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REVIEW OF THE ACCESS.CA PILOT PROJECT – PHASE II

April 9, 2001

Canada

INDUSTRY CANADA

Review of the Access.ca Pilot Project – Phase II

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INDUSTRY CANADA

Review of the Access.ca Pilot Project, Phase II

1.0 EXECUTIVE SUMMARY

1.1 Background

The audit of the Access.ca Pilot Project was undertaken as follow up to the Industry Canada Audit and Evaluation Branch (AEB) September 2000 audit report of Selected Programs in the Information Highway Applications Branch (IHAB). The Access.ca pilot project is under the management and control of the IHAB of Industry Canada. On behalf of the AEB, Kroll Lindquist Avey (KLA) was engaged to undertake an audit of the second phase (the demonstration stage) of the Access.ca project.

The objectives of the audit of the pilot project were to determine:

- ◆ whether government contracting, transfer payment and other financial management policies have been complied with;
- ◆ whether proper financial controls exist for the management of the project; and
- ◆ whether management has reasonable assurance that the program is well managed and is being implemented in a timely manner.

1.2 Key Findings

Many of the findings of the current audit are similar in nature to the findings of the September 2000 AEB audit, but appear to be more significant. In addition, even though IHAB management has recently undertaken procurement training, we noted an irregularity in the contracting procedures, by a certain IHAB member, contrary to the contracting policy and regulations. Information regarding this irregularity was provided to us by the Audit and Evaluation Branch. A summary of our findings is outlined below.

1.2.1 *Procurement Process Issues*

a) *"Sole Source" Contracting*

IHAB was advised, through its original provincial contracting agent (CA), as well as through representatives of other Federal Government departments, that there were concerns about the process and procedures by which IHAB was procuring its suppliers. Notwithstanding that this was the case, IHAB, in conjunction with another Provincial Agency partner, utilized a new provincial CA to facilitate the procurement of third party suppliers on a "sole source" basis without using a competitive process. This allowed IHAB to proceed quickly, without using federal contracting processes.

b) *Back Dating of Agreements*

As noted above, IHAB and a Provincial Agency partner utilized a new provincial CA to facilitate its "sole source" procurement after the original provincial CA backed away from the arrangement on March 10, 2000. The agreement between Industry Canada and the new provincial CA was entered into in late March or early April 2000, but was "back dated" to January 27, 2000 by all parties to the agreement. We were advised by IHAB that this was done to reflect the effective start date of work under the contract.

c) No Legal Review of Agreements by IC Legal Counsel

Funding agreements and intellectual property agreements were entered into by Industry Canada through IHAB without review by Industry Canada legal counsel. In addition, certain clauses which appear to potentially put Industry Canada at risk, were added to, or eliminated from, the funding agreements by IHAB management.

d) Fees - New Provincial CA

For the fiscal year ending March 31, 2000, Industry Canada paid a fee of at least \$50,000 to the new provincial CA for the facilitation of selecting suppliers on a non-competitive basis, and to flow Industry Canada funds to third party suppliers selected by IHAB.

e) Item Subsequent to Procurement Training

IHAB management undertook procurement training subsequent to the September 2000 AEB audit of IHAB. Nevertheless, in the late fall of 2000, contrary to contracting policy and practices, the Director Access.ca requested that an IHAB employee add a name to a consulting firm draft proposal.

1.2.2 Payment Under the Phase II Agreement

Agreements in place for the development of the Access.ca application, set out a total of \$2,447,960 to be paid to two companies related to deliverables established by the agreements. In March 2000, IHAB received invoices from the two third party suppliers totaling \$1,950,680 for deliverables, apparently provided prior to March 31, 2000. The invoices included as support for a portion of a \$2,635,000 invoice received from the new provincial CA were approved and set up as a PAYE for the Fiscal year 1999/2000. Given the timing of this review and the technical/theoretical nature of the deliverables invoiced, we are unable to comment on whether the deliverables invoiced by the two companies were sufficient to meet the requirements of the agreements.

We did note that the majority of IHAB members, responsible for approving invoices from the two companies stated that goods/services had been received, however one IHAB member thought deliverables to be insufficient. This individual agreed to approve the invoice for payment only after being asked to be a "team player" by the Director. We have been advised by IHAB Access.ca management that this was taken out of context by the individual and that the Access.ca Director had intended this as a team building exercise.

In addition, we are unable to determine whether goods and/or services relating to the remaining \$684,320 (\$2,635,000 - \$1,950,680) portion of the March 31, 2000 invoice from the new provincial CA were in fact provided at March 31, 2000. In addition to the facilitation fee (of at least \$50,000) the new provincial CA was to utilize these funds for specific provincial projects. We do note that the documentation in support of the invoice suggest that certain goods/services were not to be provided until subsequent to March 31, 2000.

1.2.3 Technical Review

Additional funds to be paid to the companies are dependent on IHAB's acceptance of Internal and External Beta versions of the Access.ca application. IHAB retained third party expertise to review Beta releases of the Access.ca application prior to acceptance of the Beta versions of the application by IHAB. The third party designed test procedures to determine if the Beta versions of Access.ca complied with the requirements of the contract between the new provincial CA and the companies.

IHAB placed scope limitations on the third party reviewer to the point that the third party reviewer stated in their latest report they are unable to comment on the status of the application as a whole. We understand that IHAB intends to use this report as the basis for acceptance of the Internal Beta version of Access.ca, as well as for support to approve payment of 75% of remaining funds available under the agreement of the new provincial CA with the companies. IHAB is apparently doing so without assurance that the Beta version provided meets the requirements of the contract.

While we are not in a position to comment on the appropriateness of scope limitations placed on the third party by IHAB, we believe that in previous reports functionality issues detected by the third party reviewer, combined with the scope limitations directed by IHAB, raise concerns regarding the current status of the Access.ca application.

1.3 Conclusion Regarding Objectives

In relation to the objectives of this audit, we conclude:

- ◆ The spirit of the Government contracting transfer payment and other management policies has not been followed for the project;
- ◆ Proper financial controls did not exist for the project, and
- ◆ Given the current status of the project, concern exists whether management has reasonable assurance that the project is being well managed and is being implemented in a timely manner

2.0 INTRODUCTION

The Knowledge Economy Partnership (KEP) originated in June 1996, when federal and provincial government departments, together with the Provincial Universities and Colleges, agreed to work collaboratively to share information, resources and expertise in the pursuit of common solutions to current and future challenges. The mandate was to strengthen the Provincial Agency's ability to be a leading participant in the emerging knowledge-based economy.

Since its formation, we understand that 50 projects have been initiated with funding from KEP – projects designed to implement or employ state-of-the-art information technology in service delivery to business, industry and the general public. Included in these projects are Access Provincial, Access.ca, Community Access Program, and Connecting Canadians.

2.1 What is Access.ca?

The goal of the Canadian government was to make Canada the most connected nation in the world by the year 2000, thereby contributing to a stronger economy and a stronger Canada. However, through research completed, it was discovered that Canada is far removed from attaining this goal due to a lack of Canadian web-sites, the small number of Canadian small businesses using the Internet and the availability of the Internet to all parts of Canadian society.

In order to achieve its goal, the Canadian government decided that a gateway to Canadian on-line information/services was needed for all citizens/sectors. And so Access.ca was created.

Access.ca was to be “a gateway to the Internet providing all Canadians with easy to use personalized

access to a broad range of relevant Canadian information, content, applications, products and services including direct links to:

- ◆ The revamped federal government web site;
- ◆ Community information/services generated by postal codes;
- ◆ Local businesses and related community directories; and
- ◆ Specialized Canadian content including cultural, educational, historical, and business.”

We understand that in the interest of keeping trial costs down, it was decided to launch this program as a pilot project in a province from July 28, 1999 to October 31, 1999. This pilot project has now officially concluded.

Phase 2 of the project, a national initiative, www.Access.ca – a personal gateway to government information and community content on the Internet for all Canadians, is currently in development. Originally it was to be completed by December 2000.

2.2 Who are the players in Access.ca?

On March 29, 1999, an agreement effective March 24, 1999, was signed between IHAB, a Provincial contracting agent and another government department for the design and development of the CAP (Community Access Program) Personal Portal System. The original provincial CA then entered into a sole source agreement with a company to provide the software for the pilot project in the Province which was apparently managed by the original provincial CA and a Provincial Agency partner.

The original provincial CA is a federally incorporated crown corporation established as a KEP initiative to focus on cross-jurisdictional public sector IT needs, including: analyzing requirements, business planning,

purchasing, contracting, asset licensing and managing projects. The original provincial CA functions like a broker, providing public sector organizations with IT information and management to supply the most suitable products and service from private sector IT companies. IHAB has advised that original provincial CA was identified to IHAB by the other government department and the Provincial Agency partner as the appropriate agency to facilitate the agreement and associated procurement activity.

We understand that the other government department, because of its location, was to act as the liaison regarding the project and the movement of funds from IHAB to the original provincial CA.

In the Fall of 1999, IHAB started communicating with a third party supplier regarding the second phase of Access.ca. Once again, IHAB intended to use the same government department and the original provincial CA as the agent, and to have the original provincial CA engage the third party suppliers selected by IHAB. However, the government department and the original provincial CA decided not to execute the second agreement for reasons that were not formally conveyed to IHAB. However, verbal concerns were raised with IHAB Access.ca members in February 2000. The Provincial Agency partner then identified another Provincial agent - hereafter referred to as the "new provincial CA".

3.0 SCOPE OF OUR REVIEW

During the course of our review, we carried out the following activities:

- ◆ Conducted interviews of representatives from the following organizations within Industry Canada:
 - ◆ IHAB
 - ◆ Finance
 - ◆ Legal Services
 - ◆ Materiel Management
- ◆ Conducted interviews of representatives from the following other organizations:
 - ◆ Treasury Board Secretariat - Canada
 - ◆ Atlantic Canada Opportunities Agency
 - ◆ Other government department
 - ◆ Original provincial CA
 - ◆ Provincial Agency Partner
 - ◆ Independent Technology Company retained by IHAB
- ◆ Reviewed various documentation as provided by the following organizations within Industry Canada:
 - ◆ IHAB
 - ◆ Finance
 - ◆ Legal Services
 - ◆ Materiel Management
 - ◆ Audit and Evaluation Branch
- ◆ Reviewed various documentation as provided by the Independent Technology company retained by IHAB.

Our report summarizes our findings based on the audit work completed to January 15, 2001. We reserve the right to review and, if required, amend our report in light of any additional information which becomes known to us subsequent to this date.

4.0 DISCUSSION OF OUR FINDINGS

4.1 Procurement Process 4.1.1 "Sole Source" Contracting

The procurement of the goods and services for the first phase of Access.ca, the provincial pilot project, was done on behalf of IHAB through the original provincial CA. We understand that one of the purposes of IHAB using this agency was to facilitate the "*sole source*" procurement of a third party supplier without the competitive bidding process. Phase I of Access.ca was completed in the Fall of 1999.

In the Fall of 1999, the IHAB group was communicating and negotiating with new third party suppliers to undertake the demonstration stage of Access.ca nationally and Access.ca for the province. IHAB again intended to use the original provincial CA as an agent to facilitate the procurement of third party suppliers on a "*sole source*" basis without competitive bidding. However, the new Executive Director of the original provincial CA had concerns regarding the contracting process being undertaken. Specifically, the Executive Director was concerned that the process did not meet Federal Government contracting regulations and that there could be North American Free Trade Agreement (NAFTA) challenges to the process. The Executive Director voiced these concerns in early February 2000 to: IHAB, one of the third party suppliers and to the Treasury Board Secretariat representative who was a Board Member of the original provincial CA. This action resulted in the following:

- ◆ Changes were made to clauses in the original provincial CA agreement, as discussed in Section 4.1.3 below;

-
- ◆ The other government department did not sign the agreement for Phase II; and
 - ◆ The agreement with the original provincial CA for Access.ca Phase II was not executed.

IHAB was officially informed by the original provincial CA on March 10, 2000 that the agency considered the Access.ca Phase II agreement void, and that it was dissolving the third party agreements. The Provincial Agency Partner sought a new provincial CA to facilitate the procurement of the third party suppliers on a non-competitive basis.

4.1.2 Back Dating of Agreements

The initial Access.ca Phase II agreement between Industry Canada, the other government department and the original provincial CA was to be effective January 27, 2000 and was signed on or about February 10 or 11, 2000. However, due to the concerns raised by the Executive Director of the original provincial CA at this time, this agreement was not executed by the other government department and was voided by the original provincial CA on March 10, 2000. The provincial representatives subsequently identified a new provincial CA which they believed could facilitate procurement without a competitive process. An agreement was then drawn up between Industry Canada, a Provincial Agency partner, and the new provincial CA. The agreement was effective January 27, 2000 and the signature dates on the agreement were all January 27, 2000.

We have been advised by IHAB staff that this "*back dating*" to January 27, 2000 was to reflect that a verbal agreement, between representatives of IHAB, the original provincial CA and the third party suppliers, was in place by January 27, 2000, and therefore the signing date used was January 27, 2000.

However, the first page of the agreement with the new provincial CA indicates *"This agreement is effective this 27th day of January 2000."*

4.1.3 No Legal Review of Agreements by IC Legal Counsel

In terms of Access.ca Phase II there were two types of agreements entered into by Industry Canada through IHAB – funding agreements and intellectual property agreements.

Access.ca – Funding Agreement

One set of agreements dealt with the funding of Access.ca Phase II through the other government department and the original provincial CA, and then after the non-execution of the agreement by the original provincial CA, through the new provincial CA. These set of agreements were not reviewed by Industry Canada legal representatives prior to being signed. Rather we have been advised by IHAB management that the agreements were apparently reviewed by the other government department, the original provincial CA and legal counsel from the new provincial CA.

Subsequently Industry Canada legal counsel determined that the other government department legal counsel did not review these agreements.

In addition, clauses were added to, and were also deleted from the agreement without Industry Canada legal review. Specifically, clauses 13 (i) and 14 were added to non-executed agreement with the original provincial CA, to apparently provide protection to this agency from any challenges to the contracting process. As well, the termination clause in the agreement was eliminated by the DG, IHAB at the request of the third party supplier.

Intellectual Property Agreements

IHAB entered into intellectual property/revenue sharing agreements regarding Access.ca directly with the third party suppliers. IHAB management did not seek advice from Industry Canada legal counsel in this regard.

4.1.4 Fees – New Provincial CA

Clause 4 of the agreement with the new provincial CA provides for a \$50,000 fee to be paid to the new provincial CA for costs incurred in delivering a fully functional Access.ca portal software. Through our review of relevant documentation and discussions with various individuals, virtually all administration and co-ordination is done by IHAB staff. The new provincial CA is the entity through which the funding flows, and through which IHAB could select suppliers on a non-competitive basis.

Initially the Access.ca Director indicated that the \$50,000 had not yet been paid, and that he needed to negotiate the amount with the new provincial CA. Also, he agreed that he would have to get the new provincial CA to substantiate the \$50,000 of costs incurred.

Subsequent to this discussion, KLA obtained documentation which indicates that at least a \$50,000 amount was included in the \$2,635,000 March 31, 2000 invoice regarding the new provincial CA and that there is no substantiation of the costs incurred. IHAB then indicated that the Director's comments were made without knowledge of whether or not the payment was made.

4.1.5 *Subsequent Event to Procurement Training*

During the course of our examination, we were advised that IHAB, specifically the Director Access.ca, was negotiating the "rollout of Access.ca" with a consulting firm. These negotiations appear to have occurred between October to December, 2000. The Director Access.ca indicated that he had gone to a consulting firm because they are strong in procurement processes and they were within the parameters of the contracting policies and practices.

A review of this procurement identified that the Director Access.ca requested that an IHAB employee add the name of a self-employed consultant to the draft proposal from a consulting firm, apparently without their knowledge.

We have been advised that senior management of IHAB had taken procurement training subsequent to the AEB IHAB audit. Specifically, the Director Access.ca indicated that he had taken such training. IHAB management recognizes this irregularity to the contracting procedures.

4.2 Payment Under the Agreement

Under the terms of the agreements between the new provincial CA and two companies, the new provincial CA was to pay to the companies a total of \$2.020 million based on the following table:

TABLE 1				
Date	Stage of Work (S) & Milestone (M)	Company A	Company B	Total
Feb 4 2000	Contract signature/procure development environment (S,M)	\$510K	\$250K	\$760K
Feb 29 2000	Detailed definition and documentation of Software components (S). Design approved (M)	\$125K	\$75K	\$400K
March 31, 2000	Alpha Release of Software (S). Alpha Release approved (M)	\$335K	\$75K	\$410K
April 30 2000	Beta Release (Internal) of Software (S). Beta approved (M)	\$300K	\$100K	\$400K
May 31 2000	Beta Release (External) of Software (S). Beta external approved (M)	\$50K	\$0K	\$50K
May 31 2000 to May 31 2001	Pilot Operations - operational and technical support (S)	\$0K	\$0K	\$0K
	TOTAL	\$1,520K	\$500K	\$2,020

All amounts noted above exclude applicable taxes. In addition, two addenda were agreed to as follows:

- ◆ \$44,000, including taxes to Company A for the cost of a Silverstream Application Server;
- ◆ \$179,680, including taxes to Company B for a Ultraseek server upgrade and a French language module.

Total approved funding for the two companies, including taxes was \$2,447,960.

4.2.1 Invoices Received

On March 30, 2000, IHAB received an invoice totaling \$2,635,000 from the Provincial Agency partner. The \$2,635,000 was apparently comprised of the following:

- ◆ \$1,331,000 related to Company A [\$1,287,000 (items to be provided by March 31, 2000 per table 1 above) + sales taxes] + \$44,000 related to the above noted contract addendum;
- ◆ \$619,680 related to Company B [\$440,000 (items to be provided by March 31, 2000 per table 1 above) + sales taxes] + \$179,680 related to the above noted contract addendum, and
- ◆ \$684,320 for other new provincial CA/Provincial Agency partner incurred costs

The IHAB group received invoices from Companies A and B corresponding to the above noted amounts. Various members of the IHAB group signed the invoices indicating that the goods/services had in fact been received. In undertaking our review, we sought confirmation that the goods/services invoiced were in fact received prior to March 31, 2000. In general the IHAB members felt that the goods/services had been received, though it was noted that given the technological/theoretical nature of the deliverables it was difficult to confirm that all requirements of the contracts had been met by March 31, 2000. One member of the IHAB group indicated to us that he had reservations with regard to whether the deliverables had in fact been received by March 31, 2000. He indicated that he signed the invoices only after the Director Access.ca program indicated that the individual should be a "team player" and sign the invoice.

4.2.2 Funding of Beta Version

The amounts related to the Beta version of Access.ca were not invoiced at March 31, 2000, as the software had not yet been delivered. IHAB contemplated generating a new Interdepartmental Letter of Agreement (ILA) to cover the payment for the Beta version after March 31, 2000. The payment regarding the Beta version is discussed in Section 4.3 of this report.

4.2.3 Conclusion

Given the timing of our review and the technological/theoretical nature of the deliverables invoiced by these companies at March 31, 2000, we are unable to determine if goods/services (as invoiced), meeting all requirements of the contract(s), were in fact received by March 31, 2000. We do note that at least one IHAB member questioned whether the complete deliverables have been received. This same individual approved the invoice for payment only after receiving directions to do so by the Director Access.ca.

4.3 Technical Review

Amounts to be paid to the companies subsequent to March 31, 2000 are based on IHAB's acceptance of the Internal Beta and External Beta releases of the Access.ca application. IHAB contracted with a third party technology company to review and test the Internal and External Beta releases of the Access.ca Application.

To date the third party technology company has issued three interim reports and a draft interim report regarding the results of its review of Internal Beta releases of the Access.ca Application.

In undertaking its reviews this company developed a "Test Plan containing test procedures" designed to confirm whether service definition, design

specifications and other requirements of the Access.ca Application, (as required by the signed contracts and the companies) have been met. The results of procedures are apparently captured by the third party via "Test Observation Records" ("TORs"). The first report dated July 25, 2000 and draft report dated August 18, 2000 identified a significant number of functionality issues as a result of their test procedures.

In the August 18, 2000, draft report the third party technology company noted, "In testing to date, 203 Test Observation Reports (TORs) have been generated and have an "open" status. Of these TORs, 111 have been classified with "high" severity errors, 40 are classified as "medium" severity and 52 are classified as "low severity"."

4.3.1 Change in Scope of Testing

Subsequent to the release of their draft report of August 18, 2000 the third party has modified the scope of their review twice, based on direction received from IHAB.

Third Report

At the time of undertaking their third review (report dated September 27, 2000) IHAB had directed that some 59 TORs issues identified would not be required to be resolved until the undertaking of External Beta version. In addition, IHAB directed that some 37 other issues be deferred until some unspecified time and not be included as part of the Internal Beta Test.

The third report indicated that the test procedures undertaken, at the time of the third report, identified some 149 TORs, excluding the 96 TORs removed from the Internal Beta testing based on directions from IHAB. In regard to the 149 TORs, the report stated

that the TORs include, *“major critical elements which render the site unstable and difficult to use. There remain many issues that need to be addressed to render this site usable.”*

In the “Overall Assessment” section of their report the third party identified that the following major areas of required functionality were found not to be present or deficient:

- i) Searching & K Server Integration
- ii) Channel Management
- iii) Identified Registration
- iv) Input Validation
- v) Initialization of Pages
- vi) Mail and Calendar
- vii) Security Administration Channel
- viii) K Server Profile Manager
- ix) K Site Manager
- x) K Server Administration
- xi) Cookie Management
- xii) French Language Elements
- xiii) Usability Test Results
- xiv) Session Management; and
- xv) Browser Errors

Report Four

In undertaking their fourth review of the Access.ca application, the third party technology company was directed by IHAB to focus its testing and validation exercise on the following five functional areas only:

- i) Input Validation
- ii) Page Initialization
- iii) Selected French Language Elements
- iv) Browser Compatibility; and
- v) Channel Wizard Security

In their fourth report, dated January 10, 2001, the third party company indicates that the above noted scope limitation restricts its observations to the above noted five functional areas and therefore does not cover the entire scope of the application. As a result, they are unable to comment on the state of the application as a whole.

4.3.2 Conclusion

IHAB retained outside expertise to assist IHAB in ensuring that it received Beta releases (Internal and External) in accordance with the requirements of the contracts between the new provincial CA and the two companies. A third party technology company developed test procedures to allow them to make this determination. IHAB has on two occasions reduced the scope of the review to the point where in their fourth report, the third party company has stated that they *"cannot comment on the state of the application as a whole"*. We cannot comment on whether these scope limitations are appropriate.

We understand the IHAB intends to use the fourth, third party report as the basis to release the majority of funds (75%) available at the time of acceptance by IHAB of the Internal Beta version of Access.ca application. This raises a concern that IHAB is willing to accept, and pay for, an Internal Beta version of the Access.ca application which does not achieve the requirements of the contract between the new provincial CA and the two companies.

5.0 RECOMMENDATIONS

5.1 Technical Review

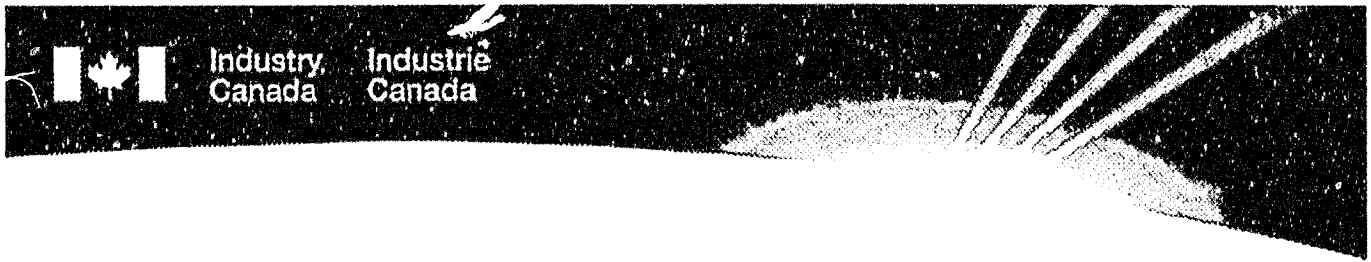
Given the apparent uncertainty regarding the state of the Access.ca Application, we would recommend that a complete technical assessment be undertaken.

5.2 Legal Counsel Review

We understand that Industry Canada legal counsel are currently reviewing the various IHAB funding agreements. In addition, we recommend that IC legal counsel review all intellectual property/revenue sharing agreements entered into by IHAB.

5.3 Federal Government Contracting Regulations

We understand that this plan is to "*roll out*" the Access.ca pilot project as a program. We recommend that IHAB follow established Federal Government contracting practices for this "*roll-out*".



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Management Response and Action Plan

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Management Response and Action Plan**

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GENERAL COMMENTS

Public Service managers are accountable to senior management and Ministers, who in turn are accountable to Parliament and Canadians for achieving results in accordance with government regulations, demonstrating due diligence and determining value for money in the use of public funds. Public trust and confidence is maintained through the demonstration of public service values and responsible and accountable stewardship of public funds.

An effective internal audit function provides objective examinations of evidence for the purpose of providing independent assessments of risk management, management control frameworks, practices and information used for decision making and reporting. Industry Canada sought to verify that some of its more innovative and partnership-based programs were being managed in a manner that would meet the requirements for public accountability. Selected programs managed by the Information Highway Applications Branch (IHAB) were audited in 2000. The audit put in place an action plan to address the comptrollership gaps that were identified. One element of this action plan was a further audit of the Access.ca pilot project.

The objectives of the Access.ca audit were to determine:

- S whether government contracting, transfer payments and other financial management policies have been complied with;
- S whether proper financial controls exist for the management of the project; and
- S whether management has reasonable assurance that the program is well managed and is being implemented in a timely manner.

The Access.ca audit covered the period from the Fall of 1999 to December 2000. Many of the activities examined occurred during the same time period as those examined by the previous IHAB audit (1998-99 and 1999-2000 for the review of grants and contributions and a 5 year review of contracts from 1995 to 2000).

Connectedness, the Information Highway Applications Branch and Access.ca

Connectedness is a foundation for a knowledge-based economy and society. Connected citizens are better able to access the knowledge they need to develop their skills and acquire new ideas that lead to new and more effective ways of contributing to the economy and society. Networked businesses are well positioned to take advantage of local and global opportunities and innovations that lead to increased productivity and prosperity. Through this competitive, knowledge-based

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advantage, Canada can be at the forefront of the development of new products and services and enhance its attraction for investment.

A significant part of Industry Canada's Connecting Canadians initiative is delivered by the Information Highway Applications Branch. The budget of this Branch is approximately \$124 million in fiscal year 2000-2001. For the most part, IHAB's contribution programs are largely delivered through partnerships with other organizations, many of which are voluntary organizations or other levels of government.

The basic concept of Access.ca is to provide all Canadians with simple, easy-to-use access to personal community-based Canadian content on the Internet. An individual wishing to build a home, for example, could use Access.ca to link to local information on obtaining a building permit, and contacting builders and suppliers in their community.

In the first phase of Access.ca, the basic concept of providing citizens with a personal portal was tested. The second phase of the project was to develop appropriate user-friendly software to support the Access.ca concept (approximately \$4.7 million in 1999-2000, the year covered by the audit). When the software has been fully developed, consideration will be given to a series of additional field trials.

MANAGEMENT RESPONSE

- ◆ Industry Canada (IC) accepts the findings, conclusions and recommendations of the audit of the demonstration stage of the Access.ca project and has developed an action plan to deal with the issues raised.
- ◆ Management agrees that there were deficiencies in management practices as well as errors in judgement.
- ◆ It is Industry Canada policy that contracts be awarded in accordance with applicable laws, trade agreements and established procurement policies and practices.
- ◆ Overpayments, if any, are being recovered.
- ◆ There was no evidence uncovered of any conduct by government officials that requires further investigation.
- ◆ Management recognizes that subsequent to the completion of training on contracting policies and practices, an employee of Access.ca attempted to arrange for a contractor's name be added to a consultant's draft proposal. This was an error in judgment and was stopped. Had the contract proceeded, it would have created a conflict of interest situation.

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- ◆ Finally, to ensure public accountability, transparency and quality management in Industry Canada, a follow-up compliance audit will be undertaken by the Fall 2001 by an independent auditor.

ACCESS.CA ACTION PLAN

In addition to the measures included in the IHAB audit action plan (details on page 5), specific measures have been undertaken to respond to the recommendations and findings of the Access.ca audit.

Technical Assessment

Audit recommendation – A complete technical assessment be undertaken.

Action – A technical assessment of the software has been conducted by officials of Industry Canada's Communications Research Centre, a leading-edge telecommunication, learning and research centre. The CRC technical team determined that the internal Beta release is unique and leading edge design and could be considered for deployment and that value for money has been received.

Intellectual Property/Revenue Sharing Agreements

Audit recommendation – IC legal counsel review all intellectual property/revenue sharing agreements entered into by IHAB.

Action – As recommended by the auditors, IC legal counsel reviewed IHAB's Intellectual Property/Revenue Sharing agreements. While the majority are problem-free, some deficiencies were identified and will be corrected in future agreements as IHAB consults IC legal counsel on all agreements.

Release

Audit recommendation – Follow established Federal Government contracting practices for the rollout of Access.ca

Action – It is Industry Canada policy that contracts be awarded in accordance with applicable laws, trade agreements and established procurement policies and practices. The Department will follow established Federal Government contracting practices before any Access.ca release.

In addition to responding to the specific recommendations of the Access.ca audit, the following measures will also be undertaken:

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Recovery of Funds

- ◆ The Department is in the process of determining if full value for money was received for the fees paid to the provincial agency and will take steps to recover funds if required. As part of the process of determining whether deliverables invoiced by the provincial agency were sufficient to meet the requirements of the agreement, IHAB requested cost justification for the facilitation fees from the provincial agency. IHAB has engaged independent auditors to review the claims to determine if full value for money was received. If any overpayments are identified, recovery action will be taken.

Further Control Measures

- ◆ In addition to the current review by Legal Services of all IHAB agreements and contracts over \$5,000, controls have been further strengthened. All Industry Canada sole source contracts over \$25,000, amendments bringing the total to \$25,000 or other complex contracts are now subject to review by the Program and Services Board, Industry Canada's internal management board to ensure integrity in the O&M contracting function.

Instructions to Managers/Expectations

- ◆ All Industry Canada managers were advised on February 5, 2001 of the critical role that they play to ensure appropriate financial management controls are used in the decision-making process and the spending of public money. In addition, they were reminded of their responsibility to act with probity, prudence and concern for value.
- ◆ All IHAB managers, including Access.ca management, have received specific direction with regards to management accountabilities, responsibilities and standards in the management of IHAB programs.
- ◆ All IHAB employees were required to update their Conflict of Interest declarations, by April 11, 2001 including the submission of a nil report.

Follow-up Audit

- ◆ Finally, to ensure public accountability, transparency and quality management in Industry Canada, a follow-up compliance audit of selected IHAB programs, including Access.ca, will be undertaken by Fall 2001.

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IHAB ACTION PLAN

IHAB is currently implementing a twelve point action plan to address the recommendations of the earlier September 2000 audit. The IHAB action plan reinforces management accountability and practices through control measures, training, monitoring, reporting and further review and audit scrutiny. As part of IHAB, Access.ca will directly or indirectly benefit from these measures.

A summary of the IHAB action plan measures and their status follows.

ACTION ITEM	STATUS
Control measures	
<p>Financial, contracting and program authority temporarily removed from Community Access Program and VolNet program managers and administrators until they received training to reinforce their responsibility and accountability under the Financial Administration Act and Treasury Board policy on transfer payments.</p>	<p>Done – CAP and VolNet managers and administrators trained.</p> <p>All other IHAB managers, program officers and administrators will be trained by June 22, 2001.</p> <p>All IC managers advised on February 5, 2001 of their role to ensure appropriate financial management controls are used in the decision-making process and spending of public money and reminded of their responsibility to act with probity, prudence and concern for value.</p> <p>All IC sole source contracts over \$25 000, amendments bringing the total to \$25,000 or other complex contracts now subject to review by the Program and Services Board, IC's internal management board to ensure integrity in the O&M contracting function.</p>

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ACTION ITEM	STATUS
<p>IHAB to seek sign-off of Industry Canada Legal Services on all IHAB agreements and contracts over \$5,000 before they are signed by program managers.</p>	<p>Done and ongoing; will remain in effect until July 2001 at which point it will be reviewed.</p>
<p>IHAB directors engage in early consultation with Legal Services and the Comptroller's Branch on proposed projects and contracts.</p>	<p>Done and ongoing on a file by file basis.</p> <p>In addition, a Solutions Committee comprised of Legal, Comptroller, Program and Services Branch and IHAB staff meet regularly to resolve issues as one of the ways to ensure program integrity.</p>
<p>The hold-back percentage for all IHAB programs will be 10%, as a minimum, in accordance with conventional departmental practice.</p>	<p>Done and ongoing, unless otherwise approved by the Program and Services Board.</p>
<p>Complete the staffing of a financial officer position and a contracting officer position in IHAB.</p>	<p>Done.</p>
<p>Training</p>	
<p>All IHAB managers, program officers and administrators to complete training in financial, contracting and program authority to reinforce their responsibility and accountability under the Financial Administration Act and Treasury Board policy on transfer payments.</p>	<p>All individuals who lost signing authority have been trained. Management of the Access.ca program received training in September and October 2000.</p> <p>All IHAB staff to be trained by June 22, 2001.</p>

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ACTION ITEM	STATUS
Monitoring and Reporting	
<p>IHAB will establish a monitoring plan which complies with the requirements of the Treasury Board Policy on Transfer Payments.</p>	<p>Underway – IHAB contracted with Consulting and Audit Canada to complete a monitoring plan. PSB reviewed the CAC monitoring plan and IHAB's approach for further work in this area and agrees that IHAB must develop an IHAB management control framework as well as program specific monitoring plans based on the risk profile of each IHAB program. Additional work to be carried out, in a phased approach, by December 2001.</p> <p>In addition, there will be a clear locus of accountability in the organization for monitoring control.</p>
Review and Audit Scrutiny	
<p>A legal review will be initiated of IHAB projects, agreements and contracts.</p>	<p>Completed – The review confirmed many of the findings of the September IHAB audit and of the Access.ca audit on the inadequate adherence to requirements stipulated in government policies and the appropriateness of the contracting practices followed by IHAB.</p> <p>The legal review acknowledges that, since September 2000, the steps taken to address the findings of the September IHAB audit have resulted in improvements to IHAB projects, agreements and contracts.</p> <p>There was no evidence of any conduct by government officials that requires further investigation.</p>

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ACTION ITEM	STATUS
<p>IHAB will review all payments against claims and identify any overpayments or reimbursement of ineligible costs.</p>	<p>Underway – IHAB engaged an independent auditor to review 25% of agreements. For CAP, PSB has accepted the business case presented by IHAB on value for money. For greater certainty, it has been decided that individual CAP sites will be audited on an in-depth basis for both value for money and proof that payments were made and to improve further program design. No further payment on these agreements will be made until completion of this further audit.</p> <p>In the case of VolNet and Learnware, discussions between the independent auditors and the Department have revealed inconsistent interpretations of the term "in-kind costs". Steps are being taken to ensure that future project authorizations and agreements contain clear wording with respect to eligible cost categories in accordance with applicable policies.</p> <p>The audit of ConnectNB revealed that no recoveries were required.</p>
<p>Audit and Evaluation Branch will initiate an internal audit of a sample of IHAB pilot projects, not covered by the scope of this audit.</p>	<p>Completed – audit of Access.ca undertaken action plan developed and being implemented</p>

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ACTION ITEM	STATUS
<p>IHAB will review their organizational design.</p>	<p>Completed – Deloitte Touche contracted to comment on organization issues, balance between management and operations, and how financial administration function should be organized.</p> <p>PSB recommended approval of the IHAB plan for organizational design under the following principles: the creation of strong centralized program integrity function; detailed training of staff on program integrity and control issues; reduction of span of control of DG to allow for greater program integrity; and adequate involvement of regional offices to ensure effective program monitoring.</p> <p>Necessary organization changes will be completed, including preparation of job descriptions and classifications, staffing to be undertaken as a priority.</p>
<p>IHAB will prepare an assessment of whether it is using the appropriate instrument (grant, contribution or contract) to deliver its programs.</p>	<p>Completed – Assessment prepared by Consulting and Audit Canada presented to PSB. The main instrument to be used will be the contribution instrument, which will be adapted to match the risk profile of the recipient, the nature of the receiving entities and principles of cost effectiveness.</p>

