

Project No.: 500162

Report on Expenditure Trusts Review – Phase II

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Office of the Comptroller General
Ministry of Finance
Province of British Columbia**

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Background

Trusts are relationships formed by agreements or legislation that convey and assign the custody and administration of property to a trustee. The trustee holds title to property for the benefit of, and stands in a fiduciary relationship to, the beneficiary as directed by the agreement or statute.¹

The Provincial Government handles two types of trusts:

a) Trusts under Administration

These trusts involve external parties that have asked government to administer their funds. Areas of the government that administer these trust funds include the Public Guardian and Trustee, and the Credit Union Deposit Insurance Corporation of British Columbia. At the end of the 2006/07 fiscal year, the Province administered \$997 million in this type of trust fund. These trust funds are disclosed as a high level note in the financial statements of the Province.

b) Expenditure Trusts

This form of trust involves payments by the Province to an independent body. The province expenses these trust payments when they are issued. The general purpose of an expenditure trust is to empower stakeholder groups which are better placed than the government in making effective decisions with regards to uses of the available funds. Examples of Expenditure Trusts include the BC Forestry Revitalization Trust, the Coast Sustainability Trust and the Northern Development Initiative Trust. In November 2003, the Office of the Comptroller General released to all ministries “Guidelines for the Establishment of Trust Funds”. These guidelines address the legal and accounting requirements, and provide process and other considerations.

As part of this review, we followed the Guidelines’ use of the term “expenditure trust”. However, this term has created confusion across the government, since it does not necessarily describe an organization that is a legally constituted trust. As a result, it has recently been deemed as no longer an approved term for use in describing the arrangements that were examined in this report.

¹ Definition from Guidelines for the Establishment of Trust Funds, Office of the Comptroller General, November, 2003.

We have been informed that the Guidelines are going to be revised to reflect this change and eliminate the use of the term “expenditure trust”. However, for the purposes of this report, we will continue to use the term.

Only three, from the sample of arrangements that we examined, were legally constituted trusts. All arrangements were set up under an Act, a Deed, an Agreement or a Minister’s Letter which identified how the funding they received was to be used. Most received their funding in the form of a grant.

For this review, we focussed on an examination of only Expenditure Trusts.

Expenditure Trusts can be created for significant amounts. In all cases, there is an expectation that these funds are being spent in accordance with the original intent of their legislation, agreement or deed. In Phase I of this process, our office conducted a review which assessed ministries’ compliance with current guidelines for setting up trusts, and examined the adequacy of the accountability structures for each trust. Phase I did not involve contacting any of the trust managers directly. As a result, Treasury Board has requested a second review of expenditure trusts involving visits to the trust managers and examinations of files on site.

Expenditure Trusts are not recorded in any one area of the government financial records. Therefore, in order carry out this review, we provided all ministries with a definition of Expenditure Trusts and requested that they provide us with a listing of their funds that fit the definition. Their feedback provided us with a list of 35 expenditure trusts across government with a total value of \$831 million. We selected 12 of these trusts for review, totalling \$609 million. Our sample included one trust from each of the ministries that had reported issuing an expenditure trust. In addition, we selected a variety of both large and small dollar trusts issued between April 1, 2001 and September 30, 2007. The expenditure trusts we selected for review are listed in Appendix B.

Purpose

The purpose of this review was to provide government with assurance that trust funds are managed in accordance with their legislation or agreements and contribute to the achievement of government objectives and priorities.

Objectives and Scope

The objectives of this review were to assess whether:

- A) the purposes for which the funding is to be used are clearly articulated in the enabling trust legislation or agreement;
- B) each trust has a process that is followed to ensure that the funding is used only for the purposes articulated in the enabling legislation or agreement; and
- C) each trust has a process to communicate to its stakeholders how the trust's public service objectives are being achieved.

We would like to thank the staff at organizations we visited for their assistance and cooperation during this review.

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Overall Conclusions

1.0 Clear Purpose

During the course of this review, we examined twelve expenditure trusts. We found that each of the expenditure trusts had an originating document that listed a purpose for the funding. Furthermore, we noted that the amount of detailed description within the purpose varied from document to document.

One document had very detailed directions for the organization to follow in expending the funds, while most had a more general level of guidance. In some cases, the organization developed a detailed description of the purpose which was then approved by the ministry during the course of transferring the funds.

Two of the trusts had very limited one word purpose descriptions which required significant interpretation by the trustee to determine how they should expend the funds. Limited detail with regards to the trust purpose creates a risk that the funds may not be used in the manner that was originally envisioned by the ministry when they created the expenditure trust. While we found no evidence that this had occurred, it is important to note that in creating expenditure trusts, ministries should give careful consideration to ensuring the intended purpose of the trust is clear and not open to misinterpretation.

2.0 Process for Approving Funding Requests

We found that each of the organizations had a clear selection process for assessing any requests for funding that they received. This process allowed them to determine whether the funding would be used for those purposes described within the trust's originating document. In addition, each organization had established a committee to review and approve any funding requests received. Nine of the twelve organizations that we examined had a formally documented process for selecting and approving projects that requested funding.

However, for three we found no evidence of the process being documented in their files. While we found evidence of the final approvals, we could not determine how each decision was reached. Our interviews with each organization's staff have convinced us that a proper process was followed in each case. However, it is important that, in all cases, the rationale is documented to support all final decisions.

Having a consistent and transparent process allows these organizations to be accountable and demonstrate the appropriateness of their decisions.

We noted that each of the organizations currently distributing funds had a process for properly recording disbursements. One had not created a recording process, but it was not an issue because they had not yet made any disbursements. It is our expectation that this organization will establish a recording process once they start issuing funds.

All the organizations had adequately communicated to interested parties the fact that they had funds available for qualified projects. Most had websites which provided detailed information about the trust including how to apply for funds and the various projects currently approved. Other processes used to communicate to interested parties included direct notification, workshops, press releases and presentations at stakeholder board meetings.

Our review of one organization identified a funding decision which gave the appearance of a conflict of interest. Their board minutes indicated they had approved funding for a group that had a director who was also on the trust advisory board. This director had participated in the decision to approve funding to the applying group. The result is either a real or perceived conflict of interest. To avoid this it would have been better if the director involved had abstained from participating in this decision. We have pointed this issue out to the trust and recommended that they work to formalize their processes for handling any potential or perceived conflicts of interest. They agreed with our recommendation and are working on putting proper procedures in place to deal with this. In general, we recommend that expenditure trusts establish processes for dealing with all potential conflicts of interest.

3.0 Communications to Stakeholders

In all cases, we found that the organizations had a process to communicate to their key stakeholders that the public service objectives were being achieved. There is sufficient information provided to allow interested stakeholders to judge whether the service is effective. All projects we observed generally aligned with what stakeholders would consider an appropriate use of the trust funds.

We noted that, in general, each organization had a process to receive and address feedback from stakeholders. In some cases, it was a fairly formal process which allowed individuals to submit their concerns either through a website, or by complaining to a review committee or directly to a board member. The remaining groups had a more informal feedback process which involved some form of verbal communication either by phone or in person.

We noted that some organizations could improve their communications by including the greater community of individuals affected by the trust. We have passed this suggestion on to those particular organizations.

Best Practices

During our examination of trusts, we noted a number of ways of doing business that we believe made them successful. We have described these best practices in Appendix A

Appendix A – Observed Best Practices

Funding Processes

- Establishment of advisory boards composed of experts in the particular area who guided the trusts with regards to the appropriateness of the projects applying for funding. These experts had current experience in the area and were able to provide valuable advice.
- Creation of detailed selection criteria to be used by those responsible for selecting and approving the projects being funded. This allows for a consistent and fair decision that ensures all projects fit within the trust's purpose.
- Maintaining a clear process for tracking the funds that are disbursed from the trust.
- Monitoring funded projects to ensure that they are successfully achieving their intended goals.
- Establishing performance targets for projects that apply for funding to allow the trust to measure their final successes.

Communication Processes

- Documenting the reasons for selecting a project for funding to ensure that all decisions made are supported.
- Broadly advertising the availability of the trust funds to ensure all interested individuals have an opportunity to apply for funding.
- Detailed reporting of fund disbursements to all stakeholders to allow them to assess whether the trust is achieving its intended purpose.
- Creating websites for general fund information including application processes and reporting of the results from funded project.

Appendix B – Listing of Expenditure Trusts Selected For Review

Expenditure Trust	Fund Total	Ministry
Northern Development Initiative Trust <ul style="list-style-type: none"> established in 2004/2005 under an Act also examined as part of the previous Phase I review 	\$185 M	Technology, Trade and Economic Development (formerly Economic Development)
BC Forestry Revitalization Trust <ul style="list-style-type: none"> legally constituted trust established in 2002/2003 under an Act and Deed also examined as part of the previous Phase I review 	\$125 M	Forests and Range
New Relationship Trust <ul style="list-style-type: none"> established in 2005/2006 under an Act also examined as part of the previous Phase I review 	\$100 M	Aboriginal Relations and Reconciliation
2010 Games Operating Fund <ul style="list-style-type: none"> established in 2004/2005 under an Agreement 	\$55 M	Technology, Trade and Economic Development (formerly Economic Development)
Southern Interior Development Initiative Trust <ul style="list-style-type: none"> established in 2005/2006 under an Act 	\$50 M	Technology, Trade and Economic Development (formerly Economic Development)
Disability Support for Employment Fund <ul style="list-style-type: none"> operating through the Vancouver Foundation from 2002/2003 to 2005/2006 under a Deed of Gift also examined as part of the previous Phase I review 	\$25 M	Housing and Social Development (formerly Employment and Income Assistance)
Living Rivers Trust Fund (initial \$2M includes additional funding of \$5M in 2004/05 and \$14M in 2005/06) <ul style="list-style-type: none"> established through the Vancouver Foundation in 2001/2002 under at Minister's Letter also examined as part of the previous Phase I review 	\$21 M	Environment
Orchard Renovation Program <ul style="list-style-type: none"> established in 2002/2003 under an Agreement 	\$18 M	Agriculture and Lands
Children and Youth with Special Needs Support <ul style="list-style-type: none"> established through the Vancouver Foundation in 2005/2006 under a Minister's Letter 	\$10 M	Children and Family Development

Expenditure Trust	Fund Total	Ministry
Fetal Alcohol Syndrome Disorder Action Fund <ul style="list-style-type: none"> • established through the Victoria Foundation in 2005/2006 under a Minister's Letter 	\$10 M	Children and Family Development
Habitat Conservation Trust Fund (Includes Grizzly Bear Trust and Wild Sheep Trust) <ul style="list-style-type: none"> • legally constituted trust • established in 2004/2005 under an Act 	\$5 M	Environment
Heritage Legacy Fund of British Columbia <ul style="list-style-type: none"> • operating through the Vancouver Foundation from 2003/2004 to 2005/2006 under a Deed of Gift 	\$5 M	Tourism, Culture & the Arts (formerly Tourism, Sport & the Arts)