

Second Session – Forty-First Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Public Accounts

Chairperson
Mr. Matt Wiebe
Constituency of Concordia

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-First Legislature

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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PUBLIC ACCOUNTS**

Thursday, May 25, 2017

TIME – 7 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Matt Wiebe (Concordia)

VICE-CHAIRPERSON – Mr. Reg Helwer (Brandon West)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Messrs. Bindle, Helwer, Johnson, Ms. Klassen, Messrs. Maloway, Marcelino, Michaleski, Ms. Morley-Lecomte, Messrs. Smook, Wiebe, Yakimoski

Substitutions:

*Mr. Smook for Mr. Johnston
Mr. Johnson for Mrs. Mayer.*

APPEARING:

*Mr. James Allum, MLA for Fort Garry-Riverview
Mr. Norm Ricard, Auditor General*

WITNESSES:

*Hon. Blaine Pedersen, Minister of Infrastructure
Mr. Lance Vigfusson, Deputy Minister of Infrastructure*

MATTERS UNDER CONSIDERATION:

Auditor General's Report–Manitoba East Side Road Authority, dated September 2016

Auditor General's Report–Public Interest Disclosure Investigation Manitoba East Side Road Authority, dated September 2016

* * *

Mr. Chairperson: Good evening. Will the Standing Committee on Public Accounts please come to order.

This meeting has been called to consider the following reports: the Auditor General's Report–Manitoba East Side Road Authority, dated September 2016; and Auditor General's Report–Public Interest Disclosure Investigation Manitoba East Side Road Authority, dated September 2016.

Committee Substitutions

Mr. Chairperson: I'd like to inform the committee that under rule 104(2), the following membership substitutions have been made for this meeting: Mr. Smook for Mr. Johnston and Mr. Johnson for Mrs. Mayer, if that's clear to everyone.

* * *

Mr. Chairperson: Before we get started, then, are there any suggestions from the committee as to how long we should sit?

Mr. Jim Maloway (Elmwood): Mr. Chair, I'd suggest we sit 'til 9 o'clock and then revisit at that time.

Mr. Chairperson: Is it agreed we'll sit until 9 o'clock and revisit at that time, if we need longer? *[Agreed]*

Are there any suggestions as to the order in which we should consider items on today's agenda?

Mr. Maloway: Global fashion, Mr. Chair.

Mr. Chairperson: It's been suggested that we'll consider them in a global fashion. Is that agreed by the committee? *[Agreed]*

At this time, I'd like to invite the minister and the deputy minister to the table, and if you could just introduce yourself and your staff once they make their way to the table.

Hon. Blaine Pedersen (Minister of Infrastructure): Joining us tonight is assistant–is Deputy Minister Lance Vigfusson and Assistant Deputy Minister Leigh Anne Solmundson Lumbard.

Mr. Chairperson: Thank you very much.

Does the Auditor General wish to make an opening statement?

Mr. Norm Ricard (Auditor General): Yes, I do, Mr. Chair.

I'd like to first introduce the staff that I have with me tonight. On my right behind me is Erika Thomas; she's the principal that was responsible for conducting the performance audit at East Side Road Authority. And beside her is Jon Stoesz, who was the

audit manager who worked on that particular project. And to my far left is Jeffrey Gilbert who was the principal responsible for conducting the Public Interest Disclosure Investigation that we did on ESRA.

So, Mr. Chair, the east-side project was not an ordinary infrastructure project. It involved an Aboriginal engagement strategy and community benefits agreements, both aimed at ensuring benefits, over and above the road, accrued to the east-side communities. These benefits included training and mentoring for community corporation staff, the awarding of untendered pre-construction contracts to these community corporations and capacity building allowances to help them develop into viable local businesses.

Effectively managing the Aboriginal engagement strategy and the community benefits agreements was a challenging task but essential, if the anticipated benefits were to be achieved. Our audit revealed many gaps in how the Aboriginal engagement strategy, the community benefits agreements and the untendered pre-construction contracts were being managed. Of particular note was the lack of performance measures and targets. This meant that management was not able to objectively assess the progress made in achieving the anticipated benefits.

On May 27th, 2016, the government announced the dissolution of the authority and the transfer of its operations to the Department of Infrastructure. This announcement was made as we were finalizing our report. Our 24 recommendations were made with the underlying assumption that the ongoing operations of ESRA would be integrated, as is, within the Department of Infrastructure. We acknowledge, Mr. Chair, that the ongoing relevance of each recommendation is contingent on the future delivery model that is ultimately chosen and implemented.

In addition to our performance audit on ESRA operations, on March 25th, 2015, the Ombudsman referred to my office a disclosure made under The Public Interest Disclosure (Whistleblower Protection) Act, PIDA for short. The disclosure contained allegations concerning the Manitoba East Side Road Authority.

PIDA states that such referrals are to be dealt with in accordance with The Auditor General Act. However, because the AG act does not include any provisions dealing with PIDA disclosure referrals

and the reporting thereon, I was guided by six-section 16 of the AG act, which allows for special audits upon request.

Under this section, the Auditor General may, at his discretion, issue a public report if it is in the public interest to do so. Similarly, the Ombudsman may publish a report relating to a PIDA disclosure where it is in the public interest to do so.

I do note, however, that neither PIDA nor The Auditor General Act define the circumstances under which issuing such a report would be in the public interest. Given the whistle-blower's public statements regarding the disclosure, I believed it was then in the public interest to release this report.

Mr. Chair, the five allegations included in our investigation for the five—pardon me—of the five allegations including—included in our investigation, we concluded that four were valid. Our report on the Public Interest Disclosure Investigation does not include recommendations.

Thank you, Mr. Chair.

Mr. Chairperson: Thank you, Mr. Ricard.

Does the deputy minister wish to make an opening statement?

Mr. Lance Vigfusson (Deputy Minister of Infrastructure): Yes, I do.

On May 27th, 2016, the government announced the dissolution of the East Side Road Authority and the transfer of its operations to Manitoba Infrastructure. I'd like to also point out, on May 30th, 2016, I was named interim CEO at that time.

Subsequent to this change, the Auditor General published two reports on the East Side Road Authority, as indicated by Mr. Ricard. The first report, entitled Manitoba East Side Road Authority, contains 24 recommendations. Manitoba Infrastructure has used these recommendations in analyzing the operations of the former East Side Road Authority and determining how and what to incorporate into our department moving forward.

The mandate of ESRA was to construct and maintain the east-side road project and ensure that construction is carried out in a manner that provides increased benefits for the east-side communities.

MI's mandate—that's Infrastructure—is to invest in strategic infrastructure with the goal of supporting economic growth in Manitoba. Manitoba Infrastructure will not be implementing any of the

24 recommendations found in this report. We've incorporated the authority fully into the department as of the beginning of this fiscal year.

Infrastructure is ensuring that, moving forward, all projects and contracts entered into by the department are undertaken within our existing mandate and adhere to the public sector accounting standards; the legislation; the policies and the processes of the Province of Manitoba; and the policies and processes of Manitoba Infrastructure, respecting procurement, Aboriginal engagement and contract and risk management.

* (19:10)

With regards to the five allegations outlined in the Public Interest Disclosure Investigation, Manitoba Infrastructure has used this information to inform communications with staff on individual responsibility and accountability for public stewardship.

Our comptrollership framework ensures current delegated signing authority charts are in place, which also ensures there's an appropriate segregation of duties. Infrastructure, as well with all departments, follows a tangible asset accounting policy in the Financial Administration Manual. Our processes and controls associated with this policy are reviewed by both internal staff and the Office of the Auditor General every year to ensure continued compliance and appropriateness.

In September 2014, Manitoba Infrastructure financial staff established regular in-person meetings with ESRA's financial staff to ensure timely receipt of financial information. Infrastructure, in turn, updated the Comptroller's office on the status of this reporting; any deficiencies were reported to the board of directors. This has now devolved to Manitoba Infrastructure's standard reporting processes for financial monitoring, which also include regular in-person meetings between our financial staff and the accountable program areas.

Submitting progress claims for federal funding on a timely basis is necessary to ensure that sound cash management practices are in place. Manitoba Infrastructure has a long history of cost-shared projects with the federal government. Infrastructure has control mechanisms in place to ensure that the federal government receives the information and assurances it needs to process our claims.

As public servants, our primary responsibility is to ensure the safeguarding of public resources. We

need to continue to ensure that there is appropriate accountability and responsibility for the use of these resources to ensure the public is provided with information on how they're being used and to ensure that our employees have the opportunity to raise any concerns they see in this regard.

Manitoba Infrastructure takes responsibility very seriously and ensures that training updates and communication on fiscal responsibilities is provided on an ongoing basis.

Manitoba Infrastructure also ensures that there is regular communication on how to address concerns of mismanagement and what staff are aware of—and that staff are aware of who their designated whistleblower officer is.

In closing, I'd like to acknowledge the Office of the Auditor General for their continued professional and collaborative relationship with the Department of Infrastructure.

Thank you.

Mr. Chairperson: Thank you, Mr. Vigfusson.

Before we proceed any further, I'd like to inform those who are new to this committee of the process its undertaken with regards to outstanding questions. At the end of each meeting, the research officer reviews Hansard for any outstanding questions that witnesses commit to provide an answer to, and we'll draft a questions-pending-response document to send to the deputy minister.

Upon receipt of the answers to those questions, the research officer then forwards the responses to every PAC member and to every member as recorded as attending that meeting. At the next PAC meeting, the Chair tables the responses for the record.

Now, before we get into any questions, I'd like to remind members that questions of an administrative nature are placed to the deputy minister and that policy questions won't be entertained and are better left for another forum. However, if there is a question that borders on policy and the minister would like to answer that, or the deputy minister would like to defer it to the minister to respond to, that is something that we would consider.

The floor is now open for questions.

Mr. Maloway: I'd like—I've got a few questions here for the Auditor General and a few for the deputy minister or minister.

I'd like to ask the Auditor General: Can the auditor confirm that he was not evaluating the importance of the road projects or the need for a permanent connection for the east side of Manitoba?

Mr. Ricard: That's correct. We were looking at how the east-side road project was being managed.

Mr. Maloway: Given the remote location and the use of community benefits agreements, would it be fair to characterize this project as a novel approach to building infrastructure while also building local capacity?

Mr. Ricard: I'm really not in a position to comment on your characterization. I'm not aware of any other similar projects in Canada, if that helps.

Mr. Maloway: In your evaluation, did the—did you come across any jurisdictions that attempted the significant undertaking of building roads while also building local capacity in any remote communities?

Mr. Ricard: The—my audit team is only aware of situations where this sort of approach was used for hydro or mining operations but not specifically in relation to the construction of roads.

Mr. Maloway: Mr. Chair, in the report, quote: "ESRA ensured employment equity requirements were being met." Can you expand on that?

Mr. Ricard: With respect to the tendered contracts, ESRA was properly ensuring or reviewing that the contractors were complying with their requirement to hire local residents. There are certain percentages for construction activity; I believe it's 30 per cent. For bridge construction, it's 20 per cent. And so ESRA was actively working with the contractors to make sure that those percentages were met. If they were falling below it, they would refer them to their—they had, like, an employment agency set up to help match local residents with employment opportunities. So that part of their management was, we believe, reasonably well done.

Mr. Maloway: An important goal of the east-side road was that it employed east-side residents. I believe 30 per cent of the project was being performed by local residents. Was that objective being met?

Mr. Ricard: As part of our audit, we looked at whether ESRA was ensuring that the contractors were meeting their obligations to hire local residents. And so, for the contracts, we looked at 10 contracts and, for those contracts, we were satisfied that ESRA

was ensuring that the contractor was meeting their 30 per cent of local employment obligation.

Mr. Maloway: And the—in the pre-meeting, I think you made some reference to the amount of tendered contracts. But I'd just like to have you answer that again. Is the majority of the project being constructed through tendered contracts? I believe it was like 60-30 or something like that.

Mr. Ricard: We—our understanding is that 65 per cent of the east-side road project would be constructed through tendered contracts and that 35 per cent—or roughly 35 per cent would be constructed through the use of the community benefits agreements and the related agreements.

Mr. Maloway: I'd like to thank the Auditor General.

I'd like to direct a few questions now to the deputy minister or the minister.

I understand that a 30 per cent target was in place to employ east-side residents in building the road. Can the deputy tell us if that objective was—is still in place?

Mr. Vigfusson: As not being employed by the East Side Road Authority at the time, I don't know if there was a 30 per cent contract in place. I can tell you how we're managing them today, though, if you need to know that.

Mr. Maloway: I'd like to ask you that very question, then. What is the target, and how many people are—residents are employed building the road?

* (19:20)

Mr. Vigfusson: Okay, again, I don't have all those answers. We are looking at the existing contracts. We're working with—let me just back it up a little bit—we have met with every one of those communities. Myself, I have met with every one of those communities personally, probably three—two to three times since September, when we officially took it over with the new mandate.

Our goal is to put an Aboriginal engagement strategy, similar to how we manage all the rest of our construction projects, where we're looking for value for money through tendered contracts and employing local indigenous people, equipment, materials that they have, to the maximum capabilities of the communities. And that varies by each community.

Mr. Maloway: So could you endeavour to do a calculation to find out what percentage are local and get back to us on that within a week or two?

Mr. Vigfusson: That's a very difficult number to get. Those numbers change daily. It depends on who's employed by the contractors. Our process is that we manage contractors, contractors manage the employment. We don't manage the employees from the First Nations.

Mr. Maloway: Well, perhaps a range would be in order. Can you get us a rough range? That shouldn't be that hard to do.

Mr. Vigfusson: Sorry about that delay.

That's a very difficult number to give because there's—there are 13 communities that have CBA contracts. Some of them are active and some of them are more active than others. We have not issued any new contracts other than some minor works in the past year. Those are the contracts that we have control over because we've issued them under Manitoba Infrastructure.

To talk about what the averages are for contracts that we have inherited from the East Side Road Authority, that would be very difficult to provide that information.

Mr. Maloway: I'll let that one go for the moment.

Now, since May 2016, I'd like to know, now this project is in Infrastructure, how many kilometres have road—of road have been built since May 2016?

Mr. Vigfusson: Again, a difficult question to answer because roads—there's been no roads opened, no new roads have been opened to traffic, so I don't want to say that there's been no kilometres have been built, but the roads are under construction. And it's a road and bridge project, so there are no roads been opened to traffic, but there are road sections under construction primarily between Bloodvein and Berens, as well as between Little Grand and Pauingassi.

Mr. Maloway: Well, then, could you tell me when the—you anticipate this road to be finished?

Mr. Vigfusson: What section?

Mr. Maloway: The section that we're talking about. I ask you, how many kilometres have been built in one year? You talked about sections you're working on; that section that you're working on, when is it going to be done and how big is that section?

Mr. Vigfusson: So I'd just like to clarify—we're talking about the section between Bloodvein and Berens. Is that correct?

Mr. Maloway: Sure.

Mr. Chairperson: Mr. Maloway. *[interjection]*

Mr. Vigfusson, pardon me.

Mr. Vigfusson: I don't have the specific kilometres with me. It's in the neighbourhood of around 80 kilometres. We can certainly endeavour to get back with the exact distance between the two communities as well as how much roads are under construction.

Mr. Maloway: I'd like to ask: how many local residents of the east side have been employed in this particular project?

Mr. Vigfusson: I don't have that information. We don't track the employees that the contractors are doing. That's not part of our mandate.

Mr. Pedersen: Just a point of clarification, Mr. Chair. I'm not sure how that relates back to these two reports that we're—that the Auditor General has—is reporting on. So I just ask for your indulgence on that.

If we can stay to that, if you want to have a report on current activities, that's not what is covered under the East Side Road Authority Auditor General's report. I just ask for that clarification from you.

Mr. Chairperson: I—so I appreciate the comment from the minister and, as I said informally in our pre-meeting and I'll say now on the record, I do like, as the Chair, to give a little bit of leeway and a little bit of ability to—for members to explore their lines of questioning, especially in this case where the actual department or entity that has been audited actually doesn't exist.

So I think what we're going to have to find here today is that there'll be a little bit of exploration, if I can put it that way, for members to find out exactly what falls into the new Department of Infrastructure. That being said, I appreciate what the minister has pointed out. And, as I've said many times to members of the committee, is—if we can keep it as focused as possible, it is helpful not only for department staff, for the auditor and for me as Chair.

So it's always nice if you can reference a specific point—recommendation in the report that you're referencing and—but otherwise, I take your suggestion and I appreciate the comment put on the record by the minister. The—sorry—Mr. Maloway.

Mr. Maloway: I'd like to ask: how many local companies have been contracted for this year-long project?

Mr. Vigfusson: I believe the question was how many local companies have been contracted on this project. I don't have that information. That would take a full review of what ESRA has done since the beginning of 2009, when they started this project, up until when we took it over.

Again, our practice is to honour the existing contracts to the best of our abilities and enter into new ones under Manitoba Infrastructure's traditional methods.

Mr. Maloway: I'd like to know how much brush has been cleared in the last year.

* (19:30)

Mr. Pedersen: If Mr. Maloway could find where brush clearing is in the Auditor General's report, maybe the deputy minister could be a little more specific in an answer to that. But I think his question was in the past year, and I don't believe this would—this Auditor General's report would cover the last year. So, again, I'm just asking for the committee's indulgence to stick to this report.

Mr. Chairperson: So, again, just for clarification, what this committee is here to do is to ask about the status of the report, the implementation of the recommendations found in this report. And I think we started this meeting by saying that the recommendation—I heard the deputy minister say none of the recommendations had been implemented, nor were they going to be implemented. So I'm—I appreciate, again, the minister's comments, and I think that's helpful for the committee, and maybe what we'll do is we'll move on to the next line of questioning. But I think it's—there is some value in finding out if the recommendations have not been—if they're not going to be implemented, why they're not going to be implemented and what is the status of the work that those recommendations was recommending—what is, you know, what's happening with that work.

So, again, I'm going to give some leeway, and again, I appreciate the minister's guidance here. And I've also heard from my Vice-Chair who's also, you know, very—he has a lot of knowledge about the operations of this committee. So I will continue to listen to him and other members of the committee.

What I'll suggest now is we'll move on to another line of questioning. I have now two other speakers on my speakers' list, and we'll try to get the committee focused back on the report.

Mr. Kelly Bindle (Thompson): Focusing on the report itself, the intent of the report—and my question is for the Auditor General—the intent of the report was to see if the CBAs, the community benefits agreements, were achieving what they were supposed to do. There was no measurable key performance indicator, but I guess it would imply that if they're intended to open—or help companies form through joint ventures and untendered contracts with payments that reduce over time as the companies become functional, I'm just, I'm curious, there was a total—like, of the 10 contracts you looked at, some of them actually specifically mentioned the CBA payments, and I believe in the report there was a total of \$178.9 million spent.

I'm curious how many of those companies that were in joint ventures were operating at the time of the audit.

Mr. Ricard: If I understand the member's question correctly, I can only answer it in terms of what we looked at. And we looked at 10 contracts. And for those 10 contracts, six of them were being managed with a joint venture partner.

Mr. Bindle: And to step out of the box a little bit today, like, I guess my question would be for the deputy minister: Are those joint—are those contracts with untendered—untendered contracts with joint ventures for CBA agreements still in progress?

Mr. Vigfusson: All existing construction contracts are still—that are still in progress are—we're honouring those. We're managing those. If the contracting company is using a joint venture, they can continue to use joint venture; that's their choice to do. We haven't specified how they do their work; we're just managing the existing construction contracts to the original values and trying to get the best value for the work that's remaining.

Ms. Judy Klassen (Kewatinook): My question is, is MIT, then, proving accountability? Are the current CBAs available for general public viewing?

Mr. Vigfusson: I believe the CBAs, being private contracts, wouldn't be available for public viewing.

Ms. Klassen: And then, in respect of workplace safety and health, you know, my nephew, through—was employed through this tendering contract, and

he was crushed by two tanks—he was not trained at all in the processes—by a fuel tank the size of this table. Blessedly, he survived. By miracle upon miracles, he survived. He was air-ambulated out. He's functioning normally today after many surgeries.

So my question is, for the safety of these workers in these communities, what is MIT doing in respect of training, proper training, properly equipping these young men?

You know, this is my son. At one point, I had nine children. I had my six, and then I took in my sister's boys, and then I took in a homeless child, in Steinbach. And, you know, I'm very worried about these young people that we employ in northern remote communities who face these kinds of—here's a shovel; oh, and, by the way, drive this tractor—and, you know, something they're not used to.

So are—is there safety measures in place under MIT?

Mr. Vigfusson: Can I get an idea when that incident happened?

Ms. Klassen: This happened—it was three summers ago. And I don't want to name the company.

Mr. Vigfusson: I can't speak to the—how East Side Road Authority managed the training and the safety programs. I wasn't there. They had their own processes.

I can tell you that when we hired new—put out new contracts, we have the—contractors need to be COR certified. They need to understand all their safety obligations and requirements and ensure all staff that they hire are properly trained.

Ms. Klassen: Well, it's more in 'alongs' of the monitoring, you know—I went on—I go on these roads. I walk on these roads. I can tell the member that there's about 32 kilometres of brush clearing that has occurred since the dissolving—dissolution. Yes, and so they're still actively going along and they're still not getting trained, because I meet with these people, I talk with them—and it's not happening. So there is obviously a breakdown if that's still occurring.

And my ultimate concern is for the safety of our people. We always seem to be where the general public learns tragic, horrible incidents occur to our people, and then that's when regulations step into place. And, you know, that has to stop.

And so I implore, again, is there more that the department can be doing?

* (19:40)

Mr. Vigfusson: Safety is one of the biggest priorities in our department—probably is the biggest one. For any of our construction contracts, we—like I said, we require COR certification, when the contractor is responsible for the safety of his people and all the workers on their job sites.

We have staff that monitor the projects and we review both with the contracting company any violations that we may see. None of that has been brought to my attention that I'm aware of.

Ms. Klassen: So, correct me if I'm wrong: Workplace Safety and Health Manitoba has an opt-in, opt-out, correct?

Mr. Vigfusson: I'm not aware of any opt-out programs that Manitoba Infrastructure's involved in. As I said, safety is one of our highest priorities, and safety of the workers on our construction projects is a big priority of ours.

Mr. Blair Yakimoski (Transcona): I think maybe perhaps Ms. Klassen was referring to when owners can opt out of certain aspects of WCB for coverage when it comes to employees. I believe, yes, you have to be further covered, and I assume oversight is, on OHNS for these projects, is done at a very high level.

Mr. Ricard, perhaps you could comment: Did the audit at all cover oversight or any deficiencies when it came to lack of oversight, when it came to procedures for occupational health and safety?

Mr. Ricard: So, on page 29 of our report, we have a table that lists for—you know, our review of compliance with preconstruction contract requirements.

But on page 29, there's a number of them that do deal with safety requirements. For example, one of them is that "the contractor shall submit a current copy of the contractor's safety and health program." So we looked to see what was ESRA doing to ensure that that was occurring. And there we say, "ESRA did not have copies of the community corporations' safety and health programs"—so something they should've done, and they didn't have it.

The other one would be: the contractor shall submit a safe work plan for activities specified in the contract a minimum seven days prior to commencement of any work. And there we found

that safe work plans were on file at ESRA for all 10 contracts that we looked at, but only one safe work plan had all the required elements, and there was no evidence to support that any of these plans were submitted to ESRA in a timely manner.

The other one, "contractor shall appoint a person responsible for safety and health on the worksite." And there we found that the community corporations had appointed a person responsible for safety and health for all of the 10 contracts that we selected for audit.

That's about the extent of the work that we did in terms of ensuring compliance with safety requirements.

Mr. Yakimoski: Thank you, Mr. Ricard.

Mr. Vigfusson, I assume that even though we've stated that—or it's been stated that because things have changed and, according to this report, there are some deficiencies, Infrastructure will be ensuring that workplace health and safety is a very high priority moving forward?

Mr. Vigfusson: Absolutely, it's a critical component of our project management processes. We have staff right in the assistant deputy minister's office, Workplace, Safety and Health, that oversees the whole provincial program itself. Our regional folks are all trained in that. Our project managers get trained in it, and they consider that as one of the—besides getting a good-quality project on time, on budget, making sure people go home safely is one of their other priorities.

Mr. Yakimoski: Are there any penalties to companies, or just covered under the WCB or the workplace health act—there's nothing external, or they can be removed from the project, or anything like that?

Mr. Vigfusson: It'd be the regular department of labour and Workplace Safety and Health responsibilities that they have to face. In terms of penalties, the penalty would be if—we will shut down a contractor if we notice any violations of safety or poor workmanship if—until it's corrected.

Mr. Yakimoski: Mr. Ricard, looking at this report, and it seems overwhelming, as a former small-business owner, that the lack of oversight on these sort of major, major projects is very, very troubling.

I was wondering if you would talk about or if you can venture an opinion—I know you just report—why the oversight occurred on so many levels; why

documentation isn't provided on time; why, perhaps, things were just not done, or even reports not filed or information not being able to be gathered. If you could talk a bit—was it due to staffing issues? Was it due to neglect?

Mr. Ricard: So I could—I would refer the member to section 3.3, in our report, where we specifically looked for that, and its titled Contributing factors for gaps in ensuring compliance. In there, we try to understand why was it that—like, what were the factors that were contributing to ESRA's inability to ensure compliance by the communities and—by the community corporations with contractual provisions including—included in the CBAs and the related agreements. And we came up with four main factors, if you will, and one was that responsibility for contract administration had not been clearly assigned to one individual. So you need one person responsible for contract administration to ensure that it is being properly done within the organization.

There was no—we also found that there was no contract administration policies and procedures, so every staff member was basically trying to figure out how to do—how to go about doing what they were doing. There was no contract administration training, and so these were people in—I understand that who—where contract administration was not a first skill, so they were learning on the job, and then there was no central filing system. So it's important to have all of the documents associated with one contract, in one place, so management can understand what's going on with it. And we found that the filing system was difficult and getting documents was problematic.

So I would offer those as broad, overriding reasons for why ESRA wasn't as successful in monitoring and ensuring compliance as it should have been.

Mr. Yakimoski: In other audits you performed in the past, have you ever seen this sort of lack of policies and procedures for anything within government in your history?

Mr. Ricard: It's really not unusual for us to find deficiencies in policies and procedures, so it's a very general statement. But I think you could go to pretty much any one of our reports and find recommendations on—you need a policy, you need better practices, so.

Mr. Yakimoski: Regarding the community benefits agreements that have been mentioned within here, it

seems that it wasn't really achieving the desired results, or there's not measurable results there.

Is—can you comment as to did it achieve any of the targets that it really wanted to achieve in terms of developing community benefits agreements, community groups that were able to continue moving forward and finding success?

* (19:50)

Mr. Ricard: So one of the key findings in our report, I think, is that there were no measurable objectives for the aboriginal engagement strategy. You know, so what they had was six key areas and some activities associated with those areas but no measurable objectives for any of those areas. And those measurable objectives that are outcome oriented are essential, if you're going to be able to measure, down the road, whether you've accomplished what you intended to accomplish. That's not currently in place—or was not in place at the time of our audit. So, you know, I don't think management at the time could comment on how well they were doing and how far along they were progressing in achieving the intended outcomes because they didn't have information. They likely would have cited anecdotal examples of success, and no doubt those existed, but hard performance information was not readily available.

Mr. Yakimoski: As you said, road authority no longer exists. Will this sort of thing be looked at in a follow-up report?

Mr. Ricard: The follow-up report will be interesting if—you know, when the deputy indicated that none of the recommendations were going to be implemented, my initial thought was that the follow-up process would be looking at why not, so understanding, recommendation by recommendation, what it was about that recommendation that was no longer applicable—pardon me—and to the extent—and what I expect to hear when we do this is that the delivery process is so radically changed that the recommendation is no longer relevant.

But I can't—until we do the follow-up, I'm not in a position to say whether I agree that the recommendation should not be implemented or that I would be pursuing or encouraging the department to implement any of them. I'd have to first understand the rationale for why all the recommendations were being not implemented.

Mr. Chairperson: Maybe if I could just ask to put that question to the deputy, and it looks like he might

have been wanting to answer that question anyway, but maybe just to clarify why you would make a blanket statement that all recommendations would not be implemented, when, even just in the questions that have come forward tonight, you know, there's been a few areas where you've said, well, we're already in compliance, or that's not the objective of Manitoba Infrastructure anymore.

Is that—can you just give us a sense of why you told the committee that just none of the recommendations would be implemented, rather than sort of parsing out a little bit more information about each particular recommendation?

Mr. Vigfusson: I suspected I'd have to answer that question, and I can feel for the Auditor General in terms of how he's going to do a follow-up one.

I'm just looking at the status categories of when the Auditor General does a review. There are four categories: work-in-progress, so that describes the steps that management's taking to implement the recommendations; second category is do not intend to implement, where management does not intend to implement the recommendations or otherwise address the risk; third one is implemented or resolved, so that's where it was already taken care of; and the one we're focusing on is action is no longer required—on the basis of the recommendations, no longer relevant due to the change in circumstances.

So, for the most part, most of our—the rationale for not pursuing what the recommendations is, is the Auditor General talked about a number of the circumstances or the contributing factors for gaps in compliance, and if you look at the four recommendations, 21, 22, 23, and 24, Manitoba Infrastructure already has put steps in—we already do that. That's ingrained in us. It's been ingrained in us since the department was formed.

When you look at some of the other recommendations that are in here, they're no longer relevant, because why would we go and develop a policy relating to capacity building allowances? That was a model that East Side Road Authority had developed. Why would we go and spend a whole pile of administration trying to figure out how to make that better? We're not using that anymore.

So many—that's basically where these two are falling in, is that Infrastructure has been building roads and bridges for years and years and has well-developed practices and processes in place on how to do it, so many of these recommendations are

not relevant, and then the other ones, they're not required anymore because we're not using that model.

Mr. Yakimoski: Thank you very much for that answer.

So, as this is strange new territory with the East Side Road Authority gone, Mr. Ricard, might you think that a further separate 'audor'-audit would be in the interest of the taxpayer to find out—to make sure that this doesn't happen further—looking into the community benefits agreements, because it might not be covered under the present audit. Would a further audit be suggested or recommended?

Mr. Ricard: From an office—you know, I can speak to our strategic plan, our planned list of projects. We believe, we've invested quite heavily in auditing the East Side Road Authority, to date. And so there's nothing in our plan to revisit the East Side Road Authority.

We think, we did a fairly extensive audit of the authority, as it was. I don't know exactly what the member is suggesting we would audit. So perhaps, if the member could clarify, what he would see as the topic of an audit relating to the east-side road?

Mr. Yakimoski: Thank you, Mr. Chair. He did ask me a question.

The—[*interjection*] I apologize. Perhaps under the umbrella of the actual value of the community benefits agreement.

Mr. Ricard: To me, that gets into looking at needing to develop performance measures and needing to accumulate performance information, and that, to me, sounds an awful lot like management's job. We would audit those processes, but, in order to comment on that, we would—it would be impossible for the audit to do that. For one, I don't know—you would have to articulate for us what the intended values are, the intended benefits are, with measurable objectives associated with them; an audit couldn't do that for you.

And then I wouldn't want my audit team gathering performance information. We are in the business of auditing what's done, not compiling management information for management.

Mr. Brad Michaleski (Dauphin): Somewhat on the same line of questioning as my colleague there: it's regarding the capacity of building allowances.

These—and my question is to the Auditor General: so these capacity building allowances, they went into the community corporations?

Mr. Ricard: The capacity building allowances were paid as part of payments that were made in relation to the untendered contracts. So, when a community corporation had an untendered contract with ESRA to do, say, brush clearing or gravel crushing, part of that contract would include a capacity building allowance amount.

In our audit—I'm just trying to find the right reference here—in section 1.3, we do talk about the capacity building allowance as not being separately-accounted for separately. So one of the challenges we had was when we looked at contracts—we looked at 10 contracts. In only one contract could we actually see the—where the capacity building allowance was identified—the other nine, it was buried in the untendered contract and not disclosed separately.

But, in all of our conversations with ESRA management, they indicated that all untendered contracts included a capacity building allowance. It was their intent to diminish that capacity building allowance for a particular community corporation; in future, untendered contracts, as that corporation matured and developed—and the need for capacity building allowances diminished.

* (20:00)

But what we found—there was a—there was no policy on how to calculate the capacity building allowance. There was no policy on how that allowance would diminish over time and for what reasons.

Mr. Michaleski: So you're saying the—one of the nine contracts they had a rationale for and eight of them they did not, correct?

Mr. Ricard: For one of the 10 that we looked at, the capacity building allowance was specifically identified and disclosed. For the other nine, it was not.

Mr. Michaleski: Going back to my original question, so these dollars, did—were they deposited in the community corporations? Or am I missing something here?

Mr. Ricard: No, it's correct. As the—as ESRA was paying against the contract—so depending on how much of the contract was completed by the community corporation, they would bill ESRA, and

ESRA would pay the agreed-to rate, which would include the capacity building allowance.

Mr. Michaleski: So, with respect to the community corporations, again, their intent is to help start up business. So was there any evidence that resulted in viable stand-alone business enterprises that you noticed?

Mr. Ricard: If I understand the member's question, and I'm not entirely certain I heard it all, but section 1.5 of our report, on page 19, and we talk about how ESRA monitored whether community corporation—whether the community corporations were becoming viable business entities. And in that section we do identify a number of deficiencies in terms of their process for analyzing the financial information that they were getting from the community corporation to assess viability currently and in the future.

So I'm not sure if the member was asking if ESRA was determining whether an entity was viable or not—maybe you could repeat.

Mr. Michaleski: I guess there was dollars spent for an intent, and I guess those dollars going into the community corporations, you look for evidence that those dollars are being used and monitored for the correct purposes. So—and one of those purposes, or the full intent of that, is to have start-up businesses.

So I guess, yes, so the question: Was there any evidence that there resulted in viable stand-alone business enterprises coming out of this?

Mr. Ricard: So our audit wasn't designed really to do that. We weren't there to do what ESRA was mandated to do. We didn't try and say, is community corporation 1 becoming a viable organization? We were looking to see what is ESRA doing to monitor whether a community corporation is becoming viable; what is it doing to change its mentoring, to change its training, to change its approach to that community corporation to—if it sees that it's not becoming viable. So it wasn't—we weren't there to assess that directly.

Well, one of the things, though, that I would just say, because I think it links to what you're asking and it's dealing with the capacity building allowance, and in section 1.3 we talk about—let me just find the section here where ESRA—we say ESRA does not track how the community benefit—the community corporations benefited from the allowances they were provided.

So one of the things that we noticed, because you talked about money going into the corporation, one of the things that we noticed was, first of all, they weren't accounting for their capacity building allowance separately, which is a problem in my mind. But then they also weren't asking the community corporations, so what did you do with the capacity building allowance? How are you improving your capacity to be a viable business by using the capacity building allowance? So the money was going in and they didn't know what it was being used to do.

Mr. Michaleski: And this was ESRA's responsibility to track and monitor and evaluate.

Mr. Ricard: I would agree with that statement.

Mr. Michaleski: Do these community corporations still exist?

Mr. Ricard: As far as I'm aware, they do. I think heard the deputy indicate that they do—but.

Mr. Michaleski: So the fact that the dollars went in and ESRA did not really track the outcomes, is this something that your office would recommend investigating further—the use of those dollars?

Mr. Ricard: That's a very interesting question, because I think we considered it and we thought about it for a while. The concern that we had was that there wasn't enough documentation for us to be able to follow the money and figure out where it went. And so we did not think that spending more office time pursuing that would yield the results that we had—that we would hope.

Mr. Michaleski: I don't want to put you on the spot, but it's interesting that you say there wasn't enough information to follow where the money went. So, again, I'll ask that question: is that worthy of another audit or a different audit—where that money went?

Mr. Ricard: It might be worthy of an investigation. I'm not sure it's an investigation that I'd want my office to pursue, but it's something we could—that we might entertain.

The—my comment in terms of the documentation is when we tried, as part of the performance audit, to follow it, we weren't able—and we didn't want to spend a lot of time and resources digging. We didn't want to do a forensic audit as part of our performance audit, but, even in talking to my forensic auditors in the office, their concern is we can only do a forensic audit if there's documentation. If there's no documentation, if the money just goes

out of the community corporation, as a dividend or as a management fee to another company, then that's about as far as we could go. We wouldn't be able to track down to—well, if it went out as a dividend to the First Nation, then what did the First Nation do with that money? We wouldn't be able to probably track it that explicitly.

Mr. Chairperson: So, just as a caution to our committee here, we—I can see our time slipping away very quickly. I do have a very lengthy speakers' list. As you know, I like to give a little bit of leeway, so that folks can follow a thread. But I just want to be conscious that I do have quite a few others on the speakers' list.

With that said, Mr. Michaleski.

Mr. Michaleski: I guess, the issue is the point of a privilege of an untendered contract, and there's assumptions made and, in a bidding process, that these dollars are to go to an intended—to intend—to no, again, in this case, it's for a start-up business.

It would be—I think, it's very, very critical that if the intention was a particular thing, that she should be able to track that all the way through and evaluate. And that's ESRA's role here, and, clearly, they've dropped the ball on this thing.

So and it ends—so, again, there's dollars that were spent, and we should be able to see—again, maybe it's a forensic audit on this thing, to see where that—where those dollars went, and it should be fully tracked. I'll just make that as a point.

Mr. Chairperson: Thank you, Mr. Michaleski.

Mr. James Allum (Fort Garry-Riverview): One of the things that I'm struggling with, as I read the report and I read the—I listen to the responses of the deputy, and I have no objections to any of that, is what seems to be missing, which is ESRA's voice.

* (20:10)

We have no indication of whether ESRA comply—or replied to any of the questions that you asked, whether they provided written documentation, written statements about the issues that were raised in the report. In a typical audit report, of course, we would have you making—the auditor's office making a report, the department down at the other end, with the deputy who was actually there. In this case, we don't have ESRA here.

Is there anything that ESRA provided, before they were disbanded, that would help us to maybe

put a little context around some of the decision making that was made while they were there? Or is that just not going to be part of any conversation here?

Mr. Ricard: The only thing I could say to that is we don't have anything—I mean, we had many conversations with ESRA before they were disbanded. The report is fairly negative, so, of course, they had difficulty with some of the findings that we were presenting or our interpretation of the evidence that we were finding. But I have nothing else—nothing from them directly in writing commenting on any of the recommendations that I can recall, anyways.

Mr. Allum: I appreciate that. But it does seem, given the nature of some of the questioning here tonight, like it's a trial in absentia, you know, the person on—thing or person or whatever isn't here to be able to provide some additional explanation so that members would have a fair ability to judge for themselves. So I—I'm struggling with that tonight. It's just it's a difficult part of what we're having to do.

Since the Chair was so quick to ask the question of the deputy that I was going to ask, taking away some of the opportunity, but I couldn't help but notice, in the management response that is included in the report that says the department agrees with the recommendations and will consider how best to implement, and then the deputy comes in and kind of just sort of says, well, we won't be doing any of these and then goes on to explain that they don't seem to be relevant—which makes me wonder, if the recommendations aren't relevant, why are we having this dialogue tonight?

Nevertheless, wouldn't it have been more helpful to provide us with a chart of the 25, as would normally have happened with something with a—sort of a—something that said, not relevant, already doing it, could've done it but don't need to—any of those things? Like, I find it hard to just sort of have in the report saying, we'll look at the recommendations and we agree with them, and then in the next breath, well, we're not doing any of them because we don't need to because they're not relevant anymore.

It would've been helpful for members if we could've had some kind of chart to know what's relevant and what's not. You pointed to three or four off the top of your head, but—so I'd just comment in that regard.

Mr. Vigfusson: On that, the report was submitted September 2016. We started this—the journey of going through the dissolution of ESRA on May 30th when I took over. So during that summer months our job was to gather as much information as we could to try to develop a go-forward plan.

So when we saw the recommendations, we still hadn't developed our go-forward plan. So when we saw the recommendations that if there was a desire to keep that model going, and that decision hadn't been made yet, that maybe these recommendations would be relevant and we may have to implement some of them.

We—as we went through the journey, we made the decision we're not proceeding with the community benefits agreement approach or the Aboriginal engagement strategy approach any further. We're going to use our tried and true methods that we've had in place for many, many years, and move to that. And that's when it became apparent that the recommendations, as they were, weren't relevant or we already had processes in place to take care of that.

Mr. Allum: Just one final, and very quick: So that decision that you came to, that was entirely an administrative decision, or was there some political discussion on that point? And the minister is welcome to wade in on this if he wants to.

Mr. Pedersen: I can tell the member that this was up to the department as to how to unwind ESRA. And it was the department—the decision to wind down ESRA was a government decision that it should be wound down to and folded into Infrastructure. But that process, including what you see in the Auditor General's recommendations, was left up to the department as to how best that should be.

We, as—the experience that's within MI, in how to build roads, is the professionalism that they have, and we rely on their professionalism as to how to go about winding down East Side Road Authority. They submitted their plan as to how to wind down the operations to the government, and we approved their recommendations.

Mr. Derek Johnson (Interlake): To the deputy minister, were these capacity building allowances—so the training and the renting or purchasing of deficient equipment—so all the money that wasn't spent on roads and bridges, were these expenditures included as part of Infrastructure's, or then known as MIT's, capital expenditures?

Mr. Vigfusson: So the practice had been for many years that there was a separate East Side Road Authority budget line in the budget every year. It fell underneath the—Manitoba Infrastructure's overall budget, not as part of our regular budget but as a separate line item. But ESRA fed into the capital program. Their expenditures, based on their capital cost—capital accounting policies that they were using at the time.

Mr. Dennis Smook (La Verendrye): I'd like to start with my first question for Mr. Ricard, and it's in regard to the joint ventures. There's a concern about value being received for training from the joint ventures and the amount of money that was spent. And then we heard from Ms. Klassen in regards to a lot of safety. In your investigation, did you find a lot of pertinent issues like that, or was it you didn't have enough information to make that decision—or, you know, comment on that?

Mr. Ricard: If I—again, if the question is, did we look at safety aspects of the community corporations, what I'll just say is we looked at how ESRA was ensuring compliance by the community corporations with the untendered contracts that they signed with ESRA, which included some obligations from a safety perspective. But, if that wasn't your question, maybe I could just ask you to repeat it.

Mr. Smook: Well, what I'm trying to get at is there's a concern that there's no value for money received in some of that work that was being done. And now, with more information coming, like from Ms. Klassen, did you receive any other type of information in your investigation, like what Ms. Klassen brought forward, that would make it even less of a value for money?

Mr. Ricard: It—if I'm assuming the question is getting at the capacity building allowance and the flow of that money into community corporations, and the member, in his prior question, raised the joint ventures. And part of the concern that we raised in the report is that the capacity building allowance—or 49 per cent of it, because the joint venture agreements with the community corporations provided the joint venture partners with 49 per cent ownership. So 49 per cent of the capacity building allowance was flowing over to the joint venture partner, and then—and so that, therefore, the question being, how is that benefiting the community corporation? What is the joint venture partner doing to mentor the community corporation in all the key aspects of mentoring, which included safety? And so

that's where we indicate that the joint venture corporations had an obligation to provide ESRA with a mentoring plan for the community corporation, but none of the six in our sample did do that, and ESRA did not pursue it.

* (20:20)

Mr. Smook: A question for Mr. Vigfusson: In regards to the miles that were constructed and the money spent on it, if Manitoba Infrastructure was in charge of what has been built up until now, what would the value, roughly—can you sort of predict the value that would have been spent if it was Manitoba Infrastructure involved?

Mr. Vigfusson: So, from what we're able to gather, approximately 80 kilometres of road, plus or minus, were completed since the inception through to the end of March 2016 at a value of just over \$400 million. So we're talking about \$5 million a kilometre.

We believe that when we look at our processes and our practices we could have done it for a heck of a lot cheaper than that. And I give you an example, is the road to—access road to Shoal Lake was being managed by East Side Road Authority, budget estimate of \$54 million. We took it over and inside of a month or two had the estimate down to \$40 million using our experiences and our practices and our typical ways of doing things.

So, we believe that—it's hard to say what that would really cost because there's a lot of preparatory work involved in there, but we—I feel very comfortable to say that we could save 35 to 40 per cent.

Mr. Smook: Interests in Manitoba Infrastructure, they do have, like, say, northern content agreements with contractors if they're working up north, so they would be hiring local residents if Manitoba Infrastructure was doing the job, is that correct?

Mr. Vigfusson: For our northern contracts we have an Aboriginal engagement strategy of trying to maximize the local capacity, where it's there, to the type of job that we have. Generally, we try to achieve a 10 per cent target figure. The number will go up to as high as 20 per cent in some cases where the capacity's there, and that can be through skilled labour, through equipment that the communities have, as well as materials that they have in the community that would be helpful for the construction project.

But it really depends on the type of project. A bridge project, for example, is very highly complex. You're building big girders that cost a lot of money, get built off-site, so you don't have the same opportunities as you would with a gravel-crushing contract.

Mr. Ted Marcelino (Tyndall Park): The question is more for the deputy minister. The opening sentence—I mean, the opening statement was that Manitoba Infrastructure has used the recommendations of the auditor in analyzing the operations of the former ESRA in determining how and what to incorporate in our department moving forward.

Now, my question is: From your analysis of the operations of ESRA, what will you incorporate in your department?

Mr. Vigfusson: Because we've taken the operation into our—fully into our department itself, we've fully incorporated the construction and maintenance within our functions itself. We've met with all but one of the communities—and, actually, that community meeting is planned for later next month—and we've discussed and agreed. The communities have told us the CBAs weren't working. So we're not incorporating CBAs. This could be more of a litany of what we're not incorporating.

For new projects, we're going to be using our models and our practices and our engagement strategy for tendering work. And, if there are assignments that are small that it would make sense to negotiate a direct award with the community, we might consider that if we can get—prove value for money. And we're removing ourselves from any further direct involvement in the management of the corporations. We feel the corporations need to manage themselves and do work on behalf of us, where they're into a contract, accordingly.

Mr. Marcelino: So I hear that loud and clear that CBAs, there's no more door open for those types of approaches to Infrastructure spending. Is that what you're saying?

Mr. Vigfusson: We won't be entering into any new CBAs. The money that's been identified in the existing CBAs, we're working with those ones that have been in place for a number of years. We're working to see what the value is left of the CBAs, and, as we do work in the communities, we can honour that obligation, the dollar value, but doing it in—either at a tendered way or in a—if it made sense, as I said earlier, to do a direct negotiation for a

smaller contract where we can ensure that we get value for money and the contractor can do the work.

One of the things that we're also looking at doing is, for communities like Bloodvein and Hollow Water, they still have some CBAs left, even though the road is built between those two communities. And what we're looking at doing there is entering into long-term maintenance agreements with the communities to maintain the roads. We think that that's a better model that is ongoing employment opportunities for the local communities to maintain their existing roads.

Mr. Marcelino: I hear that loud and clear again. So my next question should be, is that a political direction from the office of the minister?

Mr. Vigfusson: As the minister had said before, when we took over the file, we were doing—we spent all last summer gathering information and seeing what ESRA had done. We didn't know what they were doing from afar, even though that they're kind of another provincial agency. And, as we gathered the information, we could see that—and on feedback that we had from the communities that the CBAs weren't providing the benefits that were being touted. And so, as we were developing models and proposals for government to consider on how to go forward, we recommended that no CBAs continue.

The Auditor General's report in September really clinched it for us when you saw all of the allegations that were in there and all those recommendations. And they had a huge administration component inside the East Side Road Authority, and if we implemented all those—or recommendations, I don't know how many more staff we would've had to hire just to manage those—that process.

* (20:30)

And then, when we looked at how we manage contracts on a traditional basis and have for many, many years very successfully, we didn't see any need to carry on with that model.

Mr. Marcelino: So does that mean that you will not have any engagement with local labour or local procurement, is that what you're—

Mr. Vigfusson: No, it doesn't mean that.

Mr. Marcelino: What does that actually mean? No CBAs, but you'll procure the materials locally if available—is that how I should understand it?

Mr. Vigfusson: I believe I've answered that question already.

When we enter into new contracts we will be working with each one of the communities to identify their local capacity. And that—what happens is we sit down with the community leadership and we talk to them about, what skill set do you have in the community? Who's already got skill? What—how many skilled labourers do you have? How many people are trained to do these various activities? What kind of equipment does the community have that could be made available to a contractor? And what kind of materials do you have locally that we could have access to that would help out on the job?

And then we take that and we tailor-make it for each project that we're going to be proceeding with going forward and try to maximize the local community input with the contractor. We provide that information to the contractors and we encourage the contractors to meet up with the local community members to try to get the best product.

Mr. Marcelino: That's a political direction from the office of the minister.

Mr. Vigfusson: No.

Mr. Chairperson: If I can just follow up very quickly, so what kind of accountability does your department have, then, for reporting back to, like a committee like this to give us, you know, information on how successful you are in implementing your hiring strategies and your, sort of, your other objectives internally within the department? So some of the things that have been identified, and I think you've even said, have been positive out of the work that ESRA did in terms of their hiring and that sort of thing.

How would we—how is the department then accountable or hold—how would we hold the department accountable for that work?

Mr. Vigfusson: Well, that's a difficult question, one that I've—I think I've been asked before in terms of—I'm not sure—we, on our contracts itself, we hold—we specify what we are obligating the contractor to deliver. Our staff monitor that. We check it on a regular basis, and there's penalties in the contract for noncompliance.

In terms of reporting back to this committee, that has not been an obligation that we've ever had to report back on. I would think the only way to get that

kind of information, perhaps, would be through the Estimates process.

Mr. Chairperson: So I'm just going to start going through the speakers' list now. I think everyone I have on my speakers' list has already asked a question, so—and we do have—our time is getting shorter and shorter, so I'm just going to ask if everybody can keep it as tight as possible.

I'll start with Mr. Johnson.

Mr. Johnson: I just wanted to clarify my previous question with ESRA, which includes capacity building allowances, including training and renting or purchasing of equipment. It was included in MIT's capital expenditures, ESRA's line, budget line?

Mr. Vigfusson: Yes, we believe ESRA capitalized pretty much all of their expenditures on the road. I believe that was pointed out by the Auditor General that the percentages seemed rather high, and also I think there was a question about coming back and validating how they arrived at those numbers and actually some recommendations to how to improve that process.

Manitoba Infrastructure, we also do capitalize some of our costs, but they're direct labour costs that are associated with the project. We work with tangible accounting principles and rules to validate that we work with the Office of the Comptroller, and everything that ESRA is now building, they're following our processes fully.

Mr. Michaleski: Question is to the Auditor General. Again, going back to the capacity of building allowances, you said you examined 10 contracts and only one disclosed the capacity building allowance of nearly \$800,000. Were you able to find out how that number was calculated?

Mr. Ricard: So, for that particular contract, the information that ESRA maintained for it broke it down—broke the contract down into a number of different items. For example, you know, supply: rock fill supply, traffic gravel supply, quarry rock, base course D, and it included, you know, the unit price for each of those things, and then it included a capacity allowance for each of those units.

So it was very clear, you know, from this thing—from this particular—for this particular contract and this particular analysis, how much of the contract was the unit price for the service that was to be provided and the capacity allowance in relation to that service.

Mr. Michaleski: So this—there's some components of that list that are actually physical assets, correct? Aggregate? So how far did your audit go? Again, there's a number—now, is that supportable and reasonable?

Mr. Ricard: So we didn't—as part of this audit, we looked to see if they—if the capacity building allowance was identified. We didn't assess the—whether it was an appropriate amount; that, to us, falls into policy because establishing what a reasonable capacity building allowance is really a decision for management to make.

Mr. Chairperson: I'm now going to jump to a first-time speaker on our list, Ms. Morley-Lecomte.

Ms. Janice Morley-Lecomte (Seine River): This is for the Auditor General. Just wondering, with all that had happened, was there any evidence of the community corporations having any non-ESRA contracts as a result of the training provided by ESRA?

* (20:40)

Mr. Ricard: To our knowledge, no community corporation has a non-ESRA-related contract.

Ms. Morley-Lecomte: So nobody else benefited from this money that would have gone to fund individuals in the community?

Mr. Ricard: I'm not sure I understand where the member is going. When you're talking about this money that went to the community, are you talking—if they're talking about the capacity building allowance then, again, the problem we have is we don't—the capacity building allowance amount wasn't accounted for separately, both from ESRA's perspective and then the community corporation itself didn't account for how it spent it.

So I'm not sure I'm answering the question, so maybe I could ask you to just repeat it.

Ms. Morley-Lecomte: So with the community corporations having any of the non-ESRA contracts as a result of the training that would have been provided through ESRA and the CBAs?

Mr. Chairperson: Could you speak up a little bit so that we can all hear.

Ms. Morley-Lecomte: Speak louder? All right. Okay. So was there any evidence of the community corporations having any non-ESRA contracts as a result of the training provided by ESRA?

Mr. Ricard: I answer with, to our knowledge, there was no community corporation that had a non-ESRA-related contract.

Mr. Bindle: My question is also for the Auditor: Did the audit find any evidence that before progress payments were made, that the full amount of work being invoiced for was, in fact, inspected, confirmed, and reported, and did you find this information from ESRA, or did you ask ESRA for that information and what was their response?

Mr. Ricard: As part of our audit we looked at whether progress payments were being reviewed and approved for payment, and we did not have any concerns with that process.

Ms. Klassen: So, speaking to an earlier question posed by Mr. Michaleski auditing the community's business, two thoughts that I have, that there would be great difficulty because in the example of my own reserve, St. Theresa Point, much as I'd like the audit, our band office burnt down. And right adjacent to that is the storage filing trailers, so it went up in smoke as well. So a lot of their documents were destroyed, and then to speak to deputy minister's—we're now going to have a lot of problems proving the certificates that were earned. There were actually a couple of them that walked away with more than chainsaw certificates, so, speaking to that, you know, it's going to be very hard if we try and ask for that kind of audit in First Nations communities.

I like the prospect that you will be hiring where possible. I know Bloodvein was forced to buy an enormous amount of equipment that is just sitting there rotting on their First Nation, and so knowing that they have a chance of getting those little contracts because they're under third party—they're trying to get out of third party, and so there's no way that with that overhead that they can get the bonding for that.

So my question is, when are those CBAs going to be dissolved? Did I understand correctly that you are honouring them, but then is that for a little while or—when does—are you going to honour those CBAs?

Mr. Vigfusson: I think I heard a couple of questions on there. In terms of CBAs, we're not entering into any new CBAs. In terms of the CBAs that have been long standing that have been in place since, some of them, since the inception of ESRA, is we're working with the communities to restate how we can do the rest of the work that was planned for that, that makes sense. We're also developing a multi-year plan inside

the department so that we can present to government to do that.

You mentioned something about bonding. Bonding, we're going to—when we go to tendered contracts, we want contractors to be core certified. We want them to be bonded just like everybody else.

So that's—I'm not sure if that answers your question, but that's what we're looking at doing.

Ms. Klassen: So a follow-up to the first part—great, now I lost my train of thought.

So can you repeat your answer to the first—my question was from that.

Mr. Vigfusson: That was on the CBAs. No new CBAs are going to be entered. The existing CBAs, we're going to be reviewing and sitting down with each of the communities to see how we get best value for the money that's left in those long-standing CBAs that have been in place, some of them, as long as six or seven years.

Ms. Klassen: Thank you. Now, I remember. So you are going to be reviewing the CBAs because the CBAs in them—in and of themselves were heavy handed and just placed upon some of the communities, and they had no say in actually negotiating some of the CBAs. So I know, personally, for Little Grand, I met with the company that is still in existence, and they want to reroute—they want to make it shorter and cheaper for their people and for the public at large. And so that's good to hear that you'll be renegotiating those possibly.

But another question I had, quickly, is, \$40 million for Shoal. How many kilometres is Shoal?

Mr. Vigfusson: Twenty-four.

Ms. Klassen: A lot of the chiefs I've talked to in the Kewatinook riding in—on the east side, said that they can do each kilometre—\$2 million for each kilometre. And so, knowing that and then seeing the devastating impact upon our children's pocketbooks, going into the future, is that something, like, the chiefs were never paid attention—they were never listened to. It was always this person that just came in and said, this, this, this. It was never consultation, and so that's why I'm always wondering what—when the PC government will actually do their framework for the consultation. I want it—I want a better definition of consultation. So I'm just wondering, are you going to actively listen to the leaders of those communities?

Mr. Vigfusson: Short answer is yes, but I would like to expand on that. Ever since the decision was made to move forward with the government's made the commitment to continue to build roads along the east side as well as in northern Manitoba. The ministers have met with all of the communities. I've met personally, at least on one, and some occasions, three times, with some of these communities since September. And each one of these, we're developing and establishing a relationship. In many cases, we had the relationship before because we were building winter roads in those communities.

So, through the combination of building winter roads, through the combination of building all-weather roads in some of those communities, as well as the ferry operations that we have at some them, as well as the airport operations that we have at others, we're working to see how we can best provide work opportunities that meets what we need to deliver, whether it be in a construction or a maintenance perspective and working with the community memberships. And every meeting I have with them, I say we're here to listen; we're here to build trust, and we're here to build relationships.

*(20:50)

Ms. Klassen: Just one more. You mentioned winter roads, and I also want to bring up a safety issue there. I have a childhood friend whose leg was severed in an accident on the winter ice road, and that one, he gave me a full—he wants me to disclose his name, so it's Rufus Wood [*phonetic*]. Never any compensation due to there being no WCB—[*interjection*—thanks for correcting me on that—but it's a big issue in our North, and just for that young gentleman to forever go through life without getting any kinds of support for doing his job. You know, he was finally able to do his job, but I just want to bring that back—safety issues.

Mr. Allum: Mr. Chair, this is just a quick observation and maybe a question for the deputy, but it seems to me that in listening to what we've heard tonight about what ESRA's mandate was versus what—what are we calling it now?—MI's mandate is, I think it's possible to agree with you, although I'm not sure about your overall estimate that you could do it way cheaper. You put that—with no evidence to support it, but you put it out there, and I respect your opinion on that. That's fair enough.

But ESRA had obligations under its mandate that you simply don't have, so comparing what you

can do versus what ESRA was doing is really like comparing apples and oranges.

Would you agree with that?

Mr. Pedersen: No.

Mr. Vigfusson: ESRA's mandate was different than ours. ESRA's mandate was to construct and build roads along the east side to maximize benefits—no—to provide benefits and to maximize those benefits, and our job is to also build and construct roads but also to get best value for money when you're doing that.

Mr. Allum: I suppose you've answered it, but to me that sounds like two different things. I don't know what legacy MI will leave behind. ESRA may well have left behind a legacy of skill development as well as roads, of the development of other capacities within communities that you're likely not going to be able to leave behind as a legacy.

Would that be a fair statement?

Mr. Vigfusson: No, because as I've said earlier, we want to engage the communities and develop work plans with them for each one of their projects where we involve people and equipment as well as the resources that they have in their communities.

Mr. Allum: Okay, maybe, but if ESRA's mandate is to have 35 per cent indigenous—it's a target—35 per cent and you'll maybe—maybe employ 10 per cent in the right place at the right time, assuming there's sufficient skills, it's really not comparable, is it?

Mr. Vigfusson: I'm not sure that ESRA achieved those targets based on what—looking at what the Auditor General has written in here, I don't know that they had any measures to substantiate they met any of those targets.

Mr. Allum: But the point that I made earlier, then, is kind of germane to this conversation. ESRA's voice is not present in any of what we're talking about. It's merely supposition based upon the Auditor General's report, but we don't have any concrete information or ESRA's voice to help us to determine how it is that they tried to manage to do their mandate. There are different definitions of value for money, and for our part I think we would argue that there were other values associated with ESRA's mandate that are not associated with your mandate, and that's fair enough. It can be different, but it really, to my mind, and I'll stop here, is really comparing apples to oranges, and we get no further ahead when you claim you can do it 40 per cent cheaper since you're doing something

dramatically different than what ESRA was trying—I'm not saying successfully—was trying to do.

Mr. Vigfusson: I'll just say something brief. I think the minister has a few things to say, too, but, you know, when you look at the cost of the Freedom Road, the road to Shoal Lake, 24 kilometres, we believe it's down to \$40 million, that's a million and a half—million-six per kilometre. That's substantially cheaper than what the roads on the east side of Lake Winnipeg were costing.

Mr. Pedersen: Mr. Chairman, and I—having been a former PAC member, I know that we don't want to get political around the table, so I'll try to keep it down.

You really need to read this report from the Auditor General on the East Side Road Authority. There's a lot of problems—there were a lot of problems within East Side Road Authority, and I can personally attest to meeting with those east-side communities and Shoal Lake community. They were not happy with ESRA and they were certainly not happy with Ernie Gilroy.

And MI has the expertise to build roads; their legacy will stand. Maybe in five years we'll come back and Mr. Allum can then compare how the two are, but we feel this is the right thing to do.

Mr. Michaleski: My final question is to the Auditor General.

The report mentions that a lot of the funds were non-trackable, and that's a concerning thing.

Would ESRA funds be reported in the NDP's annual capital projects report supposedly reporting the use of their PST increase?

Mr. Ricard: I'm not sure I'm going to be able to answer the question. I got nothing, sorry, it's late.

Mr. Chairperson: Thank you, Mr. Ricard. It's been a long evening—I know all members around the table. If I could just very quickly wrap things up, I'm wondering, because we talked about this before the meeting began that the committee will have an opportunity to consider these items again in a follow-up report.

Now, having heard what the deputy has said this evening, some of the questions that the committee members have had, can you give us an idea of how effective—and you may not be able to do that at this

point, I can appreciate that, but can you give us a sense of how effective you think the follow-up will, in fact, be in tracking some of these recommendations and their implementation in a—in what's now a totally different sort of context? And how, as a committee, will we be able to go forward with this? Will you be able to present something to us in the future that we could come back to and, you know, be able to work with and get more information out of?

Mr. Ricard: The best that we would be able to do in the follow-up would be to say, okay, here's our 24 recommendations, how do you—how does the department support each of them being no longer relevant? Because there might be different, you know, some of them they might say, like the recommendations, for example, around implementing a contract management process.

I would say that sounds like it's implemented resolve because now that ESRA operations are folded into MI, the MI policies and procedures take hold and kick in, so that concern is resolved.

So I wouldn't call that recommendation as being no longer relevant. It was resolved differently than how we had—you know, the underlying issue was that these people were managing these contracts without any policy framework without any guidance. Now those contracts are being managed in a different framework. So to me, that sounds resolved to me rather than no longer relevant.

So I would just have our team go through—and they're sitting back there—I would have our team go through every recommendation and sit with the department and say, well, is it no longer relevant and why is it no longer relevant? And our report would include information under each recommendation as to why the recommendation is no longer relevant or how it was otherwise implemented.

Mr. Chairperson: Well, I think the committee will be looking forward to seeing the report that you do generate, and at that time I don't mind even having a discussion around this table about how, you know, we can use that information going forward or ask for more information as a committee. So I think that's great.

Well, seeing that our time that we had agreed upon has now arrived and no further questions on the floor, I am going to call the questions of the committee.

Auditor General's Report—Manitoba East Side Road Authority, dated September 2016—pass.

Auditor General's Report—Public Interest Disclosure Investigation Manitoba East Side Road Authority, dated September 2016—pass.

That concludes the business before us.

The hour being 9:01, what is the will of committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 9:01 p.m.

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