this recommendation to the effect that a legal interpretation of clause 2(3) has been requested and that if further clarification is required the regulations would be amended.

When we queried whether the regulations were to be amended we received the following written reply from the department.

"No, the Regulations are not to be amended. They are quite acceptable and adequate for all concerned, including the administration."

The department then provided the Committee with a legal opinion "to support the adequacy of the present regulations".

We have read the legal opinion in question carefully and in our opinion, it does not confirm the department's position nor does it clarify the regulations. Rather, it tends to implicitly support the position that the regulations should be clarified with respect to residency vis-a-vis dependency requirements.

During the public hearings the Committee was advised that the regulations in total would be reviewed by the department, with the intention of deleting redundant provisions and clarifying ambiguities. The department's intention was not to address individual clauses within the regulations.

The Committee supports the recommendation of the Auditor General's Office and we acknowledge the representations by the department with respect to an overall revision. We are most concerned that legislation and regulations be clear and unambiguous particularly those which govern the rights of individuals. Clear unequivocal drafting ensures that individuals are not prejudiced and safeguards the expenditure of public funds. Therefore,

it is recommended that the regulations pursuant to the Student Financial Assistance Act be revised and redrafted to clearly set out the government's intent with respect to the provision of student financial assistance, including eligibility requirements.

Policies and Procedures Manual - Student Financial Assistance

The Report on "Any Other Matter" notes the critical need to develop a policies and procedures manual to administer all types of Student Financial Assistance. A recommendation was made that such a Manual be developed as quickly as possible to "interpret the Regulations and establish procedures so that they may be consistently applied". The department indicated in its preliminary response that the Manual would be completed by April 1, 1985.

In a followup response on this matter, the department replied that the Manual had not been completed and that the completion date had been set back due to high volume workloads in the section. An initial draft policies and procedures manual would be ready for the Review Board meeting in June.

When we questioned department officials at the public hearings we were told that a current estimate on a final completion date may be as long as two years in the future. The problem, a lack of resources was attributed to the fact that the emphasis by the department has been on the establishment of appropriate mechanisms to followup on loans and the development of record keeping and collection procedures.

The problems outlined by the Auditor General's Office and referred to by the department with respect to the Student Financial Assistance Program pointed to an evident lack of forethought in implementation of the new Student Financial Assistance Act. Clearly, the department has implemented this legislation without adequate planning. Nonetheless, while the department may be attempting to come to terms with the necessary financial controls and audit trails, we are of the clear view that two years for the development of a policy and procedures manual is unacceptable particularly when such a manual would alleviate some of the current problems experienced by the department. If sufficient manpower resources are not presently available in the department to prepare the manual, the suggestion is made that the work be contracted out. Policies and procedures could be developed in conjunction with the proposed revisions to the regulations to ensure consistency in interpretation and the availability of audit trails.

In our view, the development of a manual is not incidental to the department's other initiatives with respect to student financial assistance. Therefore,

it is recommended that a policy and procedures manual be prepared by April 1, 1986, to interpret the regulations and to establish procedures to ensure consistent application and adequacy of audit trails.

Catering Contract - Thebacha College

The issue of the catering services at Thebacha College was first identified in an internal audit of the department and has been incorporated as an item in the present Report on "Any Other Matter".

The concerns raised in the Report with respect to the catering contract may be summarized as follows:

- (1) The original contract was awarded to a contractor, other than the lowest bidder, without proper documentation of the reasons for the decision.
- (2) The department did not exercise its right to terminate the contract on the expiration of the two-year term and retender but chose to exercise a renewal option and extend the contract for a further two years at an increase in the guaranteed number of meals.

As a result, the Auditor General's office has made two recommendations with which the department has concurred. Firstly, it is recommended that periodic tendering should take place to ensure that catering is acquired in the most economical manner. The second recommendation is made that the department should ensure that it complies with the Government Contract Regulations when awarding contracts to other than the lowest bidder.

The Committee views the process with respect to the award and extension of this catering contract as a serious deficiency. In particular, we feel that the increase in the guaranteed number of meals was unjustified. We heard from the department of the recent negotiations on the contract which have resulted in a reduction in the number of guaranteed meals and elimination of the renewal option. We also have the assurance that this particular contract will be tendered on completion in 1986.

While we are satisfied that efforts have been made to mitigate the effects of poor contract management in this instance, we must concur with the Auditor General's observation that,

"since the original contract did not result from the lowest tender, and taking into consideration the increase in the number of meals provided for in the renewal contract, there is no assurance that the catering service at the College is being provided in the most economical matter".

There are in this example, two lessons of general application across government which if followed will minimize the potential for future problems of this kind.

Firstly, in our opinion, contracts must be tendered wherever possible to ensure that the GNWT;

- (1) affords a reasonable opportunity for all qualified contractors to bid on government projects,
- (2) obtains the best service at the most economical price, and
- (3) is perceived to be fair and equitable in its approach to contracting.

The wider issue here is the integrity of the government's supply process.

As a Committee we realize that there are instances where the lowest bid, for some reason, does not constitute the most economical option. However, pursuant to the Contract Regulations, the onus is clearly on the government to support its decision not to accept the lowest bid with appropriate documentation. This measure is a protection for both the government and the contractor and ensures that for audit purposes we can determine that funds are being spent economically and effectively.

The present contract regulations require documentation if other than the low bidder is used; however, to reinforce this existing requirement and as a statement of our serious concern that departments follow these regulations,

it is recommended that all decisions of the GNWT to award contracts to other than the lowest bidder be supported by sufficient and appropriate documentation detailing the reasons for the decision.

A second issue which arose during our discussions of the contract involved the use of a 30 day termination clause which could be exercised at the option of either the government or the contractor. Although the initial contract had a term of two years, the effect of the termination clause was to limit the commitment by either party to 30 days. As a result the GNWT was placed in the position of having only a 30 day contract with the contractor and was therefore vulnerable to having the contract terminated at any time with only 30 days notice; insufficient time to retender for food catering services to the College. There is evidence to suggest that this provision caused the department some problems.

The department indicated to us that this clause was a standard provision in government contracts, although there was some disagreement among Committee members on whether in fact, this was the case in all contracts. Nonetheless, the Committee has a strong concern about the practice of using a termination clause of this nature in contracts. If such a clause is to be used, the notice period should, at the very least, permit the government sufficient time to retender the contract so as to avoid the threat of disruption and lessen its vulnerability. Therefore,

it is recommended that the practice of using 30 day termination clauses in GNWT contracts be eliminated, with the proviso that, where a termination clause is warranted, the notice period be of sufficient length to enable the government to retender the contract without disruption to the provision of the goods or services.

Grants and Contributions

The operating funds which are provided to school districts by the department constitute a major expenditure of this government. In the 1983/84 fiscal year these payments amounted to some 6.4 million dollars. The funds are identified in the Main Estimates as grants rather than contributions and no formal agreements exist between the department and the recipients of the operating funds.

The Auditor General's office has called this matter to the attention of the government and has recommended that funds provided to school districts or boards be identified as contributions to more properly reflect the conditions attaching to the funds and further, that agreements be prepared with School Boards to clearly identify the terms and conditions governing payments and accountability.

The department has informed the Committee that while operating funds will be identified in the Main Estimates as contributions, no agreements with School Boards are necessary since the terms and conditions governing payments and accountability are adequately covered in an FMB Payment Directive.

Looking closely at this matter we have concluded that formal agreements with School Boards would provide the greater degree of control over funding. Payment directives may in fact set out terms and conditions but they are not legally binding on both parties. They provide administrative direction to government departments in the management of their finances but of themselves they do not create a legal obligation or accountability on the part of the School Board.

Given the magnitude of the government's present expenditures in this area, we concur with the Auditor General's recommendation. Therefore,

it is recommended that the Department of Education develop and implement agreements with School Boards to identify the terms and conditions governing payments and accountability.

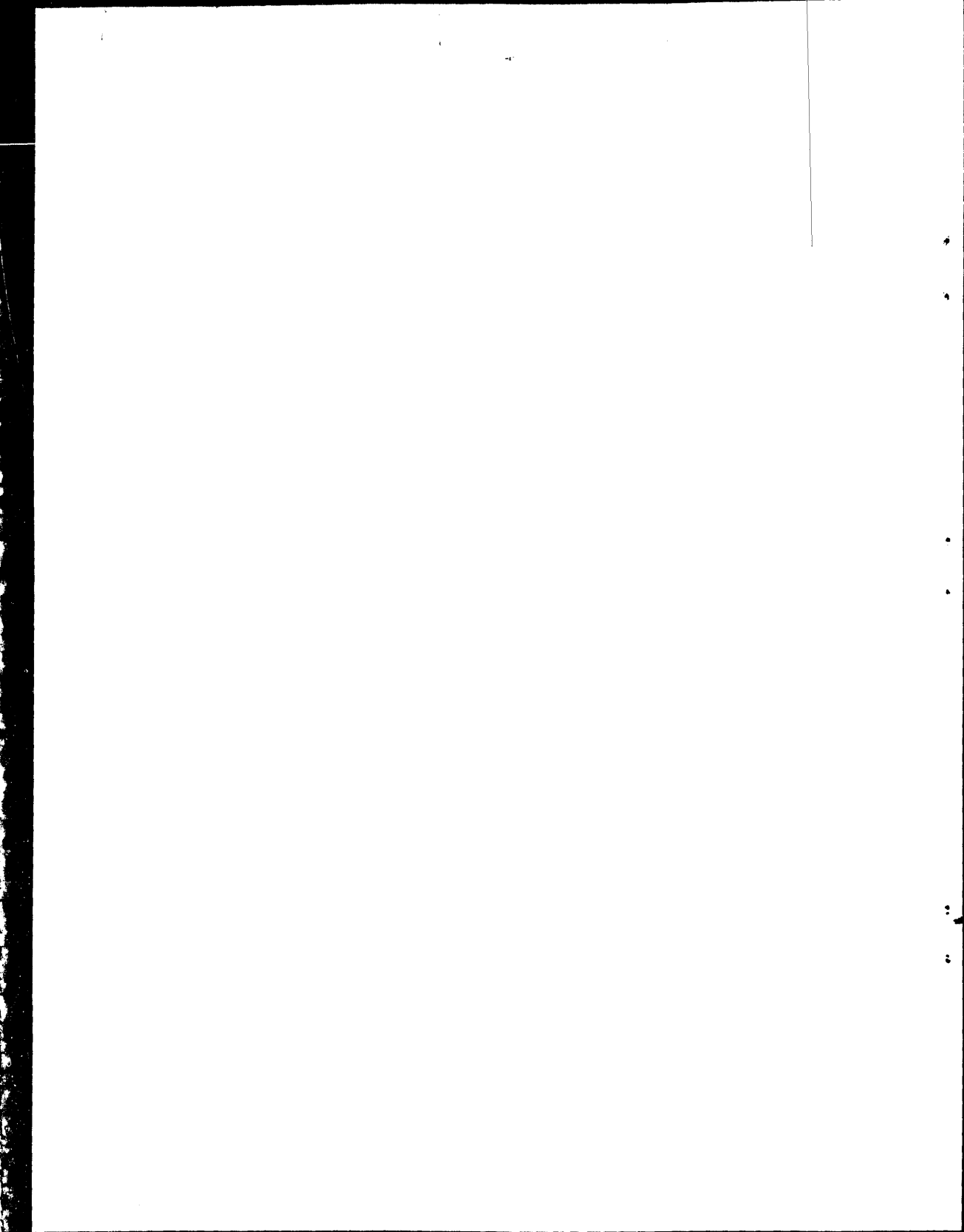
In connection with the Auditor General's recommendation that agreements should be entered into with recipients of capital contributions to identify terms and conditions governing funding, the department has responded that an exchange of letters of understanding will be initiated as described in the approved payment directive.

We are of the opinion that a standard form letter should be developed by the department and would be very effective in this area. The standard form would ensure the necessary controls on the funding and would promote consistency in the arrangements with the various recipients. Therefore,

it is recommended that the Department of Education develop and implement a standard form letter of agreement with recipients for capital contributions.

PART 4

**ANNUAL REPORT ON THE TERRITORIAL ACCOUNTS
FOR THE FISCAL YEAR 1983/84**



The Public Accounts Committee review of the Territorial Accounts for the 1983/84 fiscal year focused primarily on an examination of the Schedules to the Financial Statements contained in the Report. Our review was facilitated by the "Guide to 1983/84 Territorial Accounts", a briefing paper prepared by the Department of Finance which was provided to the Committee and which we found helpful in our sessions. The Honourable Tom Butters, Minister of Finance, appeared before the Committee to address our questions and concerns on this area and we thank him for his advice.

Although the Committee's questioning touched on a number of items in the Schedules and the Notes to the Financial Statements, there was one major issue which arose during our discussions and which we will address in our Report. This issue concerns the government's use of Special Warrants in the 1983/84 fiscal year.

SPECIAL WARRANTS

The Schedule of Special Warrants by Activity in the 1983/84 Territorial Accounts contains an itemized listing of 171 Special Warrants having a net value of \$16,757,100 in operations and maintenance funding and \$1,904,000 in capital funds.

The proliferation of Special Warrants by the government has been an ongoing concern of Committee members since the authority, if unrestricted, has the potential to usurp the function of the Legislative Assembly and to abridge its authority to appropriate funds. In the context of the 1983/84 fiscal year, this concern is confirmed by the number and extent of Special Warrants. The Minister of Finance has assured the Committee very strongly that the government has taken steps to curtail the use of these Warrants. We wish to emphasize that we are pleased with the prompt response by the government since the issue was first identified in the Standing Committee on Finance. We are satisfied that, with the stringent actions which have been taken, we as a Committee will not see a multiplicity of Special Warrants in future years.

Apart from the issue of the number of Special

Warrants, the Committee had specific concerns related to the government's application of the appropriation authority conferred under Section 18 of the Financial Administration Act. Firstly, the Schedule of Special Warrants identified two Warrants to the Northwest Territories Housing Corporation in the amount of \$8,860,000 and \$80,000 respectively, which were issued on February 14, 1984, during the winter session of the Assembly. When we questioned the Minister on this clear breach of the authority we were advised that the Schedules were in error and that the Warrants in question were approved on March 21, 1984.

Secondly, the Committee questioned the department on the use of Special Warrants for surpluses. We have obtained an opinion from our legal advisor that negative Warrants are not appropriate under Section 18 of the Financial Administration Act and therefore the Warrants in question were "ultra vires". The Comptroller General indicated in response, that the Warrants were transfers between items in advance of a supplementary estimate and were necessary for the government to undertake projects between sessions of the Assembly.

We appreciate the need for flexibility on the part of the government, however, this practice must not continue in the absence of the appropriate legal authority. Either the government must seek approval from the Legislative Assembly to transfer funds between items or it must seek legislative authority to make such transfers through amendment to the Financial Administration Act. The present practice of transfer by Special Warrant is contrary to the Financial Administration Act.

We also noted nine Special Warrants to the Department of Public Works for capital expenditures which were approved on April 4, 1984, after the close of the fiscal year. In our opinion, this is also a questionable practice in light of the lapsing of the funds on March 31, pursuant to the Financial Administration Act. We seriously question whether the authority for Special Warrants can be utilized to retroactively appropriate funds after the close of the fiscal year.

We observed an item in the Schedule for \$645,300 to the Department of Local Government, the purpose of which was "to provide additional funds for various projects started

in fiscal 1982/83 but not completed until fiscal year 1984/85". The date of approval for the Warrant(s) was shown as "Various Dates". It was explained that this resulted from the introduction of accruals on these projects. In our opinion, this is a sloppy method of reporting these expenditures.

When we discussed this issue with the staff of the Auditor General's Office, we were advised that the Auditor General's Office as its first priority completes the audit of the Financial Statements in accordance with the Northwest Territories Act. The Schedules to the Financial Statements are prepared by the GNWT at a later date for inclusion in the Territorial Accounts and are not audited by them.

In the context of the 1983/84 fiscal year, there is much evidence to suggest that the authority for Special Warrants has been misused. Accordingly, we have requested that Special Warrants be examined by the Auditor General's Office in the course of its regular audit of the accounts and financial transactions of the GNWT. The Auditor General's Office is able to access the government's internal documents supporting these Warrants and to bring any matters of concern to the attention of the Assembly. Therefore,

it is recommended that the Auditor General of Canada examine the Schedule of Special Warrants to the Territorial Accounts in the course of the regular audit of the accounts and financial transactions of the GNWT to ensure that Warrants have been issued in accordance with established legal authority.

