



OFFICE OF THE  
AUDITOR GENERAL  
MANITOBA

May 2011

# Manitoba's Participation in Canada's Economic Action Plan

Web Version

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- government accountability information
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Respect  
Integrity  
Honesty  
Openness

### In achieving our vision

Teamwork  
Independence  
Professional excellence  
Balanced perspectives



May 2011

The Honourable George Hickes  
Speaker of the House  
Room 244, Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

Dear Sir:

I have the honour to transmit herewith my report titled, *Report to the Legislative Assembly – Manitoba's Participation in Canada's Economic Action Plan*, to be laid before Members of the Legislative Assembly in accordance with the provisions of Sections 14(4) and 28(1) of The Auditor General Act.

Respectfully submitted,

Carol Bellringer, FCA, MBA  
Auditor General

Web Version



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## Main points

### What we examined

On January 27, 2009 the federal government introduced "Canada's Economic Action Plan" (Action Plan) in response to the global economic crisis. The Action Plan includes several infrastructure programs that are cost shared with provinces and municipalities. The Canada-Manitoba Infrastructure Secretariat (CMIS) administers 6 of the 8 Action Plan infrastructure programs for Canada and Manitoba. See Table 1. Our audit examined how well CMIS administered the Infrastructure Stimulus Fund (ISF) and the Knowledge Infrastructure Program (KIP).

### Why it matters

Together, the ISF and KIP programs total \$437 million (40%) of provincial and federal funding on Action Plan infrastructure programs in Manitoba. The agreements with the federal government include claw-back provisions for all or part (depending on the program) of the federal funds advanced if a project is not completed by the deadline (initially set at March 31, 2011 but, as described below, extended to October 31, 2011). To ensure that federal funds are not lost, it is important that recipients manage their projects effectively and that CMIS monitor project progress. The potential impact of the tight time frame on how funding recipients (recipients) manage these projects also makes it important that CMIS monitor that project funds are spent according to the terms and conditions of funding agreements. Compliance with appropriately designed funding agreements helps ensure public funds are spent economically.

On December 2, 2010, the Prime Minister of Canada extended stimulus funding for one more construction season if recipients meet certain conditions. As a result, the construction completion deadline for approved projects moved from March 31 to October 31, 2011. While this change may reduce the risk of lost federal funding, the demands on CMIS are largely unaffected.

## Our conclusion and key findings

We concluded that CMIS has established an appropriate administrative framework over ISF and KIP projects but that it should comprehensively assess project risks and strengthen its processes for determining recipient compliance with their funding agreements and for determining project progress. We base this conclusion on the findings discussed in our report and summarized below.

**Funding agreements properly in place**—for the 15 projects we examined, agreements between Manitoba and recipients were signed before any payment of claims. The agreements had the ISF or KIP terms and conditions and were vetted with legal counsel.

**Stronger interim compliance review practices would minimize efforts required at final claim**—CMIS officials frequently spoke of the challenges in balancing their need for accountability and management information with the need to let recipients focus their limited resources on delivering their projects. In our view, understanding project risks and focusing review efforts on higher risk projects and areas are key to effectively balancing these conflicting needs. Project managers had a reasonable knowledge of their assigned recipients, and certain risks. But CMIS had not developed a consistent approach to comprehensively understand project risks.

CMIS was diligent in ensuring claims were eligible, properly supported, and accurately calculated. But they had not developed a risk-based approach to obtain assurance that recipients were meeting their funding agreement obligations. Detailed review procedures were not conducted in conjunction with any of the claims we audited even though 7 of the 9 projects in our sample with claims had enough risk to warrant some detailed review procedures. Rather, CMIS efforts focused on gathering basic information from all the projects regarding the competitive procurement process that was followed and the need for environmental assessments, licences, and permits. But there are gaps in this information.

**Construction progress monitored but additional independent information would reduce the risk of misstated progress**—CMIS relied heavily on information prepared by recipients to assess construction progress. Its progress report form does not require supporting site photographs, nor does it require actual progress be compared to planned milestones. In addition, CMIS did not require any form of progress certification by project architects or engineers prior to the federal government extending the funding deadline. As part of the extension conditions, the federal government required that detailed construction schedules certified by a professional engineer be submitted by January 2011.

Information related to the risk of not completing a project by March 31, 2011 was gathered as part of the project approval process and through CMIS project monitoring efforts. But these processes were not always well documented. In the fall of 2010, CMIS prepared a report to provincial and federal officials that identified projects "at risk" of not being completed by the March 31, 2011 deadline. The "at risk" factors that CMIS officials said they considered were reasonable. For the 15 projects we examined, we agreed with all but one of the assessments.

**Reporting to the federal government met requirements**—CMIS appropriately reported the required information quarterly to the federal government.

*Overall management comment from the Department of Infrastructure and Transportation (MIT) and the Department of Advanced Education and Literacy (AEL): While we believe CMIS has adequately assessed the risk of projects not being completed by March 31, 2011, and does monitor their progress, we agree with the Auditor General that we should more fully undertake and document the periodic risk assessments of a recipient not complying with the terms and conditions of their funding agreement. Steps will be taken to improve this as we proceed.*

## Background

### Canada's Economic Action Plan

On January 27, 2009 the federal government introduced "Canada's Economic Action Plan" (Action Plan) in response to the global economic crisis. The Action Plan attempts to limit job losses in Canada by delivering a federal-provincial stimulus of \$62 billion into the Canadian economy over two years (fiscal 2010 and 2011). The Action Plan includes several infrastructure programs that are cost shared with provinces and municipalities.

As at September 30, 2010, Manitoba's commitment to Action Plan infrastructure programs totalled \$545 million; federal commitments totalled \$554 million. See Table 1.

**Table 1: Funding commitments as at September 30, 2010**

| Action Plan infrastructure programs             | Federal funds committed to Manitoba<br>\$ (millions) | Province of Manitoba commitments<br>\$ (millions) | Total Federal and Provincial commitments<br>\$ (millions) |
|-------------------------------------------------|------------------------------------------------------|---------------------------------------------------|-----------------------------------------------------------|
| <b>Administered by CMIS</b>                     |                                                      |                                                   |                                                           |
| Infrastructure Stimulus Fund (ISF)              | \$140                                                | \$143                                             | \$283                                                     |
| Provincial Territorial Base Funding Accelerated | 175                                                  | 195                                               | 370                                                       |
| Recreational Infrastructure Fund                | 18                                                   | 6                                                 | 24                                                        |
| Communities Component "Top Up"                  | 18                                                   | 18                                                | 36                                                        |
| Knowledge Infrastructure Program (KIP)          | 71                                                   | 83                                                | 154                                                       |
| Community Adjustment Fund                       | 42                                                   | 10                                                | 52                                                        |
| <b>Not administered by CMIS</b>                 |                                                      |                                                   |                                                           |
| Green Infrastructure Fund                       | 11                                                   | 11                                                | 22                                                        |
| Social Housing Construction and Retrofits       | 79                                                   | 79                                                | 158                                                       |
| <b>Totals</b>                                   | <b>\$554</b>                                         | <b>\$545</b>                                      | <b>\$1,099</b>                                            |

Source: Canada Manitoba Infrastructure Secretariat records except Social Housing Construction and Retrofits, which was from the Affordable Housing Agreement.

Our audit focused on the Infrastructure Stimulus Fund (ISF) and the Knowledge Infrastructure Program (KIP); together, they comprise 40% of provincial and federal commitments to Action Plan infrastructure programs in Manitoba. We also focused on these two programs because they have the risk of a federal clawback of funds advanced or of approved funding levels (as detailed below) if the deadline for project completion is not met.

**Infrastructure Stimulus Fund**—the federal government established this fund in 2009 to provide funding for construction-ready infrastructure projects. By September 2010, 113 Manitoba projects (for total federal/provincial commitments of \$283 million), were approved. ISF recipients include provincial departments, municipalities and not-for-profit organizations. Approved projects include the construction and rehabilitation of existing assets such as waste water treatment facilities, highways, roads, cultural facilities, parks, trails and municipal buildings. The master agreement between the Government of Canada and the Province of Manitoba, signed May 22, 2009, has a claw-back provision that gives Canada the right to be repaid, in whole or in part, for any funds advanced on a project that is not substantially complete by March 31, 2011.

On December 2, 2010, the Prime Minister of Canada announced the extension of stimulus funding for one more construction season. To qualify for this extension, recipients must meet certain conditions. One of them is that the project must have incurred eligible costs before March 31, 2011. For approved projects, the construction deadline will move from March 31, 2011 to October 31, 2011 (the agreement to change the deadline was not in place at the time of our fieldwork).

**Knowledge Infrastructure Program**—the federal government established this program in 2009 to renew Canada's college and university infrastructure. By September 2010, 19 Manitoba projects were approved (for total federal/provincial commitments of \$154 million). KIP recipients include universities, other post-secondary institutions and the Department of Infrastructure and Transportation. The master agreement between the Government of Canada and the Province of Manitoba was signed on October 30, 2009. It allows Canada to limit federal funding to the amount advanced by March 31, 2011 for projects not complete by then. (The agreement to change the deadline (described above) was not in place at the time of our fieldwork).

## Delivery of ISF and KIP projects in Manitoba

### Project identification

For both programs, the federal government initiated a proposal submission process. Most municipal ISF submissions originated from a national call for proposals to the Building Canada Fund Communities Component (an existing federal infrastructure

program) that predated the Action Plan. In addition, using information from this call for proposals and other available project databases, the federal government identified other potential recipients and asked them to apply. For KIP, the federal government issued a national call for proposals as part of the Action Plan.

### Project selection

To be eligible for federal funding, ISF and KIP projects had to meet eligibility criteria established by the federal government, including:

- incremental construction activity—the project would not have been built by March 31, 2011 without stimulus funding
- project readiness—the project was construction-ready (often called "shovel-ready")

Federal and provincial officials assessed each project's eligibility. Later discussions between provincial and federal officials resulted in a final approved list.

### Administration

CMIS administers 6 of the 8 Action Plan infrastructure funds, including ISF and KIP. See Table 1.

CMIS is a joint federal-provincial secretariat established to minimize duplication in federal-provincial program delivery, contribute to improved federal-provincial cooperation, and provide single-window program delivery to local governments.

CMIS currently administers 16 cost shared infrastructure funding programs in Manitoba and supports the activities of various federal-provincial management committees that oversee the management and implementation of related agreements. Administratively, CMIS is in the provincial department of Infrastructure and Transportation. Functionally, it reports to the various provincial and federal entities responsible for the infrastructure programs. For example, when administering KIP, CMIS reports to the provincial department of Advanced Education and Literacy and to the federal department of Industry. Appendix B has a comprehensive illustration of CMIS's reporting structure.

CMIS has 11 full-time provincial employees (one employee was added in response to the addition of Action Plan programs) and 2 federal employees.

CMIS's administrative responsibilities include:

- negotiating agreements between the provincial and federal governments
- negotiating provincial funding agreements with recipients
- monitoring compliance with agreements
- monitoring and assessing adequacy of construction progress

- exercising due diligence on recipient claims for federal and provincial funding
- paying federal and provincial funds to recipients
- informing Manitoba's Treasury Board on timing and cashflow of projects
- informing provincial Ministers and Deputy Ministers of the status of projects
- coordinating media and communications
- submitting the required reports to federal government departments

Recipients of ISF or KIP funding manage the construction of their own projects.

CMIS's administrative role is significantly reduced for ISF and KIP projects managed by a provincial department. In these cases, CMIS processes claims and reports to Infrastructure Canada on the status of ISF projects and to Industry Canada on the status of KIP projects. Table 2 lists the total value of ISF and KIP projects managed by provincial departments and the value of projects fully administered by CMIS.

We focused our audit on ISF and KIP projects that CMIS fully administered.

| Table 2: Projects fully administered by CMIS                      |                    |                                   |                                      |                                                        |
|-------------------------------------------------------------------|--------------------|-----------------------------------|--------------------------------------|--------------------------------------------------------|
|                                                                   | Number of projects | Federal commitments \$ (millions) | Provincial commitments \$ (millions) | Total Federal and Provincial commitments \$ (millions) |
| <b>Infrastructure Stimulus Fund</b>                               |                    |                                   |                                      |                                                        |
| Total projects                                                    | 113                | \$140                             | \$142.6                              | \$282.6                                                |
| Less projects managed by:                                         |                    |                                   |                                      |                                                        |
| Department of Infrastructure and Transportation (highway related) | (18)               | (91.3)                            | (96.7)                               | (188)                                                  |
| Department of Conservation                                        | (9)                | (5)                               | (5)                                  | (10)                                                   |
| Projects fully administered by CMIS                               | 86                 | \$43.7                            | \$40.9                               | \$84.6                                                 |
| <b>Knowledge Infrastructure Program</b>                           |                    |                                   |                                      |                                                        |
| Total projects                                                    | 19                 | \$71.1                            | \$82.8                               | \$153.9                                                |
| Less projects managed by:                                         |                    |                                   |                                      |                                                        |
| Department of Infrastructure and Transportation                   | (7)                | (4.7)                             | (4.7)                                | (9.4)                                                  |
| Projects fully administered by CMIS                               | 12                 | 66.4                              | 78.1                                 | 144.5                                                  |
| <b>Total</b>                                                      | <b>98</b>          | <b>\$110.1</b>                    | <b>\$119</b>                         | <b>\$229.1</b>                                         |

## Audit scope and approach

Our objective was to determine whether CMIS adequately administered the ISF and KIP programs. Specifically, we assessed whether:

- Provincial funding agreements were in place that reflected the requirements in the master ISF and KIP agreements with the federal government.
- An appropriate claims payment process was in place to ensure that only eligible and properly supported claims were paid and that recipients were meeting their funding agreement obligations.
- Project construction progress was monitored and appropriately assessed for the likelihood of not being completed by March 31, 2011.
- Project progress was reported to the federal government as required by the master ISF and KIP agreements.

We selected a sample of 12 ISF projects and 3 KIP projects fully administered by CMIS. (Projects and related dollar values are listed in Appendix A.) We did not examine ISF and KIP projects managed by a government department. All other forms of Manitoba's participation in the Action Plan were excluded from our audit.

We did not assess the relative merit, value or priority of the approved projects or their compliance with the eligibility criteria of the federal programs.

The audit examined actions by CMIS from January 2009 (initiation of the Action Plan) to September 30, 2010, unless otherwise noted in the Audit Findings section. Our work was substantially completed by December 4, 2010. When pertinent events occurred after September 30, we have included these details in our report.

For certain projects, recipients had service contracts that predated the Action Plan. As our examination focused on CMIS administration, it excluded these contracts.

Our examination was performed in accordance with the value-for-money auditing standards recommended by the Canadian Institute of Chartered Accountants, and accordingly, included such tests and other procedures as we considered necessary.

## Audit findings

### 1.0 Funding agreements consistent with ISF and KIP requirements

Agreements are an important tool in ensuring that all parties understand their roles and responsibilities and that their interests are reasonably protected.

The Manitoba government and the Canadian government signed master agreements for both ISF and KIP. To protect Manitoba's interest, Civil Legal Services of Manitoba's Department of Justice vetted the master agreements.

For the 15 projects we examined, agreements between the province and funding recipients were signed by recipient officials and the Ministers responsible (or their designate) prior to the payment of any claims. Because ISF and KIP are federal programs with joint funding, provincial funding agreements need to include key provisions of the master agreements. The provincial funding agreements we examined have the ISF or KIP terms and conditions, as applicable, and were vetted by Civil Legal Services.

Master agreements include a financial audit requirement which Manitoba must meet in order to receive final payment. The audit will provide the federal government with assurance on the amounts received and paid out to construct projects. In addition, the federal government may undertake an audit of the province's compliance with the master agreements. For ISF, a compliance audit report was issued in September 2010. For KIP, a compliance audit report is scheduled for completion by January 31, 2012.

Provincial funding agreements with recipients include provisions granting the province access to information evidencing compliance with various provisions of the agreement. Timely assurance regarding compliance to funding agreements can be obtained through the conduct of periodic review procedures by CMIS.

### 2.0 Stronger interim compliance review practices would minimize efforts required at final claim

Provincial funding agreements impose many requirements on recipients. The onus is on recipients to comply with the requirements, but CMIS plays an important administrative role ensuring that they do so—before it disburses any funds through the claims process. It's particularly important for CMIS to ensure all obligations have been met before it makes final claim payments. A process to obtain periodic assurance that recipients are meeting obligations reduces the review effort needed at the end of ISF and KIP.

## 2.1 Risk assessments that are comprehensive would help focus CMIS review efforts

The risks that a project will not be completed by the deadline and that recipients will not comply with the terms and conditions of their funding agreements are key considerations when deciding how much review effort to apply to a project. Important factors to consider when assessing these risks include:

- recipient experience with managing construction projects
- dollar values of projects
- environmental issues
- complexity of project
- issues raised by the recipient, provincial departments and other stakeholders

Examples of possible problems when significant risk factors are present include:

- fair processes not used to select contractors
- work not actually completed as stated in the application or claim
- insufficient insurance coverage
- missed milestones
- project specifications too costly
- projects not carried out in compliance with laws

In higher risk cases, project administrators need to be particularly diligent in assessing when such events may be taking place and in ensuring appropriate corrective actions are taken.

CMIS officials stated that many project risks were assessed as part of the project approval process. But such assessments were focused on ensuring that the federal eligibility criteria were met, such as shovel-readiness, the need for environmental assessments, and the availability of other funding.

As section 3 of this report discusses, after project approval, CMIS focused its risk-assessment efforts on understanding the likelihood of a project not being completed by March 31, 2011. It did not do comprehensive assessments of the risk factors related to each recipient and project. So it may not fully understand the likelihood of possible problems and their impact on the project being completed according to the terms and conditions of the funding agreements and within the required timelines.

**Recommendation 1:** We recommend that CMIS assess, for every project, the risk of a recipient not complying with the terms and conditions of their funding agreement, and that it document and periodically review these assessments.

*Management response from MIT and AEL: We agree that CMIS should more fully undertake and document the periodic risk assessments of a recipient not complying with the terms and conditions of their funding agreement. We wish to point out that CMIS's focus on these projects was the risk of not being completed by March 31, 2011.*

## 2.2 Claims process included limited compliance review

Due diligence when processing claims requires verifying that:

- expenses claimed are for eligible costs
- claims are supported by appropriate invoices and proof of payment
- claims are mathematically accurate
- certifications are appropriately signed, and to the extent deemed appropriate by a risk assessment, followed up with detailed procedures to confirm a recipient's compliance with the terms and conditions of their funding agreement

### 2.2.1 Eligible costs, payment support and mathematical accuracy appropriately checked

We reviewed all 26 claims received by September 30, 2010 for the 15 projects we examined (6 projects had not yet submitted claims). The total value of these claims was \$50.2 million. There were very few errors. The total value of the errors was about \$104,000. We brought the errors to the attention of CMIS project managers who corrected them. The largest error was on a KIP project that paid \$66,704 for charges from an organization the recipient controlled—ineligible under KIP. CMIS has acted to recover the funds.

### 2.2.2 Certification by Senior Financial Officer not followed up

The claim form includes a certification whereby the Senior Financial Officer of the recipient

*"confirms that the representations and warranties made by the Recipient in the subject Contribution Agreement are true in substance and in fact as of the date of this Claim. The undersigned certifies that the information in this Claim and documents that accompany it are accurate and complete, and that Eligible Costs covered by this Claim have been incurred by the Recipient and have not been included in any previous Claim."*

The representations and warranties referred to in the certification would include the provisions of the provincial ISF and KIP funding agreements noted in Table 3.

**Table 3: Examples of recipient obligations in funding agreements**

Fundamental conditions recipient **must meet before starting to construct** the project:

- ...obtained all licenses, permits and approvals required by statute, regulation, by-law or by government policy, including ... environmental approvals, licenses and permits...
- ...secured sufficient funding to pay all costs...to carry out and complete the project
- ...acquired all necessary rights of way or interests in land and rights of access and crossing, and all related orders, permits, licenses and approvals...
- ...obtained performance bonds and a labour and material bond for the Project in amount satisfactory to Manitoba...

The recipient is **strictly complying with all its obligations** and undertakings in this agreement on the date on which payment is requested.

The project **meets or exceeds** the design, environmental and energy requirements set out in the **Green Building Policy** for Government of Manitoba...

Award all significant dollar-value contracts using **transparent and competitive procurement processes**.

Obtain such **professional (including architectural and engineering) advice**, inspections, certificates and reports as may be necessary to ensure that the project is designed, constructed and completed in accordance with this agreement, acceptable engineering and construction standards...

Use reasonable efforts to **keep eligible costs of the project to a minimum**.

For the 26 claims we examined, the certification was signed by a recipient representative. Certifications are an important internal control, however, they are not evidence that the desired compliance events occurred. The extent and nature of follow-up procedures to verify compliance with the funding agreements should be based on the results of a comprehensive risk assessment. For example, low risk recipients/projects may only require limited follow-up procedures.

As section 2.2.3 discusses, for all projects that CMIS fully administers, it gathered general information on the competitive procurement and environment requirement sections of the funding agreements. But it did not perform more detailed follow-up work on any of the claims in our sample. In our view, 7 projects (from our sample of 9 with claims) had enough risk to warrant some detailed follow-up procedures on one or more claims.

Examples of detailed follow-up procedures include:

- reviewing public tender advertisements
- reviewing tender proposals obtained, analyses prepared, and decisions made
- obtaining copies and assessing adequacy of recipients' insurance

- ensuring required licences, permits and environmental assessments were obtained
- assessing the reasonableness of construction standards and specifications (possibly using provincially or federally employed engineers and architects)
- assessing compliance with construction standards and specifications and funding agreement obligations

**Recommendation 2:** We recommend that CMIS conduct detailed follow-up procedures when processing claims from each recipient and base the nature and extent of the procedures on the risks associated with each recipient and project.

*Management response from MIT and AEL: We agree that in some cases more detailed follow-up procedures could be conducted when processing claims. We will endeavour on high risk projects to obtain more third party verification of the Senior Financial Officer certification while not unduly adding costs to the project. It should be noted that CMIS has recently developed a risk-assessment process whereby all high risk recipients will require a compliance audit for the release of their final 10 percent holdback.*

## 2.2.3 Some compliance information gathered from all recipients but there are gaps in this information

CMIS processes require that specific information be gathered to gain some assurance that recipients are complying with their funding agreement requirements on:

- competitive procurement practices
- environmental assessments, licences and permits

It is not the in-depth information that more detailed review procedures would produce, but, if complete and accurate, provides valuable information when conducting a risk assessment. In addition, the information can be used by CMIS when completing more detailed review procedures.

### Competitive procurement information was not complete

Provincial ISF and KIP funding agreements require recipients to award "all significant dollar value contracts using a transparent and competitive procurement process." To ensure all recipients interpreted this requirement consistently, CMIS issued a letter to each recipient defining "significant" and "competitive procurement process." The letter also specified support documents CMIS required. Table 4 lists the requirements.

**Table 4: Requirements in CMIS letter issued to recipients**

| Contract amount or nature                                          | Competitive process requirement                                                                                                                                                                                                                       | Support documentation required                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Under \$100,000                                                    | You are required to obtain a minimum of three quotations from independent contractors.                                                                                                                                                                | If requested, you must provide CMIS with evidence of having complied with this requirement.                                                                                                                                                                                                                                                                            |
| Over \$100,000                                                     | You are required to publicly tender these contracts.                                                                                                                                                                                                  | When you have selected a contractor, you must provide CMIS with evidence that a public, competitive process was used to select the contractor (e.g., a copy of the tender notice as published) and that the contract has been awarded (e.g. a copy of your letter to the successful bidder or resolution of the governing body authorizing the award of the contract). |
| Construction Management, Design and Engineering Services Contracts | You are free to select your construction or project managers, design and engineering consultants in the manner you consider to be most appropriate, as long as it is consistent with good business practices and all applicable laws and regulations. |                                                                                                                                                                                                                                                                                                                                                                        |

Source: CMIS letter to funding recipients

*Tender/Quote information should be obtained shortly after award decisions are made*

In early 2010, to gain some assurance that recipients were complying with competitive procurement requirements, CMIS created a Tender/Quote Information form. The form requires that recipients report, on a project-by-project basis, information on the contracts tendered, the tender quotes received, and the decisions made. But the form is silent on when the information is to be provided. Section 10.2 of the ISF funding agreement requires recipients to provide "a copy of the Recipient's (or its consultant's) tender or other public procurement process analysis and award recommendation...within 30 days after the date of the analysis and recommendation." This requirement was not part of the KIP funding agreement. The sooner that CMIS knows of contract award decisions, the more proactive it can be in advising recipients of potential defaults on competitive process requirements, allowing them more chance to take corrective actions.

For the 15 projects we examined, the Tender/Quote Information form had been obtained in all but one case. This one case occurred because the project manager

was waiting for a claim to be submitted—a practice she said she used consistently. In our view, waiting to request contract award information until a claim is filed is an unnecessary delay. Because tender/quote documents are not dated, we could not tell if the information for the other 14 files had been obtained promptly.

In addition, there was little documentation of project managers' review efforts to ensure the completeness and accuracy of the tender/quote information obtained.

#### *Evidence of a competitive process generally not obtained*

The requirement to give CMIS evidence of public tender for contracts greater than \$100,000, (Table 4 above), was not a requirement in the Tender/Quote Information form. CMIS did not otherwise enforce this requirement. As a result, only 2 of the 15 project files we examined included proof of tender for some of the contracts listed on the Tender/Quote Information form.

#### *Competitive procurement requirements for certain services not enforced*

In the letter to each ISF and KIP recipient (key passages noted in Table 4), CMIS provided separate instructions for procuring construction and project managers and design and engineering consultants. For these services, recipients could select a procurement process they considered to be most appropriate, as long as they were "consistent with good business practices and all applicable laws and regulations." Good business practices were not defined in the letter. Arguably, the direction in the letter in effect removed the contribution agreement requirement for a transparent and competitive procurement process for these services. The CMIS Director said this was needed to help recipients compress overall project time frames and therefore be in a better position to meet the tight completion deadline (at the time, March 31, 2011). As noted in Table 4, CMIS does not require support documentation for the awarding of such contracts.

We followed up on 8 of the recipients in our sample (6 ISF, 2 KIP) to understand the procurement practices used for these services. Four recipients indicated that they either went to public tender or solicited quotes from multiple qualified vendors. They gave us supporting documentation. The remaining 4 recipients, however, did not use a competitive process. One described his/her organization's process as "single source negotiation," and indicated that this was consistent with his/her organization's procurement policies for the size of the contracts involved. This was a large municipal government, experienced in managing infrastructure projects and in dealing with many of the local engineering and architectural firms. They stated that distributing their work equitably among such service providers was an important consideration. Two other recipients indicated that contracts were issued to service providers they had a previous working relationship with, specifically, with their ISF project. The remaining recipient had a significant

development contract that predated the start of the Action Plan. This contract stipulates the architect, contractor, and project manager for any development on the property.

Contribution agreements with these recipients did not address, as applicable, pre-existing contracts, existing relationships with contractors, and organizational policies that did not require competitive procurement practices. In our view, agreements should cover all known existing conditions.

### Conclusions on applicability of environmental laws not always confirmed

CMIS created an environmental assessment checklist to help identify the need for environmental assessments as well as licences and permits. The checklist refers to the following Acts:

- Canadian Environmental Assessment Act
- The Public Health Act
- The Drinking Water Safety Act
- The Environment Act

We did not assess whether other environment related Acts should have been referenced in the checklist.

For all 15 projects we examined, the environmental assessment checklist was completed and signed by the project manager. One of the 15 projects had not progressed to require licences yet.

**Canadian Environmental Assessment Act:** CMIS received assurance from the federal government that this Act did not apply to any of the 15 projects we examined.

**The Public Health Act:** 14 of the projects we examined were noted as not being subject to this Act, but CMIS project managers had not obtained confirmation from Manitoba's Department of Health to support these conclusions.

**The Drinking Water Safety Act:** 2 of the project files we examined included copies of the required licences; 12 projects were noted as not being subject to the Act. Documented confirmations were not obtained, but CMIS project managers stated that the applicability of the Act for each project was discussed with an official from Manitoba's Department of Water Stewardship.

**The Environment Act:** 2 of the projects we examined included copies of the required licences and 3 project files had a letter from Manitoba's Department of Conservation indicating that the Act was not applicable; 8 projects were noted as exempt from the Act under Regulation 164/88, but there was no confirmation from Manitoba's Department of Conservation of these assessments. The remaining project was listed as subject to the Act, but CMIS had not yet obtained assurance from the recipient that a licence had been obtained.

In addition to compliance with environmental laws, funding agreements required compliance with Manitoba's Green Building Policy. CMIS developed a Green Building Policy scope assessment form, which assesses the applicability of the policy.

The Green Building Policy scope assessment form was completed and signed by CMIS's Technical Coordinator for all 15 projects in our sample. The Technical Coordinator has ongoing communication with the Green Building Coordination Team (Manitoba's Department of Infrastructure and Transportation).

The implementation of Recommendation 2 would effectively address the issues identified in section 2.2.3, except for the receipt of more timely information on the awarding of contracts.

**Recommendation 3:** We recommend that CMIS request Tender/Quote information documents early in the project life cycle and that recipients be asked to provide updates as contracts are awarded.

*Management response from MIT and AEL: The CMIS does receive tender/quote information but in the future CMIS will promptly request and date receipt of tender/quote information.*

## 3.0 Construction progress monitored but additional independent information would reduce the risk of misstated progress

CMIS monitors the progress of projects to identify those unlikely to be completed by the federal government's deadline. In its December 2, 2010 announcement, the federal government changed the critical completion date from March 31 to October 31, 2011. Approved projects that do not meet this amended deadline may still lose part of their federal funding.

Key monitoring activities include reviewing and challenging progress reports, visiting sites to observe progress, and keeping current on issues recipients are managing.

CMIS monitors project status and informs Manitoba Treasury Board and applicable provincial Ministers and Deputy Ministers of project status. CMIS may participate if requested to do so in any actions a Deputy Minister considers necessary in response to reported progress.

## 3.1 Progress reporting requirements not complete

CMIS has developed a template for recipients to report on project progress. The form requires information on:

- construction start date and reasons for delays from original date (if any)
- number of weeks the physical construction of the project is expected to take
- expected completion date and reasons for changes to the original completion date (if any)
- issues that may affect start or completion date
- percentage of construction that is complete
- cash flow information

But CMIS does not require:

- photographic evidence of work completed
- reporting of project progress in relation to a project milestone schedule
- periodic sign-off on progress by an architect or engineer

**Photographs:** KIP funding agreements require that photos be included with progress reports. This requirement was not part of the ISF funding agreement. While not as conclusive as a site visit or attestation by an architect or engineer, photographs provide physical evidence of construction progress and deter the overstatement of construction progress by recipients. Some recipients have recognized the value of photographs and included photos with some of their progress reports.

**Actual versus planned progress:** The progress report form requires recipients to report the percentage of construction completed. This figure on its own does not provide sufficient information for readers to understand the risk of not completing a project by the deadline. The progress report should compare the percent completed figures to the planned percent completed for that date.

**Professional certification:** As discussed in section 2.2.2, claims must be certified by the recipient's Senior Financial Officer to confirm compliance with warranties made by the recipient in the funding agreement. But certification of the percent completed at each claim by an architect or engineer is not required. Certification of construction progress by the project's architect or engineer would reduce CMIS's reliance on progress information from recipients, who may present an overly optimistic view of progress to avoid losing funding.

As a result of amending the deadline to October 31, 2011, the federal government, as part of its extension conditions, required professional certifications on the reasonableness of project construction schedules. For the 15 projects in our sample, 14 applied for the extension and forwarded professional certifications to CMIS indicating projects would be substantially completed by October 31, 2011.

**Recommendation 4:** We recommend that CMIS require recipients to:

- submit photographs with each project progress report
- report project progress in relation to the project's scheduled milestones
- obtain periodic progress certification from the project architect or engineer

*Management response from MIT and AEL:* We agree, based on the assessed risk of a project not meeting the construction deadline, to require recipients to undertake these tasks.

### 3.2 Limited documentation of progress report follow-up

For the 15 projects we examined, progress reports were in the files at the frequency funding agreements required. But files generally contained little or no indication that the project manager had reviewed and followed up the progress reports.

Project managers characterized their monitoring efforts as largely reactive, focusing on the more immediate problems brought to their attention from several sources, including progress reports, telephone calls, and e-mails from proponents. They spoke of a dynamic and interactive relationship with many recipients. Project managers stated that not all of their actions were documented in project files due to time constraints.

**Recommendation 5:** We recommend that CMIS project managers document in the project files their actions in analyzing and following up on progress reports from recipients.

*Management response from MIT and AEL:* We are confident that the project managers are adequately monitoring the projects assigned to them. We will ensure that electronic or paper files contain adequate evidence of this monitoring.

### 3.3 Projects assessed for likelihood of completion by deadline

In March 2010, CMIS requested risk mitigation information from ISF recipients whose progress reports indicated a delayed start date and/or issues impacting the completion of the project by the deadline. The requests included 7 questions aimed at helping CMIS better understand how recipients were mitigating the risk that their projects would not be completed by the deadline. The questions included whether recipients had incorporated any additional clauses in their construction contracts to ensure project completion by the deadline and whether recipients had any planned actions to address issues beyond their control. Letters were sent to, and responses were received from, 11 of the 12 ISF recipients in our sample.

In the fall of 2010, to estimate the federal funds at risk of being clawed back, CMIS made a list of projects not likely to be completed by March 31, 2011. These projects were referred to as "at risk". A preliminary summary of "at risk" projects and an estimate of project costs that were not likely to be incurred by March 31 were included in the October 6, 2010 Stimulus Status Report, (a report requested by the federal government). Project managers identified the "at risk" factors described in Table 5 as most frequently used in making their assessments.

**Table 5: "At risk" factors**

|                                                                                   |
|-----------------------------------------------------------------------------------|
| Delayed construction start dates                                                  |
| Periodic construction delays                                                      |
| Delays in obtaining environmental permits                                         |
| Estimates of percentage complete that are below what was expected at a given date |
| Site visits where observed progress is below what was expected at that date       |

For our sample of 15 projects (12 ISF, 3 KIP), CMIS flagged 8 as "at risk" (6 ISF and 2 KIP). The rationale supporting the assessments was not always well documented. After reviewing information available to CMIS and discussing the cases with the project managers, we agree with CMIS's assessments for 14 of the 15 projects. We think that another project should have been flagged as "at risk" based on information in the project's October 5 progress report. This report stated the project was 10% complete and the time to complete construction was 7 months.

### 3.4 Information obtained during site visits incomplete

Site visits can give CMIS good information on actual progress. CMIS has prepared a site visit report template for its project managers. The template requires the accumulation of valuable information including:

- program signage
- construction activities
- percentage of construction complete
- discrepancies between project description, what was reported and what was being built
- statement about meeting the March 31, 2011 deadline
- photographs (if any are taken)

The Site Visit Report form does not require a comparison between construction progress observed at the time of the visit and project completion schedules. The form asks if the project is on track, but does not require support for a "yes" response. In addition, the Report does not require photographs.

As of September 30, 2010, for our sample of 15 projects, 7 sites had been visited, most in September 2010. Four of the site visits confirmed the reasonableness of the construction progress reported by the recipient, while the other 3 site visit reports (all projects later assessed as "at risk") were silent on the estimated percent complete.

As of September 30, 2010, CMIS did not have a documented site visit policy. In November 2010, site visit policies for ISF and KIP projects were distributed to CMIS project managers. The new policies used risk-based criteria to identify projects needing site visits.

**Recommendation 6:** We recommend that CMIS amend its Site Visit Report form to require:

- a comparison between construction progress observed at the time of the site visit and project completion schedules
- photographs to support the report

*Management response from MIT and AEL: We will amend the Site Visit Report accordingly.*

## 4.0 Reporting to federal government met requirements

CMIS reports to the federal government on ISF and KIP projects. The master agreements require that they provide the following information quarterly:

- funds received
- amounts expensed
- projects that have started, projects no longer on schedule (KIP only), and projects that are substantially completed

For each of the 15 projects in our sample, CMIS appropriately reported the required information quarterly to the federal government.

## 5.0 CMIS's actions not always well documented

Properly documenting the monitoring effort includes:

- retaining reports and other key documents received from recipients
- documenting analyses prepared or concerns noted and decisions made
- preparing notes on telephone conversations and meetings with recipients and other key stakeholders in projects
- retaining copies of correspondence received or sent, including notes, memos, letters, and e-mails

Throughout this report we have identified a number of instances where documentation of actions taken was lacking. CMIS has not developed file documentation standards to guide project managers in making appropriate decisions on keeping documents and recording decisions.

**Recommendation 7:** We recommend that CMIS develop file documentation standards with guidance on retaining key records in either electronic or paper formats.

*Management response from MIT and AEL: Agree. This process has been in development for some time. There is a dedicated staff assigned to specifically revamp the CMIS filing system including all electronic data. Work on this is almost complete.*

## Summary of recommendations

1. We recommend that CMIS assess, for every project, the risk of a recipient not complying with the terms and conditions of their funding agreement, and that it document and periodically review these assessments.
2. We recommend that CMIS conduct detailed follow-up procedures when processing claims from each recipient and base the nature and extent of the procedures on the risks associated with each recipient and project.
3. We recommend that CMIS request Tender/Quote information documents early in the project life cycle and that recipients be asked to provide updates as contracts are awarded.
4. We recommend that CMIS require recipients to:
  - submit photographs with each project progress report
  - report project progress in relation to the project's scheduled milestones
  - obtain periodic progress certification from the project architect or engineer
5. We recommend that CMIS project managers document in the project files their actions in analyzing and following up on progress reports from recipients.
6. We recommend that CMIS amend its Site Visit Report form to require:
  - a comparison between construction progress observed at the time of the site visit and project completion schedules
  - photographs to support the report
7. We recommend that CMIS develop file documentation standards with guidance on retaining key records in either electronic or paper formats.



## Appendices



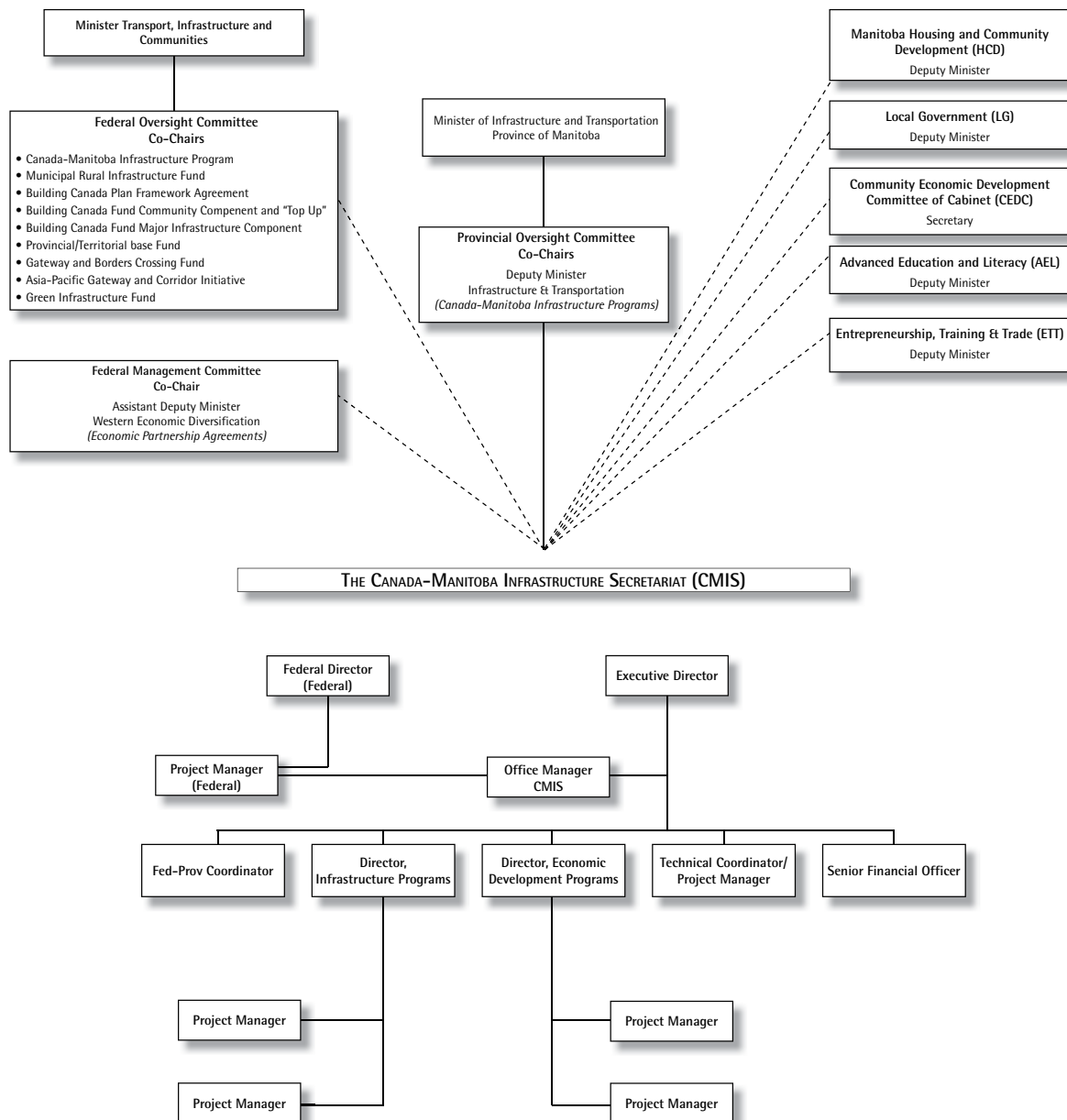
## Appendix A

### Sample of projects selected

| Project                                |                                                 | Federal commitments<br>\$ (millions) | Provincial commitments<br>\$ (millions) | Total Federal and Provincial commitments<br>\$ (millions) |
|----------------------------------------|-------------------------------------------------|--------------------------------------|-----------------------------------------|-----------------------------------------------------------|
| Infrastructure Stimulus Fund           |                                                 |                                      |                                         |                                                           |
| City of Winnipeg                       | Dakota/Dunkirk Pathway Phase 1                  | 467                                  | 467                                     | 934                                                       |
| City of Winnipeg                       | Silver Avenue Bikeway                           | 673                                  | 673                                     | 1,346                                                     |
| Manitoba Centennial Centre Corporation | Manitoba Centennial Centre Refurbishments       | 2,500                                | 2,500                                   | 5,000                                                     |
| Neechi Foods Co-Op                     | North Main Community Business Complex           | 1,318                                | 1,318                                   | 2,636                                                     |
| RM of MacDonald                        | Sanford Water Treatment Plant                   | 1,680                                | 1,680                                   | 3,360                                                     |
| RM of Whitemouth                       | Elma Water and Wastewater                       | 1,333                                | 1,333                                   | 2,666                                                     |
| Salvation Army                         | Multicultural Family Centre                     | 1,500                                | 1,500                                   | 3,000                                                     |
| Southdale Community Centre             | Community Centre Expansion                      | 2,000                                | 2,000                                   | 4,000                                                     |
| RM of St. Francois Xavier              | Cartier Regional Co-op Plant Upgrades           | 2,271                                | 2,271                                   | 4,542                                                     |
| Town of Emerson                        | Wastewater Treatment Upgrade                    | 681                                  | 681                                     | 1,362                                                     |
| Town of Stonewall                      | Quarry Park Visitor Centre                      | 1,350                                | 1,350                                   | 2,700                                                     |
| United Way of Winnipeg                 | Headquarters                                    | 3,333                                | 3,333                                   | 6,666                                                     |
| Knowledge Infrastructure Program       |                                                 |                                      |                                         |                                                           |
| Red River College                      | Union Bank Tower                                | 9,500                                | 5,000                                   | 14,500                                                    |
| University of Manitoba                 | ART Research Lab                                | 15,000                               | 18,858                                  | 33,858                                                    |
| University of Winnipeg                 | Science Complex and College for the Environment | 18,042                               | 31,050                                  | 49,092                                                    |
| Total                                  |                                                 | \$61,648                             | \$74,014                                | \$135,662                                                 |

## Appendix B

### CANADA-MANITOBA INFRASTRUCTURE SECRETARIAT (CMIS) ORGANIZATIONAL CHART



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