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Department of Entrepreneurship, Training and Trade

7

Provincial Nominee Program for Business

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Table of contents

Main points **215**

Background **216**

Audit approach **222**

Findings and recommendations **223**

1. Policies and procedures in place, but weaknesses exist 223

1.1 Due diligence procedures not risk based 223

1.2 Process inefficient 224

1.2.1 Process continues despite false information from applicants 224

1.2.2 The same information requested and reviewed twice 225

1.3 File documentation meets Program requirements 225

1.4 Forms and processes for verifying information inadequate 226

1.5 Policy and Procedures Manual not fully up to date 227

1.5.1 Manual incorrectly references a Selection Committee 227

1.5.2 Manual has wrong deadline for return of Deposit Agreement and deposit 228

1.5.3 Manual has wrong expiry date of the Certificate of Nomination 228

1.6 Conflict of interest guidelines in place but annual updates not required 228

2. Processes in place for the detection of and response to false documentation, but only on a go forward basis 229

2.1 Stronger due diligence processes introduced 229

2.2 Not reviewing files for false information if immigrants have landed 231

2.3 No consequences beyond rejection of the application 231

2.4 False information found in our sample 231

2.4.1 Program resolved 5 of the 6 cases that were re-evaluated 231

2.4.2 No follow up on 2 cases of false documents that we found 232

3. Program outcomes not sufficiently measured 232

3.1 Program does not track nominees, contrary to the Agreement 232

3.2 No measure of immigrant long-term performance or Manitoba's financial gain 234

3.3 Documentation meets Program requirements 235

3.4 Site visit policies and procedures not clear 236

3.5 Options other than a Permanent Resident Visa not used 237

Summary of recommendations and response of officials **238**

Appendix A: Cross Canada comparison of nominee business programs

Web Version

Main points

What we found

The Provincial Nominee Program for Business (the Program) allows Manitoba to recruit and nominate qualified business immigrants who agree to settle in Manitoba, make a business investment, and run a business within the Province. The Provincial government issues *Certificates of Nomination* that accelerates the federal government's processing of *Permanent Resident Visas*.

We examined the Program's policies and procedures for the assessment of applications. We found policies and procedures in place, but weaknesses existed. We also found opportunities for efficiencies to be gained by updating the current process. The most significant weakness we found was that before 2010, due diligence procedures were limited to obtaining application information and conducting interviews. Information was not being verified. Also, due diligence procedures were not risk based.

During our audit we found application documentation in some files that was or was thought to be false. As a result, we examined the processes in place for the detection of and response to false documentation.

The Program started reviewing some previously submitted information for false documentation. In some cases they found false information for individuals who had already received *Certificates of Nomination* and *Permanent Resident Visas*. Consistent with direction from the federal government, the Program is no longer reviewing previously submitted applications for false documentation. However, the Program has responded to the problem of false documentation on a go-forward basis. The Program created an Integrity and Quality Assurance Unit (the Unit) to coordinate and manage third-party verification and to monitor and track false documents. Information is now being verified appropriately.

We also found that the Program does not measure long-term performance in retaining business immigrants and the financial benefits to Manitoba because it does not track nominees.

Why it matters

The 2010-11 Annual Report says that since the Program started in 2000 up to March 31, 2011, successful applicants have made 404 initial business investments in Manitoba with a reported total investment of over $164 million. In 2010-11, program applicants made 67 investments totaling over $13,000,000. Since inception, 4,033 people (principal applicants and their dependents) have immigrated to Manitoba through the Program.

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Background

Framework

The June 2003 *Canada-Manitoba Immigration Agreement* provides a broad framework for Manitoba to recruit and nominate skilled workers and experienced business people with the potential and desire to immigrate and settle in Manitoba. Provincial agreements are negotiated separately with the federal government. Appendix A is a cross Canada comparison of provincial nominee business programs.

The Agreement allows for two major streams for immigration to Manitoba. One, the Business Immigrant Investor and the Young Farmer programs stream administered by the provincial Department of Entrepreneurship, Training and Trade (ETT) and two, the Skilled Workers stream administered by the provincial Department of Immigration and Multiculturalism (I&M). This report focuses on the Provincial Nominee Program for Business (the Program).

The Program's objectives include recruiting and nominating qualified business people from around the world who have the intent and ability to move to Manitoba and establish or buy a business or become partners in an existing business. If the Program nominates an immigrant, I&M issues a *Certificate of Nomination*. The federal department of Citizenship and Immigration Canada (CIC) approves an applicant for a *Permanent Resident Visa* (PRV). The Program aims to help applicants and their families settle in Manitoba, identify business opportunities, and establish their business or farm in the Province.

The Manitoba Development Corporation (MDC) has responsibility for certain financial areas of the Program. This includes maintaining a bank account, investment account, and trust account for deposits from nominees.

The Director of the Provincial Nominee Program for Business reports to the Deputy Minister of ETT. The organizational chart for the Program is shown in **Figure 1**.

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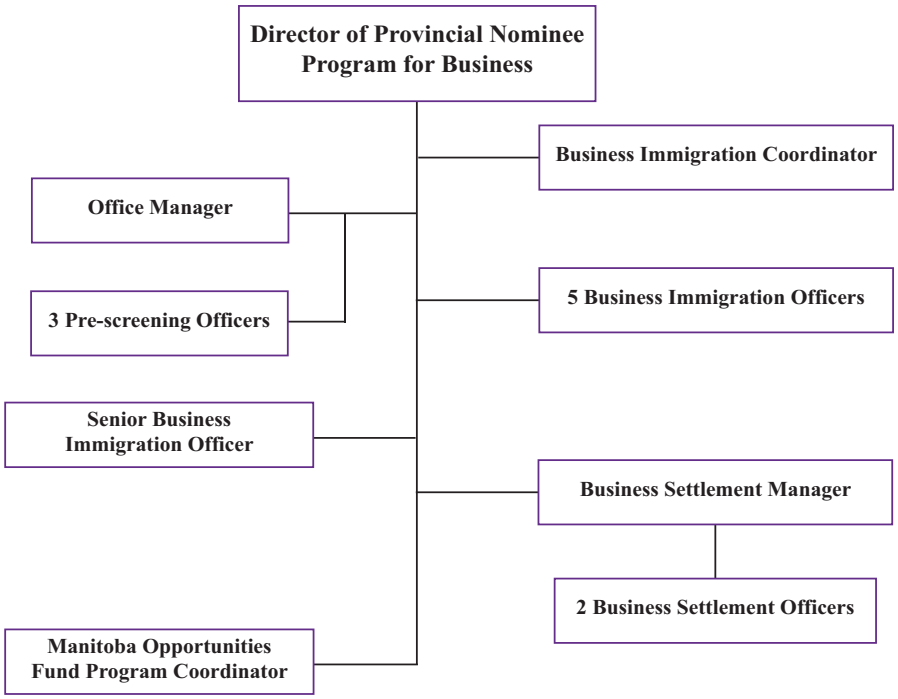
Figure 1: Organizational chart



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The following information on eligibility and the program process was obtained from the Policies and Procedures Manual.

Eligibility

To qualify under the Program, applicants must:

- have a minimum verifiable personal net worth of $350,000.
- have demonstrated a minimum of 3 years of business ownership and/or management experience at an executive role.
- be willing to undertake an exploratory visit to Manitoba for a minimum of 7 days prior to applying under the Program.
- make an eligible business investment in Manitoba of no less than $150,000 and make a $75,000 deposit on approval of application.
- reside in Manitoba with their dependent family members and conduct their business from within Manitoba.

The Program states that:

- an eligible investment is an investment of no less than $150,000 in tangible assets in Manitoba, unless the investment includes a portion of the working capital that is in conformity with the industry's capital investment structure defined by statistics from Industry Canada, and the total investment including working capital is no less than $150,000.
- if the investment is into an existing business or farm business, the nominee must control at least 33.3% of the equity, or make a minimum $1 million equity investment in the business.
- the business entity should have ongoing and recurring business activities in Manitoba.
- the nominee is required to actively participate in the management of the business on an ongoing basis from within Manitoba.
- the proposed business must be an operating entity. Passive investments such as loan companies, property rental, and investment and leasing companies are prohibited by the *Immigration and Refugee Protection Act* (IRPA) and the Program.

Process—6 stages

The complete Program nomination process has 6 stages:

1. application and assessment.
2. recommendation to Assessment Review Team (the Team).
3. signing of *Deposit Agreement* and submission of deposit.
4. issuance of *Certificate of Nomination*.
5. post-landing responsibilities.
6. return or forfeiture of deposit.

1. Application and assessment

The application and assessment stage has 3 parts: an application for an exploratory visit, the exploratory visit, and an application for a *Certificate of Nomination*.

Application for an exploratory visit

The applicant applies for an exploratory visit to Manitoba. A pre-screening officer reviews the application for completeness and assesses whether the applicant appears to meet the business experience and net worth requirements of the Program. If so, the officer sends the applicant an invitation letter for an exploratory visit. The officer doesn't validate the financial and business experience documents the applicant provided.

An application for an exploratory visit includes:

- exploratory *Visit Applicant Information Form*.

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- detailed resumé.
- personal net worth statement.
- supporting documents for each asset claimed (bank account statements, fixed deposit certificates, property title documents, valuation reports for properties, business registration documents, percentage of ownership of business, proof of marriage).
- financial statements for the business for the last 3 years.
- *IMM 5476 – Use of a Representative Form.*

Exploratory visit

During the visit, applicants are typically interviewed by a Program Business Immigration Officer (BIO). They are also expected to personally research living and business opportunities in Manitoba. The applicant must attend presentations by Program staff on the cultural and business climate and available settlement services.

The BIO completes an interview form based on the interview. The form confirms name, immigration consultant/representative, connections to Canada (for example relatives, previous visits, friends), business background questions, an assessment of English and/or French language capabilities, net worth, questions on their business intent, and settlement questions. The BIO ranks the applicant for adaptability and retention. This is assessed using 4 criteria—confidence, initiative, resourcefulness, and enthusiasm. The form also has an area for the BIO to record their comments and identify issues requiring follow up.

Application for a Certificate of Nomination

The applicant submits a second application to the Program. The application package includes:

- federal application forms (including application for a PRV).
- *Manitoba Information Release Form.*
- *Release of Information For Evaluation of Provincial Nominee Program.*
- *IMM 5476 – Use of a Representative Form.*
- identity/marriage information.
- education information.
- employment information.
- financial information.
- personal net worth statement.
- summary of business intent.
- code of conduct.
- declaration of intent.

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This application then goes to a BIO to verify the supporting documents are complete and authentic, the source of the applicant's net worth, and their business background and experience. They can ask the applicant to provide more information or explanations.

2. Recommendation to Assessment Review Team (the Team)

The BIO assesses the documentation and recommends that the Team accept or reject the application. The Team consists of the Senior Business Immigration Officer, the Business Settlement Office Manager (Manager), and the Director of the Branch (Director). The BIO's recommendation is based on their assessment of the applicant's likelihood to immigrate to Manitoba, business experience, net worth requirements, the viability of the proposed business plan, and their ability to successfully execute and take an active part in managing their proposed business. The BIO relies on the available information (initial application, interviews, full application, and correspondence) to recommend what the Team should do.

The Team meets daily. The BIO presents their recommendation and rationale to the Team, which reaches a consensus to accept or reject the recommendation. If the Team rejects an application, it gives the applicant written reasons. The applicant can request a formal review of the decision. If the Team approves an application, it sends the applicant written acceptance.

3. Signing of Deposit Agreement and submission of deposit

A *Deposit Agreement* with the obligations of both the Program and the nominee is prepared and then signed by the Director. *Deposit Agreements* include key items such as the dollar value investment requirement, the type of business, the business establishment period, and a requirement for the nominee to engage in on-going, active daily management and direction of the business. The *Deposit Agreement* also says that "the nominee shall notify Program staff within 30 days of landing of his or her address and telephone number in the Province". The nominee must sign the *Deposit Agreement* and transfer $75,000 to MDC within 90 days.

4. Issuance of Certificate of Nomination

After receiving the deposit and the signed *Deposit Agreement,* the pre-screening officer gives the nominee's details to I&M. I&M prepares a *Certificate of Nomination* and notifies the screening officer, CIC, and the appropriate embassy or consulate that the *Certificate of Nomination* has been issued.

Once a *Certificate of Nomination* is issued, the federal government agrees to process applicants as quickly as possible. CIC processes nominations based on criteria for admission to Canada. If CIC approves an applicant, they issue a PRV.

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5. Post-landing responsibilities

The *Deposit Agreement* requires the nominee to report to a business settlement officer within 30 days of landing. When the nominee reports, the business settlement officer obtains information such as landing documentation, identification, current contact information, and discusses any business or investment concerns. The nominee has 2 years from the date of landing in Canada to meet the investment conditions. They may request an extension or a change of business intent. If there is a change of business intent, a form is filled out and signed by the business settlement officer, the Manager, and the Director. The amending *Deposit Agreement* is signed by the senior manager of MDC and the applicant.

CIC gives I&M monthly landing reports with information on when and where all provincial nominees and eligible dependents landed and their destinations. I&M gives the landing reports to the Program.

6. Return or forfeiture of deposit

After the nominee completes their investment requirements, they may request a refund of their deposit. The business settlement officer will decide if they complied with the *Deposit Agreement*.

When a business settlement officer recommends releasing the deposit to the nominee, they complete a *Release of Deposit* form which is reviewed and approved by the Manager and Director. The form then goes to MDC, authorizing it to issue a refund cheque.

If the nominee has not met the terms within the 2-year period, or a later time if approved, they forfeit their $75,000 deposit. Before February 28 each year, the Manager prepares a list of deposits to keep and sends it to the Team for approval. This approved list then goes to MDC.

When the nominee's deposit has been either returned or forfeited, the file is closed.

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Audit approach

We examined the Program's policies and procedures for the assessment of applications, the functions of the business settlement office, and the measurement of Program outcomes. During our audit we found application documentation in some files that was or was thought to be false. As a result, we examined the processes in place for the detection of and response to false documentation.

Our audit took place between July 2011 and July 2012. We examined the business immigrant stream run by the Department of Entrepreneurship Training and Trade (ETT). This stream has 2 parts: the Business Immigrant Investor and Young Farmer Programs (the latter had only 13 completed nominations between 2005 and 2011 so it was not included in this audit). Our audit did not examine the Skilled Workers stream run by I&M.

The audit was performed in accordance with Investigative Forensic Accounting Standards. These standards are designed specifically for "disputes or anticipated disputes, or where there are risks, concerns or allegations of fraud or other illegal or unethical conduct." Due to false documentation issues we decided that this was the appropriate standard for us to follow.

The audit included review and analysis of legislation, policies and practices, files, records, reports, correspondence, and other program documentation. We also interviewed people from ETT, various stakeholders and subject matter experts. We selected and tested 21 applicant files (dated between 2009 and 2010), 22 settlement files (with business start dates between 2009 and 2012), and 4 settlement files where the business had not yet started.

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Findings and recommendations

1. Policies and procedures in place, but weaknesses exist

1.1 Due diligence procedures not risk based

The Program policy and procedures manual says that a "Business Immigration Officer will examine documents for authenticity, conformity with program expectations, and completeness."

Annex B of the *Canada-Manitoba Immigration Agreement* (the Agreement) says that Canada will consider a *Certificate of Nomination* issued by Manitoba as evidence that Manitoba has conducted due diligence to ensure that the applicant has the ability, and is likely, to become economically established in Manitoba.

Before September 2010, Program staff did little to verify that documents submitted by applicants were authentic. They ensured financial documents were notarized, examined financial documents to establish the history of funds, and conducted interviews. They did not conduct extended verification procedures. There is no guidance in the manual on extended investigative procedures if they had concerns about any documents. Not conducting extended investigative procedures is like hiring a new employee but not checking their references.

Due diligence requires a more detailed examination of documents and information. Typically, we would expect a risk matrix, with staff doing extended procedures on higher risk files. Applicants come from many countries, and each country may pose a different risk level. Extended procedures could include requesting original documents, calling companies to verify employment and references, viewing company websites, and accessing available government information.

In the fall of 2010, BIOs started to become concerned with financial documents some Chinese applicants were submitting. The BIOs started doing extended procedures to verify the financial documents and brought their concerns to management. The false information in the application was typically false bank account numbers, false bank stamps, and nonexistent bank branches. In the spring of 2011 the Program started conducting some third party verifications. This is further described in Section 2 of this report where we discuss the processes in place and response to false documentation.

The Program issued updated *Standard Operating Procedures for Pre-Screening Officers June 2012* which refers to extended due diligence procedures including:

- examining the validity of bank statements for any unusual or large and frequent deposits.
- obtaining, examining, and analyzing the validity of mortgage statements.

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- examining and verifying property values, property evaluators' licenses, and dates of expiry.
- researching and verifying applicants' business information on websites.
- obtaining, examining, and analyzing capital verification reports of business, business licenses, expiry dates, and licenses of verifiers and dates of expiry.
- obtaining and examining the validity of applicants' business income tax returns.

Except for the response to false documentation from applicants from China as described in Section 2 there is neither a requirement for a risk matrix nor guidelines for when to apply due diligence procedures.

Recommendation 1: We recommend that the Program:

a. develop a risk matrix.
b. complete the risk matrix for all files.
c. perform additional due diligence procedures or use third party verification if the risk matrix indicates they are necessary.

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1.2 Process inefficient

1.2.1 Process continues despite false information from applicants

The application review process has two decision points. First is the pre-screening level, where staff decides if the applicant appears to meet Program criteria and should be invited for an exploratory visit. Second, after the exploratory visit, is the submission of the complete application. The BIO assesses all the requirements including net worth, business ownership or management experience, minimum investment, and the intent to reside in Manitoba. The BIO then recommends to the Team, acceptance or rejection of the application.

At the exploratory visit interview, some applicants have admitted that some of the financial and business experience documents they submitted were false. Some have even brought another set of documents, claiming it is legitimate. The BIO cannot reject such an applicant at this stage.

Procedures say that the BIO's job at the interview is to gather information, not judge the case. A final decision on the application cannot be made until after the exploratory visit and a complete application has been submitted and assessed.

BIOs consider all cases involving fraudulent documents and new documents on a case-by-case basis. They have to consider the significance of any false documents and assess any new documents, when making their recommendation to the Team. The Team rejects applications where significant false documents have been found.

BIOs indicated to us that there may be points earlier in the process when they could recommend that the application be rejected. As the Team rejects such applications, it's unreasonable to continue processing them when the outcome is already known.

> **Recommendation 2:** We recommend that if the assessment process finds false documentation or misrepresentation of a significant nature, the Business Immigration Officer stop processing the application and recommend that the Assessment Review Team reject it.

1.2.2 The same information requested and reviewed twice

Files we sampled had two copies of financial, business background, net worth, and supporting documentation, including:

- detailed resumé.
- personal net worth statement.
- supporting documents for each asset claimed (for example, bank account statements, fixed deposit certificates, property title documents, valuation reports for properties, business registration documents, percentage of ownership of business, proof of marriage).
- financial statements for the business for the last 3 years.
- *IMM 5476 – Use of a Representative Form*.

The Program requires applicants to submit this information twice, at the application for an exploratory visit stage and also at the full application stage, which is inefficient. Staff told us that applicants should submit all required documentation at the initial application stage. A complete assessment should only be done once. That would be consistent with programs in British Columbia, New Brunswick, Prince Edward Island, and Saskatchewan, where applicants submit all required documents with their initial application.

> **Recommendation 3:** We recommend that the Program require applicants to submit all required information once—at the initial application stage.

1.3 File documentation meets Program requirements

The Program requires several documents and approvals essential for a proper file.

In the 21 applicant files sampled, the required documentation was complete and met Program requirements. Documentation included original federal application forms,

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Manitoba Information Release forms, *Release of Information for Evaluation of Provincial Nominee Program* forms, *IMM 5476 - Use of a Representative Forms*, codes of conduct, declarations of intent, education information, employment and business ownership information, summaries of business intent, notarized financial information, and personal net worth statements.

Required authorizations and signoffs were in place in the sample files. However, documentation which was later found to be false had not been detected.

1.4 Forms and processes for verifying information inadequate

Two forms are important for the Program to access applicants' personal information: the *Manitoba Information Release Form* and the *Release of Information for Evaluation of Provincial Nominee Program*.

The *Manitoba Information Release Form* is signed by the applicant and authorizes designated representatives of I&M and/or CIC to exchange personal information in the application about the person or any dependent member of their family.

The *Release of Information for Evaluation of Provincial Nominee Program* allows Manitoba Family Services and Labour to collect any personal information to locate and contact the applicant as part of its Program evaluation. It also allows the collection and disclosure of an applicant's information from any federal, provincial, or local authorities, such as Canada Customs Revenue Agency, CIC, Manitoba Family Services and Labour, Human Resources Development Canada, and Manitoba Health.

The applicant authorizes the information to be shared with other parties in Manitoba to assess the application. When applicants sign these forms, they consent to disclosure of information ETT requires. They also consent to Manitoba Family Services and Labour contacting them for its program evaluation.

The Program has been using these forms to authorize third parties to gather information in China to verify the information people supply in their application for nomination.

Some immigration consultants have questioned the legality of collecting an applicant's personal information in another country with these forms. The consultants believe that the Program should revise the current forms and tell all applicants that Manitoba may verify the information and documentation they submit in the applicant's home country. If consultants and applicants knew of the verification process, it could reduce false documents and applications from unqualified applicants. It could also produce higher approval rates.

Manitoba Civil Legal Services are reviewing the release forms to develop a broader consent. Manitoba is prepared to obtain legal advice on whether "consent" is adequate authority to collect personal information in other countries to verify and process an application under the Program.

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As of May 1, 2012, Saskatchewan requires that, before submitting an application, applicants submit key forms and documents to a third party identified by the Program. The third party will assess the financial documents in each application and give the applicant an evaluation report. Only applicants whose net worth and accumulation of funds has been verified and who meet the program criteria are encouraged to apply. Saskatchewan accepts applications for formal review only after verifying the report from the third party.

Recommendation 4: We recommend that the Program revise its current information release forms to ensure that applicants consent to the collection and verification of their information by the Program or its agents in the applicant's home country. Alternatively, we recommend that the Program require applicants to submit their key documents directly to third-party contractors the Program has accepted for verification.

1.5 Policy and Procedures Manual not fully up to date

We reviewed the Policy and Procedures Manual, and while many sections were current, the following areas required updating.

1.5.1 Manual incorrectly references a Selection Committee

The Policy and Procedures Manual authorizes a Selection Committee, replaced in 2009, to make decisions. On April 1, 2009, the Program replaced the Selection Committee with an Assessment Review Team. But policies #1-12 (except #8) still gives the Selection Committee powers to make decisions on the Program.

Management said the manual needs to remove references to the Selection Committee.

A Standard Operating Procedure document (SOP) called "Assessment Review Team 11.20.09" identifies the Team's terms of reference and role. This SOP does not say that it supersedes any previous policies referring to the Selection Committee. No new SOPs or revised policies documented the removal of these older policies.

Recommendation 5: We recommend that the Program remove references to the Selection Committee from the Policy and Procedures Manual.

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1.5.2 Manual has wrong deadline for return of Deposit Agreement and deposit

The manual says nominees have to sign and return the *Deposit Agreement* and pay the $75,000 deposit within 180 days from the date of their acceptance letter. The current acceptance letter says 90 days. The Program is following the date in the acceptance letter.

> **Recommendation 6:** We recommend that the Program update the Policy and Procedures Manual to the same time period referred to in the acceptance letter.

1.5.3 Manual has wrong expiry date of the Certificate of Nomination

The manual says that a *Certificate of Nomination* is valid for 90 days from the date of its issuance. Certificates in files show an expiry date of 180 days from the Certificate issuance date. The Program is following the date in the Certificate.

> **Recommendation 7:** We recommend that the Program update the Policy and Procedures Manual to the same time period referred to in the *Certificate of Nomination*.

1.6 Conflict of interest guidelines in place but annual updates not required

The Program operates under government of Manitoba conflict of interest guidelines. The government requires a declaration when someone is hired and also reporting of any changes that may take place after that. The Program also has supplementary conflict of interest guidelines because complex roles put employees in sensitive positions relative to conflicts of interest and the perception of them.

The Program's supplementary guidelines include the following directions to staff:

Self declared conflict of interest—employees may encounter applications or Business Settlement Office activities that they have (or had) a personal or commercial interest in. In these cases, the person should declare the nature of their interest immediately to their manager.

Gifts—no employees or their immediate family can accept any gift or benefit from immigration applicants, landed immigrants, or their representative. They should tell anyone who offers them a gift of this policy.

Samples—merchandise samples may be given to employees by applicants proposing business ideas. Although the samples are often small and of little or no value, employees should not keep them.

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Commercial transactions—when immigrants come to Manitoba for exploratory visits or when they move here, they often don't know where to find suitable professional advice. Employees cannot give any advice on specific professional firms. Instead, they can refer clients to professional commercial or trade associations (such as the real estate board, yellow pages) for information. It is particularly important that employees and their close family members are not involved or seen to be involved in commercial activities with immigrants or representatives—regardless of how they first meet. As soon as an employee learns of any kind of commercial relationship between themselves or close family members and an immigrant or their advisor, they must tell their manager in writing by completing a conflict-of-interest declaration. They will then be told what to do.

The supplementary guidelines are applicable to all employees within the Program. However, signoff of these guidelines is only done for new direct hires to the Program. We were told that if an employee's previous position was within the government of Manitoba, the Program relies on their previous conflict-of-interest declaration and there is no requirement for signoff on the Program's supplementary guidelines.

Given that the supplementary guidance has heightened potential risk areas, we would expect that all employees, no matter where they come from, would sign them. Further there are no requirements for annual or regular updates/signoffs from Program employees.

We were made aware of one situation where ETT took action where they found an employee did not declare a conflict concerning involvement in commercial dealings with landed nominees. After an investigation this employee subsequently resigned.

Recommendation 8: We recommend that all Program employees complete conflict-of-interest forms annually and that management review them.

2. Processes in place for the detection of and response to false documentation, but only on a go forward basis

2.1 Stronger due diligence processes introduced

In the fall of 2010, BIOs became concerned with certain financial documents Chinese applicants were submitting. BIOs started doing extended procedures to verify the financial documents from Chinese applicants and brought their concerns to management.

The Program experienced significant growth in the number of applications it received for *Certificates of Nomination*. Between 2007/08 and 2010/11, the number of full applications increased from 341 to 666. During this time the percentage of applications received from China increased by 100%.

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Between February and June of 2011, a BIO performed extended due diligence procedures in China on 75 people, contacting the sources of the questionable documents. The BIO reported the following results in these 75 cases:

- 52 had "Fraud confirmed" or "Forged".
- 14 were "Partially verified".
- 4 were "Unable to be verified".
- 3 were "Inconclusive".
- 2 had "Fraud suspected".

The false information typically involved false bank account numbers, false bank stamps, and nonexistent bank branches. The Program has not documented these fraud indicators and circulated them to staff. It lacks a centralized database of the indicators.

In June 2011, management sent a funding request to Treasury Board for $300,000 for third parties to verify information and documents in source countries. Treasury Board approved the request and the Program contracted with 3 independent consultants who are currently doing this work.

In early 2011, Program management had considered creating an Integrity and Quality Assurance Unit (Unit). In spring 2011, a joint proposal by I&M and ETT to Treasury Board had been drafted. By July 2011, a framework outlining the processes had been created. On March 13, 2012, Treasury Board approved creation of the Unit.

The Unit's functions are in place but it hasn't been formally established. The functions are currently being performed by Program staff. This includes coordinating and managing third-party verifications and monitoring and tracking false documentation.

New due diligence procedures were put in place effective June of 2012. These included a revised process for pre-screening officers (now referred to as an assessment officer) to review exploratory visit applications. This provides a process, including examining validity of documents, verification of documents, reviewing websites, and other procedures.

In July of 2012, the Program process was updated to include a revised *Letter of Decline* to applicants. The letter now includes more details of the reasons for the decline, including false or concealed information.

The Program obtained third-party verification of documentation in 219 applications submitted from April 2011 to July 2012. Of these files, 90 had no discrepancies, while 129 (59%) had at least one discrepancy. Further inquiries showed some discrepancies were insignificant. 206 files have been assessed and 13 files still have to be assessed. Of the 206 files assessed 109 (53%) were declined and 97 (47%) were approved.

We believe that the Program's new due diligence processes for Chinese applicants are appropriate.

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2.2 Not reviewing files for false information if immigrants have landed

The Province has issued *Certificates of Nomination* for some individuals who had submitted false information and have already landed in Canada. CIC, under federal jurisdiction, has issued *Permanent Resident Visas* (PRVs) to these individuals. Consistent with direction from the federal government, the Program is no longer reviewing previously submitted applications for false documentations. So landed immigrants who used fraudulent documents can stay in Canada.

2.3 No consequences beyond rejection of the application

Interviews with Immigration Consultants and Program staff revealed several people were concerned with the lack of consequences for submitting false documents in an application and said that the current practice of denying these applications is inadequate. Stronger consequences would likely reduce the incidence of fraudulent documents. Examples of suggested punitive measures include forfeiting deposits, disallowing applicants to reapply, and penalizing consultants associated with false documentation. Saskatchewan and British Columbia keep deposits if they find false documents.

2.4 False information found in our sample

Between September 2010 and June 2011, Program staff found a significant number of false documents from Chinese applicants. In our sample of 21 files, the Program had rejected 2 applicants who submitted false documents and a BIO re-evaluated 6 other files after the applicants had a *Certificate of Nomination*. The BIO found that these files had false financial information. We found another 2 cases of suspected false documents.

2.4.1 Program resolved 5 of the 6 cases that were re-evaluated

In June 2011, the BIOs reported cases to the Beijing and Hong Kong consulates and asked for status updates. The consulates said that many of the nominees did not yet have PRVs, but one nominee had landed in Canada and received a PRV in April 2011. The consulate suggested that the Program alert Canada Border Services Agency's (CBSA) Inland Enforcement division of its findings and tell CBSA that it would not have issued the *Certificate of Nomination* if it had known that the applicant had submitted false documents.

Within our sample we noted that Program staff had recommended to the Team that 6 *Certificates of Nomination* be withdrawn. The Team accepted the recommendation for 5 nominees who had not yet landed. They did not withdraw the Certificate for the other. In October 2011 the Program contacted I&M and requested they contact CBSA for this individual.

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2.4.2 No follow up on 2 cases of false documents that we found

We summarized the indicators of false documents that the BIO found during the due diligence trip to China and compared that list to our initial sample. This comparison revealed two files we suspected had false bank statements. We contacted the banks and they confirmed the statements were false.

The Program has not documented the fraud indicators reported in the BIO's due diligence reports and circulated them to staff. It lacks a centralized database of the indicators.

On October 21, 2011, we told the Deputy Minister of ETT of our findings. In an interview on November 17, 2011, the Program Director told us that the Deputy Minister had told him that 2 files had false documents. We gave the files to the Director, and told him of our findings. He said he would review the files and contact us with any questions.

On July 18, 2012, we followed up with the Director about the status of these two files. We were told that he reviewed the Program files but found no issues of concern. He told us that he thought that we had found notes in the files indicating there may have been suspicious documents. When we pointed out to him that we had previously provided him with the details of what we found he stated that he misunderstood.

The Program did not alert CIC for these two files and the applicants have since been issued PRVs.

Recommendation 9: We recommend that the Program:

a. create a database of all indicators of false documentation identified during the verification process and regularly update it.
b. develop procedures to ensure that application documentation is compared to the indicators of false documentation in the database.

3. Program outcomes not sufficiently measured

3.1 Program does not track nominees, contrary to the Agreement

Annex B of the Agreement, Section 7.1, says that "Canada and Manitoba agree to share information on prospective and actual immigrant landings...this will include tracking of provincial nominees to Manitoba for a minimum of three years from their date of entry as a basis for assessing the retention of Provincial Nominees."

Nominees sign three key forms related to tracking: *Information Release Form, Release of Information for Evaluation of the Provincial Nominee Program*, and a *Deposit Agreement*. The release form allows CIC and I&M to exchange information. It also lets them share information with other parties in Manitoba to assess applications. The evaluation form

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allows Manitoba to collect any personal information to locate and contact nominees to evaluate the Program. It also allows collection and disclosure of their information from any federal, provincial, or local authorities, such as Canada Revenue Agency, CIC, Manitoba Family Services and Labour, Human Resources Development Canada, and Manitoba Health. The *Deposit Agreement* requires nominees to report to the Program within 30 days of landing. After that, they must submit semi-annual reports until they establish a business.

The Business Settlement Office tried a pilot project to find nominees who had landed in Canada but who had not reported to the Program. The Business Settlement Office asked Manitoba Health for information on those people to see if they lived in Manitoba and to get their contact information. They identified some nominees that had registered with Manitoba Health and found that others had registered with other provinces. This project was cancelled.

CIC provides landing data electronically to I&M, which forwards it to the Program monthly. This data includes all people landed under a provincial nominee program. The Program coordinator uploads the information to a database and searches it for any Program nominees. This then goes into a spreadsheet circulated to all Program staff. No Program employee follows up after landing reports indicate that a nominee has landed in Canada. During the period 2005 through 2010, 272 (37%) of those nominees who landed forfeited their deposit.

The business settlement officers are the contact for the nominee from when they report until their deposit is refunded or kept. The Program relies on nominees to give them their contact information. If the nominee does not report, the Program doesn't try to find them. The Policy and Procedures Manual does not require any proactive tracking of nominees. Business settlement officers were unaware of the tracking requirement in the Agreement. Once a deposit is returned, business settlement officers do not monitor to see if nominees continue to operate a business or live in Manitoba. If a nominee lands and starts a business, they have met their responsibilities. The Program believes they have no authority to make them report further. The Program does not ensure that nominees comply with the *Deposit Agreement* requirement to report semi-annually. The files we sampled had no documents or proof that the nominee reported to the business settlement officer semi-annually.

Management felt that tracking a nominee who did not self-report and who could be anywhere in the world may not yield any results. It would take a lot of time and, even if it found them, they could probably not "impact them to cause them to come to Manitoba." As a result Manitoba is not tracking nominees.

Manitoba believes that it is complying with Section 7.1 of the Agreement. The Agreement's tracking provision depends on data being available between Manitoba and Canada. The two governments never agreed on a specific mechanism for sharing data on the location of all nominees. The Agreement was under review when we wrote this report—a final revised version was not available.

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Recommendation 10: We recommend that the Program:

a. monitor nominees to ensure they comply with the *Deposit Agreement*, including semi-annual reporting.
b. develop a process to follow up on nominees who do not comply with the *Deposit Agreement*.

Recommendation 11: We recommend that the Program formalize arrangements with other departments and agencies to obtain and share personal information on landed nominees.

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3.2 No measure of immigrant long-term performance or Manitoba's financial gain

The Program reports the number and total amount of business investments. For example, the ETT 2011 annual report showed 67 business investments and $13 million total investments. Further, since the Program started in 2000 until April 30, 2012, entrepreneurs who came to Manitoba through it have made 482 initial business investments in Manitoba with a total investment of over $187 million.

Program internal numbers from 2005 to 2010, show 735 nominees landed in Canada; 392 (53%) of them made their investment in Manitoba and met their *Deposit Agreements'* business requirement. But 272 (37%) nominees did not meet the requirements and forfeited their deposits. The Program has not tried to locate the other 71 (10%) landed nominees. The Program does not know if the 392 (53%) landed nominees who made their investment continue to live in Manitoba or operate a business.

The 2003 Province of Manitoba Internal Audit and Consulting Services report on the Program said that "Retention is absolutely critical to success of the program. For some, the default/forfeiture of the deposit may be viewed as a cheap or easy way to otherwise obtain entry into Canada. As the *Certificates of Nomination* are issued prior to the applicant settling, establishing and operating their business, it is particularly important that retention is tracked to identify the ultimate success of the program." Internal Audit issued another report in 2009 saying that: "There is no tracking system in place for monitoring retention ..... such a system is not essential for control purposes, it may provide valuable information for program evaluation purposes." The 2003 Internal Audit report recommended that the Program develop an appropriate tracking mechanism. The 2009 report recommended that, "A monitoring system should be developed to track successful immigrant nominees after the deposit is returned." We agree with the conclusions reached by Internal Audit.

Recommendation 12: We recommend that the Program assess its long-term performance by developing a tracking mechanism and regularly monitoring whether nominees continue to live and operate a business in Manitoba after their deposit is returned.

3.3 Documentation meets Program requirements

We selected 26 settlement files for our review of the Business Settlement Office. They included 22 files where a business investment had been made and the deposit returned, and 4 files where the applicant was nominated and landed but had not yet started their business. The applicant in all 22 files with a business investment had changed their initial business intent. Twenty-one of them had a completed and reviewed *Change-of-Business Authorization* form and *Deposit-Return Authorization* form.

Figure 2 shows that the number of business changes in our sample is reflective of the entire Program's quantity of business changes. 60% of all proposed business intents were changed.

Figure 2

Business category	# Proposed	# Changed	# Actual
Farming businesses			
1. Agricultural & related businesses (Farming)	108	13	100
Other than farming businesses			
2. Construction & related businesses	31	20	20
3. Manufacturing & related businesses	92	71[1]	25
4. Retail & related businesses	112	54	155[3]
5. Technical & related businesses	43	37[2]	14
6. Educational & related businesses	14	9	11
7. Accommodation & food services	55	17	132[4]
8. Repairs, maintenance, personal & related businesses	27	14	24
Total other than farming businesses	**374**	**222**	**381**

Notes:

1 Examples of Changes: 8 Grocery stores; 6 Motel/Hotels; 17 Food Services; 6 Taxis; 15 Retail stores; 4 Convenience stores; 14 in 6 Other types of businesses plus 1 change in the type of Manufacturing business.

2 Examples of Changes: 15 Food Services; 6 Retail; and 16 in 8 Other types of businesses.

3 Includes 13 Taxi companies – none proposed and 53 Grocery and Convenience stores.

4 Includes 8 Gambling/Lottery kiosks – none proposed and 97 Food Services where 30 had been proposed.

The 100 farming businesses account for 50% of the business investment in Manitoba.

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The *Change-of-Business Authorization* form is initiated by the applicant when they change from their original business intent to another business. This form is completed by a Business Settlement Officer and approved by the Business Settlement Manager.

The *Release of Deposit* form is initiated by the Business Settlement Officer when the applicant requests their $75,000 deposit be returned. The Business Settlement Officer conducts procedures to verify that the business has met the criteria. This form is approved by the Business Settlement Manager, the Director and then the goes to MDC. In addition to the minimum requirement of $150,000, each case is approved for a dollar value reflecting the applicant's business intent. For our sample of 22 files, this totaled $7,418,000. The actual amount invested, after the original business intent was revised, was $4,273,261. This $4,273,261 is included in the larger total included in ETT's annual report reflecting total business starts. It does not include other "passive" investments which do not meet the criteria of the program. In one file within our sample, a $1 million investment made by the nominee was ruled a passive investment, not eligible for a deposit refund. The nominee then invested $481,000 in another business. It met the criteria, and the deposit was refunded. The $7,418,000 total investment figure above included this $1 million planned investment. It was invested but was not included in the revised actual business starts total.

In another file, the supporting documents were partly legal correspondence. The receipts showed questionable items such as meals, credit card statements with no original receipts, travel expenditures, and 2 vehicles (Program policy allows only one). The Business Settlement Officer said he relied on the applicant's lawyer's summary and did not review the invoices in detail. The investment was $151,031, and the Business Settlement Officer concluded this applicant met the criteria and a refund was authorized. If the questionable expenses had been considered, this applicant would not have met the minimum investment criteria for a refund.

The average business start-up time from landing was 21 months. After a refund, there was no information in the file on the status of the business or the nominee. As previously described, the program is not tracking nominees after they receive their refunds. Of the 4 files where the nominee had not yet started a business, the applicants' business intents totaled $1,520,000. These files had the appropriate information.

3.4 Site visit policies and procedures not clear

We found evidence that site visits had been conducted for 11 businesses from our sample of 22. In addition, there were 2 taxi businesses started for which we would not have expected that a site visit would be necessary as the licenses were on file.

The Policy and Procedures Manual says that, "in all cases, a site visit of the business is required. Picture of the business location and its facilities may be added to the file as part of the supporting documentation." The Program's guidelines says, "The Business Settlement Officer may conduct further investigation and site visits prior to making a recommendation..."

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One Business Settlement Office employee said that site visits were required; another said they always do site visits. One said site visits were at their discretion. The Program Director agreed with the last opinion. Inconsistent policies and lack of clear direction have caused confusion in the Business Settlement Office as to what is required.

Recommendation 13: We recommend that the Program clarify policies and procedures for site visits.

3.5 Options other than a Permanent Resident Visa not used

Immigration Consultants suggested alternatives to PRVs such as temporary resident visas (TRV) or work permits (WP). These options would contain requirements based on the Program's specific agreements with applicants. It is only after successfully completing the requirements, that an applicant would become eligible to receive a PRV. Applicants would therefore be more likely to fulfill their obligations. Consultants told us that it would likely reduce the number of applications, but it would also help to ensure that nominees intended to start a business and live in Manitoba. Should the applicant not meet the criteria of the *Deposit Agreement*, Manitoba could then communicate this to the federal government. Thereby, the TRV or WP would likely be revoked.

Program management believes that instituting a TRV or WP rather than a PRV would help ensure compliance with the Program and result in a higher retention rate, as opposed to the current practice of getting more applicants with a lower retention rate. However, management stated that the use of PRVs is more appropriate than TRV's or WPs because the risk to the Program is mitigated by the *Deposit Agreement* and the $75K deposit. British Columbia and the Yukon utilize TRV's or WPs, but management is concerned that Manitoba's number of applicants would significantly decrease. They were concerned Manitoba may not remain competitive, if options other than a PRV were used. Should the Program wish to utilize options like the TRV or WP the *Canada Manitoba Immigration Agreement* would have to be amended.

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Summary of recommendations and response of officials

General comment from the Department of Entrepreneurship, Training & Trade

In an ever changing global economic environment, the Program has seen changes in the number of applications as well as the source countries of applications. Where Korea was once the predominant source country, a shift has occurred to China as the largest source country for applications. However, misrepresentation in immigration applications is an ongoing global issue for any immigration program. Canada and all the provinces including the Program are continually developing more sophisticated ways to manage the identification of misrepresentation. All provinces have been discussing the risks of misrepresentation and how to modify procedures to mitigate the perception of increased risk.

The Program has proactively implemented enhanced integrity and quality assurance procedures to respond to this changing environment. Work in this area is ongoing and improvements will continue to be made making more effective use of available resources and expanding quality assurance efforts to all applications before the Program.

The Program has successfully collaborated with our federal partners especially with the visa posts in China in our quality assurance efforts. This solid dialogue has resulted in the Program being able to implement quality assurance procedures which have been beneficial to both partners. Where the Program has conducted a quality assurance investigation and found misrepresentation, the Program has either declined the application or, if previously approved and a certificate of nomination was issued, notified Citizenship and Immigration Canada (CIC). In all cases where the Program had requested for the withdrawal of certificates, appropriate actions were taken by CIC. Consistent with advice from CIC, the Program has concluded that the most effective use of resources going forward is to focus on current applications.

In sub-section 2.4.2 of the report, two files were identified which may have contained misrepresentation. The Program has concluded an integrity investigation into those files. Misrepresentation appears to be present in the applications and CIC has been notified.

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1. **We recommend that the Program:**
   a. **develop a risk matrix.**
   b. **complete the risk matrix for all files.**
   c. **perform additional due diligence procedures or use third party verification if the risk matrix indicates they are necessary.**

   Response: The department recognizes the importance of ensuring Program integrity efforts are expanded to include all applications from all source countries. The Program will implement a formal risk matrix and is currently participating with Citizenship and Immigration Canada and the other provinces in a working group discussing such a matrix. The Program will also implement guidelines and procedures for the performance of due diligence as identified by the risk matrix on all applications.

2. **We recommend that if the assessment process finds false documentation or misrepresentation of a significant nature, the Business Immigration Officer stop processing the application and recommend that the Assessment Review Team reject it.**

   Response: The department will move to a one step "single application" process where the applicant files a complete application including all documentation with the Program to start the process which is then followed by application assessment. While transitioning the program to a one step "single application" process, when assessing applications received through the current multi-step process, the department will determine together with Manitoba Civil Legal Services at what point in the current process an assessment decision based on misrepresentation can be made. The Program will then modify procedures to make assessment decisions based on that determination in the applications being assessed under the current process.

3. **We recommend that the Program require applicants to submit all required information once—at the initial application stage.**

   Response: The department will move to a one step "single application" process where the applicant files a complete application including all documentation with the Program to start the process which is then followed by application assessment. Therefore, the Program will eliminate the Application for an Exploratory Visit and the Exploratory Visit steps which exist in its current process. The Program will then have a one step "single application" process similar to other jurisdictions.

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4. **We recommend that the Program revise its current information release forms to ensure that applicants consent to the collection and verification of their information by the Program or its agents in the applicant's home country. Alternatively, we recommend that the Program require applicants to submit their key documents directly to third-party contractors the Program has accepted for verification.**

   Response: Recognizing that the department continues to have the obligation and authority to verify an applicant's eligibility for the Program, the department together with Manitoba Civil Legal Services will develop and implement a broader information exchange authorization applicable to all applicants from all countries. At the same time, the department will monitor the direct submission of documents to a third party approach recently adopted by another jurisdiction in order to evaluate its long term viability.

5. **We recommend that the Program remove references to the Selection Committee from the Policy and Procedures Manual.**

   Response: The department has recently updated its Policy and Procedure Manual to ensure all references to current operating procedures reflect current process. The department will ensure that processes are established for timely updating of the manual.

6. **We recommend that the Program update the Policy and Procedures Manual to the same time period referred to in the acceptance letter.**

   Response: The department has recently updated its Policy and Procedure Manual to ensure all references to current operating procedures reflect current practice. The department will ensure that processes are established for timely updating of the manual.

7. **We recommend that the Program update the Policy and Procedures Manual to the same time period referred to in the *Certificate of Nomination.***

   Response: The department has recently updated its Policy and Procedure Manual to ensure all references to current operating procedures reflect current practice. The department will ensure that processes are established for timely updating of the manual.

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8. **We recommend that all Program employees complete conflict-of-interest forms annually and that management review them.**

   Response: In addition to the current practice of having staff submit conflict of interest forms at the beginning of their employment and whenever changes take place, the department will ensure that staff update their conflict of interest forms annually and the department will review these forms to ensure compliance with the conflict of interest guidelines.

9. **We recommend that the Program:**
   - **a create a database of all indicators of false documentation identified during the verification process and regularly update it.**
   - **b. develop procedures to ensure that application documentation is compared to the indicators of false documentation in the database.**

   Response: The department has already completed the first phase of a database project to monitor and control due diligence activity. A second phase, currently underway, will be completed which will enhance the data collection efforts to better document the specific details of documentation discrepancies which would then be used as input into a risk matrix. A risk matrix will be developed which will use this information as one of its factors to assess which applications need additional due diligence.

10. **We recommend that the Program:**
    - **a. monitor nominees to ensure they comply with the *Deposit Agreement,* including semi-annual reporting.**
    - **b. develop a process to follow up on nominees who do not comply with the *Deposit Agreement.***

    Response: The department will enhance processes to ensure that all applicants will be tracked to monitor compliance with the deposit agreement reporting requirements and develop communication protocols to follow up with non complying applicants.

11. **We recommend that the Program formalize arrangements with other departments and agencies to obtain and share personal information on landed nominees.**

    Response: The Department will identify all departments or agencies likely to possess information about the applicants and endeavour to make arrangements with them, consistent with privacy legislation, for the program to systematically obtain that information.

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12. **We recommend that the Program assess its long-term performance by developing a tracking mechanism and regularly monitoring whether nominees continue to live and operate a business in Manitoba after their deposit is returned.**

    Response: The department will develop tracking methodologies and implement procedures based on those methodologies to monitor the applicants for three years from the date of business investment.

13. **We recommend that the Program clarify policies and procedures for site visits.**

    Response: The department has recently implemented a Site Visit Risk Assessment Standard Operating Procedure which now identifies factors and methodology for the identification of the need for site visits.

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Appendix A: Cross Canada comparison of nominee business programs

	Processing Fee	Pre-Screening or Single Application	Exploratory Visit & Interview	English / French	Minimum Investment	Net Worth	Permanent Resident Visa (PRV) vs Work Permit (WP)	Deposit
Manitoba	No	Pre	Yes - 7 days	No	$150,000	$350,000	PRV	$75,000
British Columbia	Regular Track or Fast Track options for both the Business Skills and Regional Business Categories							
Business Skills Category Anywhere in the Province	$3,000 plus $1,000 for each key immigrant employee	Single Application	Strongly Suggested	No	$400,000	$800,000	WP (up to 2 years) But more quickly for *Fast Track	$125,000 for *Fast Track Option
Regional Business Category Not including the Vancouver or Abbotsford Metro Areas	$3,000	Single Application	Strongly Suggested	No	$200,000	$400,000	WP (up to 2 years) But more quickly for *Fast Track	$125,000 for *Fast Track Option
	***Note: November 15, 2012 - BC's Fast Track option suspended until fully reviewed**							
Saskatchewan	$2,500	Single but 3rd party verification required first	Not required but up to 15/100 points on their Grid	Up to 15/100 points on their Grid	$150,000	$300,000	PRV	$75,000
New Brunswick (NBPNP for Business)	No	Single	Yes - 5 full business days	Sufficient Eng/Fr to manage a business IELTS/ TEF results	$125,000	$300,000	PRV	$75,000
Prince Edward Island								
100% Ownership stream	$2,500 but if declined before interview then $2,000 refunded	Single Application	Yes - 5 days	CLBPT level 5	$150,000	$400,000	PRV	$100,000
33⅓% ownership stream	As per 100% stream	Single Application	Yes - 5 days	CLBPT level 5	$150,000	$400,000	PRV	$100,000
Yukon	No	Single Application	Must have visited at least once	Minimum L 6 IELTS or L 4 TEF	$150,000	$250,000	TRV/WP (up to 2 years)	$75,000
Quebec	$3,899.00 non-refundable fee		Highly recommended	IELTS and TEF scores	Minimum $100,000 and 25% of equity	$300,000	PRV	None

Note: Alberta, Ontario, Nova Scotia and Newfoundland/Labrador do not have Provincial Nominee Programs for Business/Entrepreneurs
IELTS – International English Language Testing Service
CLBPT – Canadian Language Benchmarks Placement Test
TEF – Test d'Evaluation de Francais

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